INTERNET

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RADIO BROADCASTS

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

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- **SYDNEY** 630 AM
- **NEWCASTLE** 1458 AM
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- **MELBOURNE** 1026 AM
- **ADELAIDE** 972 AM
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- **DARWIN** 102.5 FM
FORTIETH PARLIAMENT
FIRST SESSION—FIFTH PERIOD

Governor-General

His Excellency the Right Reverend Dr Peter Hollingworth, Companion of the Order of Australia, Officer of the Order of the British Empire

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert
Deputy President and Chairman of Committees—Senator John Joseph Hogg
Temporary Chairmen of Committees—Senators Hon. Nick Bolkus, George Henry Brandis, Hedley Grant Pearson Chapman, John Clifford Cherry, Jacinta Mary Ann Collins, Hon. Peter Francis Salmon Cook, Alan Baird Ferguson, Stephen Patrick Hutchins, Susan Christine Knowles, Philip Ross Lightfoot, John Alexander Lindsay (Sandy) Macdonald, Jan Elizabeth McLucas and John Odin Wentworth Watson
Leader of the Government in the Senate—Senator the Hon. Robert Murray Hill
Deputy Leader of the Government in the Senate—Senator the Hon. Richard Kenneth Robert Alston
Leader of the Opposition—Senator the Hon. John Philip Faulkner
Deputy Leader of the Opposition—Senator Stephen Michael Conroy
Manager of Government Business in the Senate—Senator the Hon. Ian Gordon Campbell
Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders

Leader of the Liberal Party of Australia—Senator the Hon. Robert Murray Hill
Deputy Leader of the Liberal Party of Australia—Senator the Hon. Richard Kenneth Robert Alston
Leader of the National Party of Australia—Senator the Hon. Ronald Leslie Doyle Boswell
Leader of the Australian Labor Party—Senator the Hon. John Philip Faulkner
Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy
Leader of the Australian Democrats—Senator Andrew John Julian Bartlett

Printed by authority of the Senate
## Members of the Senate

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(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

(2) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Warwick Raymond Parer, resigned.

(3) Chosen by the Parliament of South Australia to fill a casual vacancy vice John Woodley, resigned.

(4) Chosen by the Parliament of Queensland to fill a casual vacancy vice John Andrew Quirke, resigned.

(5) Appointed by the Governor of Tasmania to fill a casual vacancy vice Hon. Brian Francis Gibson AM, resigned.

(6) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. John Joseph Herron, resigned.

(7) Chosen by the Legislative Assembly of the Australian Capital Territory to fill a casual vacancy vice Hon. Margaret Reid, resigned.

**PARTY ABBREVIATIONS**

AD—Australian Democrats; AG—Australian Greens; ALP—Australian Labor Party; APA—Australian Progressive Alliance; CLP—Country Liberal Party; Ind.—Independent; LP—Liberal Party of Australia; NP—National Party of Australia; PHON—Pauline Hanson’s One Nation

**Heads of Parliamentary Departments**

Clerk of the Senate—H. Evans

Clerk of the House of Representatives—I.C. Harris

Departmental Secretary, Parliamentary Library—J.W. Templeton

Departmental Secretary, Parliamentary Reporting Staff—J.W. Templeton

Departmental Secretary, Joint House Department—M.W. Bolton
HOWARD MINISTRY

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

(The above ministers constitute the cabinet)
**HOWARD MINISTRY—continued**

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<td>Minister for Science and Deputy Leader of the House</td>
<td>The Hon. Peter John McGauran MP</td>
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<td>Minister for Regional Services, Territories and Local Government</td>
<td>The Hon. Charles Wilson Tuckey MP</td>
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<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon. Jacqueline Marie Kelly MP</td>
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<td>The Hon. Dr Sharman Nancy Stone MP</td>
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<td>The Hon. Ross Alexander Cameron MP</td>
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<td>Parliamentary Secretary to the Minister for Health and Ageing</td>
<td>The Hon. Patricia Mary Worth MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Industry, Tourism and Resources</td>
<td>The Hon. Warren George Entsch MP</td>
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SHADOW MINISTRY

Leader of the Opposition: The Hon. Simon Findlay Crean MP
Deputy Leader of the Opposition, Shadow Minister for Employment, Education, Training and Science and Acting Shadow Minister for Health and Ageing: Jenny Macklin MP
Leader of the Opposition in the Senate, Shadow Special Minister of State and Shadow Minister for Home Affairs: Senator the Hon. John Philip Faulkner
Shadow Treasurer and Shadow Minister for the Arts: Bob McMullan MP
Deputy Leader of the Opposition in the Senate and Shadow Minister for Finance, Small Business and Financial Services: Senator Stephen Conroy
Shadow Minister for Innovation, Industry and Trade: Craig Emerson MP
Shadow Minister for Defence: Senator Chris Evans
Shadow Minister for Regional Development, Transport, Infrastructure and Tourism: Martin Ferguson MP
Shadow Minister for Population and Immigration, Shadow Minister for Reconciliation and Indigenous Affairs and Deputy Manager of Opposition Business in the House: Julia Gillard MP
Shadow Minister for Economic Ownership and Community Security and Manager of Opposition Business in the House: Mark Latham MP
Shadow Attorney-General and Shadow Minister for Workplace Relations: Robert McClelland MP
Shadow Minister for Primary Industries and Resources: Senator Kerry O’Brien
Shadow Minister for Foreign Affairs: Kevin Rudd MP
Shadow Minister for Family and Community Services: Wayne Swan MP
Shadow Minister for Communications: Lindsay Tanner MP
Shadow Minister for Sustainability and the Environment: Kelvin Thomson MP
Shadow Minister for Science and Research and  
Shadow Minister for the Public Service  
Senator Kim Carr

Shadow Minister for Employment Services and  
Training  
Anthony Albanese MP

Shadow Minister for Justice and Customs  
Daryl Melham MP

Shadow Assistant Treasurer  
David Cox MP

Shadow Minister for Retirement Incomes and  
Savings  
Senator the Hon. Nick Sherry

Shadow Minister for Consumer Protection and  
Shadow Minister for Consumer Health  
Alan Griffin MP

Shadow Minister for Information Technology and  
Sport  
Senator Kate Lundy

Shadow Minister for Veterans’ Affairs  
Senator Mark Bishop

Shadow Minister for Regional Services,  
Territories, Local Government and Tourism  
Gavan O’Connor MP

Shadow Minister for Citizenship and Multicultural  
Affairs  
Laurie Ferguson MP

Shadow Minister for Resources  
Joel Fitzgibbon MP

Shadow Minister for Ageing and Seniors and  
Assisting the Shadow Minister for Family and  
Community Services on Disabilities  
Annette Ellis MP

Shadow Minister for Children and Youth and  
Shadow Minister for the Status of Women  
Nicola Roxon MP

Parliamentary Secretary (Leader of the  
Opposition)  
John Murphy MP

Parliamentary Secretary (Manufacturing Industry)  
Senator George Campbell

Parliamentary Secretary (Defence)  
The Hon. Graham Edwards MP

Parliamentary Secretary (Northern Australia and  
the Territories)  
The Hon. Warren Snowdon MP

Parliamentary Secretary (Attorney-General) and  
Manager of Opposition Business in the Senate  
Senator Joseph Ludwig

Parliamentary Secretary (Arts) and Parliamentary  
Secretary (Primary Industries and Resources)  
Sid Sidebottom MP

Parliamentary Secretary (Family and Community  
Services)  
Senator Michael Forshaw

Parliamentary Secretary (Regional Development,  
Transport, Infrastructure and Tourism)  
Christian Zahra MP

Parliamentary Secretary (Communications)  
Michelle O’Byrne MP

Parliamentary Secretary (Sustainability and the  
Environment)  
Kirsten Livermore MP
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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 12.30 p.m., and read prayers.

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**TERRORISM INSURANCE BILL 2003**

**Consideration of House of Representatives Message**

Message received from the House of Representatives returning the Terrorism Insurance Bill 2003 and acquainting the Senate that the House has disagreed to the amendments made by the Senate, and requesting the reconsideration of the bill in respect of the amendments disagreed to by the House.

Order that the message be considered in Committee of the Whole immediately.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (12.32 p.m.)—I move:

That the committee does not insist on the amendments to which the House of Representatives has disagreed.

Senator CONROY (Victoria) (12.32 p.m.)—On behalf of the opposition, could I indicate that I understand the Democrats are not insisting on the amendments. While we are disappointed with that, we believe the opportunity to ensure that the ACCC has a strong mandate to police the increases in insurance premiums that will arise from the Terrorism Insurance Bill 2003 is important.

It is very disappointing that the government are not prepared to stand up for Australian consumers and small businesses in particular out there that, if the Labor Party are successful at the next election, we will be pursuing these matters. We will be pursuing putting a watchdog on a variety of industries to ensure that the extraordinary increases we have seen—though in difficult circumstances in the insurance industry in recent times—are monitored closely to ensure that consumers and small business are not being ripped off. The insurance industry has been going through a tough time, but I think that tough time is passing.

Some of the increases that we are still seeing do beggar belief and they do indicate that a robust and healthy level of profit is now available to some insurance companies. Certainly, the forecast over the next 12 to 18 months indicates that we are seeing a return to some levels of profitability, which is important, but it should not be profitability off the back of exploiting what has been a difficult time in this industry. It is not good enough for the insurance industry to say that they can simply make as much money as the market can bear; however, the government are certainly indicating that that is their attitude. It is certainly not the Australian Labor Party’s attitude, and we will be pursuing our policy objectives of getting the ACCC into a position where it can formally monitor industries, like insurance in this area specifically, if we are re-elected.

Senator RIDGEWAY (New South Wales) (12.34 p.m.)—I want to make a few points about the Terrorism Insurance Bill 2003 and why the Democrats have taken the view that we have not to insist upon the ALP amendments. Certainly, we had made it very clear some time ago when this bill was first being dealt with that we regarded it as an essential piece of legislation that was needed in the marketplace for terrorism insurance cover to be provided. I have to make comment that it has taken quite a significant period of time.
for the government to respond, given that this was something that was in reaction to the events of 9-11. Some two years later, we are now dealing with the legislation.

I think that, first and foremost, what needs to be said is that, whilst there has been a hearing to deal with this bill, I acknowledge that there is some merit in the amendments that were put forward by Senator Conroy on behalf of the ALP. One of the things that we would say is that, at the end of the day and on the balance of things, it really comes down to making sure that there is some way of guaranteeing and giving surety to the financial sector and the property sector and particularly to small businesses to ensure there is adequate cover for terrorism insurance in this country. The thing we need to keep in mind is that, while as most people would imagine we are talking about the top end of town, we are also talking about small businesses. We are talking about issues not just of cover but also of business interruption and the question of public liability. Outside of the metropolitan areas, we are talking about things like infrastructure—power stations and so on. For the existing assets and for future projects that may occur we need to make sure there is some level of surety given to those who may decide to take up a venture. But most of all, as far as the property industry and certainly the banks—and they can speak for themselves—are concerned, it really is a question of making sure that there are some guarantees in the way this scheme is put in place and what follows as a result.

On the issue of the ACCC, whilst I recognise, as I have said, the merits of what the opposition put forward, I want to make the point that we would in fact be creating an unfair or uneven playing field in the sense that the ACCC’s jurisdiction would essentially only ever be in the domain of the domestic market players. There would be some difficulties in dealing with overseas players in the Australian market. Given that the insurance industry has been under review for some time—there have been a range of bills put forward to try to bring back some certainty to how the industry operates—it would seem to me that further delaying the bill may not achieve a significant amount of improvement. There are time lines that need to be met by the insurance industry. I am told that if an event of the same sort as the World Trade Centre happened here in Australia then we would be looking at a possible exposure of some $5 billion worth of assets in this country. It seems to me that what we have to do is apply some commonsense about the legislation being supported.

Obviously, the ACCC will continue to have a reviewing role every three years. So far it has given the insurance industry a clean bill of health in their six-monthly public liability and indemnity reviews and reporting. That should be enough to ensure that the insurance industry is doing the right thing but most of all that the ACCC will continue to have a watching brief. Whilst we accept the merits of what may be put forward by the opposition in their amendments, it is crucial I believe that the Terrorism Insurance Bill 2003 does go through, and the Democrats will support it without amendment.

Senator BROWN (Tasmania) (12.39 p.m.)—The Greens do insist on the amendments the Senate made. They were important amendments. Particularly, we think that it is very prudent that the ACCC keep a watch on the insurance costs for this whole new and obviously potentially very expensive area of insuring against potential terrorist activities. The government is underwriting it; that means the taxpayer is underwriting it, and that means business as well as individuals. We do not want it to be, and do not believe it should be, just up to the insurance industry to set levels here. It is wide open to blow-out. It needs a prudential hand on it and the ACCC
should be involved in that. I have not heard a good argument as to why the debate that we had on this before does not stand any more. The Senate should be standing for the amendment that was made, and the Greens do just that.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (12.40 p.m.)—I hope to make Senator Brown’s day because I will, hopefully, be able to put an argument. Senator Ridgeway made a reference in his speech to the fact that the ACCC does have a role in overseeing this industry. In fact, it now reports publicly and to the parliament, on a six-monthly basis, on the pricing of premiums in this marketplace. That makes the amendment entirely unnecessary.

Senator Brown—What is the problem with the amendment, then?

Senator IAN CAMPBELL—I will get to the problem, Senator Brown, if you want. We care about consumers, and having a formal monitoring role for the ACCC is very different from having the review and oversight that it has at the moment. It is in fact a prudential hand, to use your words—even though that is not the technical definition of prudential. They are looking at premiums, looking at pricing and reporting to the parliament on a six-monthly basis, and have done so for the last 12 months or so. There are in fact 43 insurance companies providing insurance in these categories, so it is a very red-hot competitive marketplace. Any insurer that sought to price gouge or take advantage of the marketplace would be quickly replaced by one of the other 43 insurers and indeed reinsurers that have come into the marketplace. As Senator Ridgeway has made quite clear, this legislation will, we expect, encourage more reinsurers and insurers into the marketplace.

Indeed, Senator Ridgeway is right. This has taken longer to bring towards the parliament than the government would have wanted. This is an issue of how you deal with the pricing of terrorism risk. It is an issue that all major jurisdictions around the world have been dealing with. Each jurisdiction has done it in a slightly different way. I think the way we have done it, dare I say it, is better than what, for example, the United States have come to. They have just passed a law saying that you have to offer terrorism insurance, so they put the price straight into the premiums. We do not think that is the way to go, and I am glad that all parties have agreed with this approach in principle.

In terms of why you would not make it formal monitoring, the law already provides the Treasurer and, I believe, me with the power to at any stage ask the ACCC to monitor formally. But it is not a cost-free exercise. There is a significant cost involved to the government and to the insurance companies that have to comply with the monitoring. That cost, as I am sure Senator Brown would know, ultimately gets passed on to the premium payer. The insured ultimately pays the cost. It is not a cost-free exercise. It will ultimately cost the consumers in one way or the other through both taxes and higher premiums. We believe that on balance the review process, the oversight and the six-monthly reporting, which does come to the parliament, should satisfy the parliament in terms of sound oversight of this very important industry. At any time, as I have said, it remains open to the government to bring in formal monitoring if those reviews create or raise alarms.

I would certainly refer Senator Brown to two reviews I have seen. They are very thorough; they look into the market itself. They look into the pricing and a number of crucial aspects of it. They are very thorough reports. If Senator Brown has not looked at those
reports to date, I would be very happy to provide him with a copy.

Question agreed to.

Resolution reported; report adopted.

MIGRATION LEGISLATION AMENDMENT (FURTHER BORDER PROTECTION MEASURES) BILL 2002 [No. 2]

Second Reading

Debate resumed from 14 May, on motion by Senator Troeth:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (12.45 p.m.)—The Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 [No. 2] is back before the Senate today as part of the Howard Liberal government’s cheapjack political opportunism in creating double dissolution triggers. The bill we are considering has nothing to do with protecting Australian borders; it has everything to do with cynical politics. The Howard government wants to be in a position to force Australians to an early election if it decides it is in its political interests to do so. The question of the nation’s interests is irrelevant to the making of this decision. Australians should remember, if they are forced to such an election, that their interests counted for nothing while the government’s interests in being re-elected counted for everything.

This is a government that will do and say anything to stay in power. The children overboard affair has proven that to us beyond dispute. This is a government which, despite being the highest taxing government of all time outside wartime, finds itself incapable of providing Australians with decent health and education systems. Australians pay their taxes now for next to nothing in service delivery while the Howard Liberal government spends its time on political stunts like this bill.

The Howard Liberal government initially excised or removed over 3,000 islands from Australia’s migration zone by regulations made on Friday, 7 June last year. These regulations were rightly disallowed in the Senate on 19 June last year. On 20 June the Howard government introduced the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 into the House. The bill we are considering in the Senate is identical in terms of the disallowed regulation. The government rushed consideration of the bill and the House of Representatives passed it on the same day. The Senate referred the bill to the Senate Legal and Constitutional References Committee, which tabled its report on 21 October 2002. The Senate rejected that bill on 9 December 2002. On 26 March this year Minister Ruddock introduced the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 [No. 2] into the House of Representatives.

This bill is identical to the previous bill and its rejection would create a double dissolution trigger. The bill excises or removes from the Australian migration zone the following: all islands that are part of Queensland and are north of latitude 12 degrees south; all islands that are part of Western Australia and are north of latitude 23 degrees south; all islands that are part of the Northern Territory and are north of latitude 16 degrees south; and the Coral Islands territory. All in all, some 3,000 islands lie within the excised or removed zone. Many of the islands are small and uninhabited. It should be noted that many of the islands lie very close to the Australian mainland. For example, Groote Eylandt is 40 kilometres from the mainland, Melville Island is only 24 kilometres from the mainland and Prince of Wales Island in the Torres Strait is just 16 kilometres from the mainland. Many of the islands caught in this excision or removal are not on any direct route from Indonesia, and a boat travelling
from Indonesia could reach part of the mainland more easily than it could reach a number of the excised islands.

When this bill was before the House on the first occasion, the member for Lalor said: The government is standing here somehow pretending that excision would stop people-smuggling. It is trying to create this image that excision is somehow a stop sign. How on earth does that follow? Determined people will still come. If a part of the nation is excised and if they think that they would be advantaged by going a bit further then why would they not simply drive for the mainland?

If you excise all of these islands, what you are going to do is send a signal that people should go to the mainland. How does that help with border security—to send a signal—to people attempting illegal entry that they should head for the mainland. It is a nonsense.

Now that this bill is back before the House for a second time, you do not have to take my word on the ineffectiveness of it. Now, because the bill was subject to a Senate inquiry, we have direct evidence of the ineffectiveness of this bill from the experts. The Acting Secretary of the Department of Immigration and Multicultural and Indigenous Affairs, Ed Killesteyn, stated in that inquiry—

at the start of page 1405—

It is a simple matter of geography. If you remove the outlying islands from the capacity of smugglers to simply drop off their cargo, they are forced to look for other routes ...

That was said by the person who was at that stage acting secretary of the minister’s department. This is a direct admission that the excision bill will lead to people-smugglers aiming for mainland Australia. This is a direct admission that the Howard government’s border protection strategy is to make sure unauthorised arrivals end up on mainland Australia.

This is of course the worst of all possible worlds. For the asylum seekers involved it means that they could end up in remote Australia without the necessary food and water to survive. It is the worst of all possible worlds for asylum seekers to aim to reach mainland Australia as they take greater risks with their lives. They could end up stranded in very remote places without us knowing that they are there and without the necessary food and water to survive. Individuals might require medical attention and the like.

From Australia’s point of view, this means that the Howard Liberal government’s border protection strategy is to expose Australia to the disease and quarantine risks associated with having people land without any form of scrutiny on mainland Australia. If the accurately quoted admission by Mr Ed Killesteyn at the Senate inquiry did not highlight the absurdity of this bill starkly enough, we have the extraordinary admission of the Australian Federal Police Commissioner, Mr Mick Keelty. He said:

This is a far preferable way for us to go …

… if they are going to commit a crime in the way they are sending people to Australia, we can at least try to get them sent to where there is … some infrastructure support for them.

The head of the Federal Police is admitting that the Howard Liberal government actually wants unauthorised arrivals coming to the mainland rather than landing on islands and that this desire to have people land on mainland Australia is the strategy driving this bill. Australians might well be justified
in asking: why should we support a government when its border protection strategy, a strategy it has prided itself on so much, is actually designed to ensure people cross over the border and onto mainland Australia?

Let us now turn to the legal effect of the excision—or giveaway or removal. Let us assume that this bill passes this parliament and these islands are excised. What would happen if a boat reached them? Presumably, the asylum seekers involved would be taken to PNG or Nauru for processing. Excision is not a stop sign; it is a different processing regime in a different place. People will get processed, they get sorted into refugees and non-refugees—and you might be surprised to learn what happens next. Australia generally then takes the refugees and resettles them here, despite the government at the last election leading—or misleading—the Australian people to believe that this would not happen. And don’t we remember it all very well. We remember the Prime Minister carrying on about the asylum seekers on the Tampa. As he was reiterating and walking about the press gallery and jumping from foot to foot with excitement, he said that not one of them would set foot on Australian soil. Let me reiterate that. The Prime Minister said before the election that not one of them would set foot on Australian soil. And remember the Prime Minister saying that the asylum seekers involved in the children overboard web of lies were not the sort of people he wanted in Australia.

The Prime Minister was running the airwaves around the time of Tampa and the time of the children overboard affair representing to the Australian people in crystal clear terms that these people would not end up in Australia, the whole theme of the Liberals’ last election campaign being, ‘We will decide who comes to this country and the circumstances in which they come.’ True to form, when these representations were made the Prime Minister was not being frank with the Australian people. He was not being honest about the children overboard affair or about what would happen to asylum seekers caught up in the so-called Pacific solution. Most of those found to be refugees have in fact been settled in Australia. Despite all of the representations—misrepresentations—surrounding the last election campaign, most of those found to be genuine refugees have been resettled in Australia. So much for the Prime Minister’s claim that not one refugee would be allowed to set foot in Australia—not one.

The so-called Pacific solution is nothing more than the world’s most expensive detour sign. It does not stop you getting to Australia; it just puts you through a detour on the way while Australian taxpayers pay for it and pay for it and pay for it—a much more expensive way of eventually getting to Australia. So, instead of stunts like this, it is time the Howard Liberal government faced up to engaging in a long-term solution to refugees and asylum seekers. The so-called Pacific solution is not a long-term solution. Can anyone in this place really imagine that Australia will be processing asylum seekers’ claims on Nauru in 10 or 20 years?

The Labor Party has a truly long-term solution which I am sure the ministers in this place have been interested to look at the detail in our policy Protecting Australia and Protecting the Australian Way. This policy is founded on Labor’s belief that the No. 1 priority of the Australian government is to protect Australia. Labor has a proud record of doing so and will always put Australia and its protection first. Labor will protect Australia’s borders with a $600 million Australian coastguard—a cop on the beat 24 hours a day, seven days a week.

Labor in government will also better protect Australia in the following five ways.
Labor will introduce a US style green card system to crack down on illegal workers and ensure they are not stealing Australian jobs and undermining the pay and conditions of Australians. Labor will smash onshore and offshore people-smuggling rings through tough policing, including stationing more Australian Federal Police officers in Indonesia. Labor will impose harsher penalties, including million-dollar fines for people smugglers. Labor will focus on eradicating people-trafficking for the purposes of sexual or other exploitation as well as people-smuggling. Labor will better protect our airports and seaports.

Labor understands the concerns of Australians and shares their view that unauthorised boat arrivals are the worst of all possible outcomes both from Australia’s point of view as a nation managing its borders and from the point of view of the asylum seekers who risk, and all too often lose, their lives on the journey. Australians rightly want a managed and fair system. Labor will seek to protect Australia from future boat arrivals and will seek to create a fairer worldwide refugee system whereby the world adopts one processing system for refugee claims. One worldwide processing system would be the ultimate deterrent to people-smuggling and boat arrivals. Why pay a people smuggler and risk your life to get to a developed nation if, when you get there, you have no better chance of your claim being accepted? One system is also the way of ensuring fairness so that the most disadvantaged waiting in refugee camps have the same chance of having their claims accepted as an asylum seeker who arrives in a developed country.

Advocating a new worldwide system is a bold step, and leading the world always requires leading by example. In its policy, Labor outlines its intention to lead in the following five ways. Labor will maintain the excision of Christmas Island in order to pilot the processing regime it will advocate should be adopted globally. Christmas Island will be the prime asylum seeker processing and detention facility. Labor will put its processing regime to the ultimate test by monitoring the return of failed asylum seekers. Labor will increase the funding to the United Nations High Commissioner for Refugees to $25 million per annum in order to better assist those who live, and too often die, in refugee camps overseas. Labor will boost aid to address the issues that cause people to move, such as poverty, natural disasters, conflict and environmental degradation, and will increase aid to countries of first asylum. Such aid is desperately needed and is important to facilitate the development of a system of return of asylum seekers. Labor will keep mandatory detention for the proper purposes of protecting Australia from health and security risks and ensuring that refugee claims can be dealt with efficiently and failed claimants are removed. However, under Labor the system of mandatory detention will be a humane one, not a system of punishment as we currently know it under the Howard Liberal government.

To that end, Labor has given the following commitments. Labor will end the so-called Pacific solution—the processing and detaining of asylum seekers on Pacific Islands—because it is costly, unsustainable and wrong as a matter of principle. When we are in a circumstance where we are now told that one of the detention facilities in Nauru is ‘self-managed’, in the department’s parlance, because they have lost control of it, I think it is time for us on this side of the Senate to urge those on the other side of the chamber to again look at the so-called Pacific solution and bring it to an end. For those who are not aware, the detainees in the detention centre at Nauru have, in fact, revolted. They have taken over the detention centre. Rather than the Nauru government admit that the de-
partment has lost control of the detention centre, they call it a 'self-managed' centre, because the department and the Nauru officials cannot get into it. What an extraordinary position—refugees are running the centre.

Labor will free children from behind the razor wire. Labor will return detention centre management to the public sector, where it rightly belongs. We will remove some of these shoddy private contractors. Labor will shift the shroud of secrecy around detention centres through media access and the involvement of independent medical professionals. Labor will run a fast, fair and transparent processing regime on Christmas Island and on mainland Australia that will determine 90 per cent of refugee claims in 90 days. Genuine refugees will be quickly identified and released while failed claimants will be quickly returned to their place of origin. Labor will administer better health and ASIO security checks. Those with a claim of merit who are ASIO security cleared and health cleared and who pose no risks will be able to live in hostel-style accommodation. Christmas Island will have such a supervised hostel. Any other supervised hostels required will only be located in regional communities that bid to have one because they want it to be there.

Labor will create an independent inspector-general of detention who will monitor detention conditions and resolve complaints. Labor will have an expert committee which will review and make recommendations on any case in which a person is detained for more than 90 days. Labor will replace the current temporary protection visa system with a short-term temporary protection visa, after which a genuine refugee can access a permanent protection visa. That will end the cycle we are in now where it is conceivable a person could be here a lifetime because they are a refugee but only ever qualify for rolling temporary protection visas and have no access to family reunion. For the reasons I and my colleague in the other place have outlined, this bill should be very quickly, clearly and decisively rejected.

Senator SCULLION (Northern Territory) (1.05 p.m.)—I rise to speak in support of the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 [No. 2]. At the outset, I have to say how nervous the previous speaker, Senator Sherry, made me. I come from the north of Australia and I am delighted that some of the students and their teachers from Darwin High School have travelled down here to listen to this debate, which seems to be far more central and important to the people of the Northern Territory and certainly far more important to the people of north-west Australia and Northern Queensland. As they will attest, for a number of years they have seen vessels coming into Darwin Harbour. They have seen reports of it on the news. It happens all the time. It is almost not newsworthy to have vessels coming in. We live in southern Asia in Darwin and we are exposed to these issues on a regular basis. We were all very relieved in Northern Australia when, eventually, a boatload of people landed near Coffs Harbour.

A number of people have put forward their electoral point of view, and we heard from the member for Lalor. I am not sure how frightened they are about people who enter this country via their electorates, but I am certainly frightened about people entering mine. This impacts on Northern Australia. There will not be an impact on other places in Australia; the impact is going to be on Northern Australia. It is very important that the boats that have been landing in Darwin, at Cape Wessel and Cape Don and around the Kimberley coast are stopped from landing there. It is very important for a number of reasons that have been made very clear in this place.
The spokesman from the other side, Senator Sherry, says that we are ending the Pacific solution, ending something that is recognised internationally as one of the very best solutions. The remainder of the world are now looking to Australia to resolve their issues in terms of illegal migration processes and people-smuggling because they know we have the right answers. I have heard lots about a coastguard, but that just makes me wonder and shudder. So many of my constituents in the Northern Territory are part of the defence forces and do such an amazingly good job. The Navy do a fantastic job. In Operation Relex, how many got through? The Customs people have vessels right around the coast. What was the outcome? How many people came through? None. But we have the other side telling us that this somehow failed. It is anathema to me. I did not understand it, but then again that is probably not surprising.

We have had calls for help from right across the top end of Australia. This government put in legislation that is absolutely working. One of the biggest problems I am faced with when I go to these communities is that people ask me: ‘What about the things on the bottom of the boats? What about the environmental issues that are going to come with these people?’ There are not only the issues about the people on the boats and the people-smuggling and other heinous crimes that are being committed but the issues about the environment. The Indigenous people are very concerned about their economic future. I would have to say that in most of the places, particularly the offshore islands, their economic self-determination is very closely tied to the marine area and to maintaining the pristine environment.

When I was in Kakadu just last week I spoke to traditional owners there who were bemoaning the fact that in two years time they will not see any lizards, there will be no goannas and there will be no snakes—there will be no predators—because the cane toads will have killed them. We were all sitting down around the fire saying: ‘Why didn’t we do something when we had a chance? Why is it now we’re starting to look heavily at it?’ I did not have an answer. But I can tell you now that I do not want to be sitting around those camp fires with those island people saying: ‘Why didn’t we do something about this when we had an opportunity?’ We have an opportunity today. Those people who care about the environment, who care about the people who live on those islands and who care about the issues of economic self-determination for Indigenous people should be supporting this bill in this place.

We have got people like this week’s leader of the Labor Party coming out and saying, ‘Look, this is just a sovereignty issue—we’re giving away Australia.’ Someone who lives on those islands would read that and say, as they have said to me, ‘But we are not.’ I said: ‘Of course we are not. That is what you call fear. That is what they do—they spread fear amongst people to somehow gain support.’ It is absolutely outrageous that people would seek to do that. This legislation only affects people who are involved in the most heinous of crimes, the most heinous of activities, and that is trading in the lives of human beings. If you are an Australian citizen or you have a valid visa, this does not have any impact on you whatsoever.

Who does this legislation actually impact on? As I have said, it also has an impact if it does not become law because it will impact on northern Australians, both Aboriginal and white, with consequences for our future. We are talking about who wants this legislation in place. There must be an awful lot of people smugglers out there who have just heard declared in the Senate of Australia that we are going to wipe out the Pacific solution. They will be arriving in droves on aeroplanes.
to vote for the Labor Party, because this is clearly in their business interests: ‘What a great outcome! That will be tremendous. They are going to change the only set of rules that have kept us at bay.’

I have only been in parliament a very short time but the whole issue about being in parliament is about listening to the people. I travelled with the Senate Legal and Constitutional Affairs Legislation Committee to those very islands to speak to the very people that this actually has an impact on. What they told us was very clear. It was not vague, it was not grey and there to be interpreted; it was very clear. I will quote from Hansard the evidence given by Richard Gandhuwuy, who is a traditional owner and a great fisherman and somebody who has a great deal of wisdom on these matters. He said:

I would like to strongly support the new proposal that the committee is looking into now that is going to be a part of the legislation to control the coast, especially in Arnhem Land, Northern Territory. I would like to strongly support that legislation to go ahead and be approved by parliament and become law, an act.

He was very clear in saying, ‘That is what we want to happen to our land, Indigenous land, part of Arnhem Land, part of the Arnhem Land Aboriginal Trust. Mr Crean says, ‘Clearly, people just do not understand the impact of this legislation.’ But Mr Gandhuwuy went on to say:

And I am just hoping for the people wanting to become part of Australia that that will still continue. But ... I support very strongly that this legislation will go ahead and the law will be passed to control Australia.

Unlike Labor, I can tell you that Indigenous Australian people in the Northern Territory understand this legislation and absolutely and utterly want it to become an act. So I have to say with no shame but a great deal of pride that this side of parliament has supported this bill. But last time this bill was before this place it was rejected by the same pathetic carping we heard a minute ago by people using this place to give a five-minute rationalisation about why they are going to pursue this political agenda and give 15 minutes to a policy debate about what they are going to do with repainting boats and putting ‘Coastguard’ on the side and how exciting that is going to be to Australians. The reason they only gave it five minutes is that that is as long as the discussion could possibly take.

I have just been back to those communities and they asked me, ‘What have you done, Nigel? What have you done, Senator?’ I said: ‘This is how it works. I know you told us that you wanted this. We told them how important this was to your future, but they ignored it.’ They ask, ‘How can that happen—it was a joint committee? I said: ‘Well, that’s just how it works. It is unfortunate but that is how it works.’ This week’s leader of the Australian Labor Party was asked by a journalist about this bill and he said, ‘Listen, it’s going to have an impact on sovereignty.’ He was asked, ‘What do you think the voters will say, Mr Crean?’ He responded by saying, ‘Well, the voters will have their say come the election. I wouldn’t be worried about that particular poll.’ The Australian Labor Party made the same mistake today when they ignored the interests and the wishes of the Australian people in re-electing that particular leader. I think that is a sadness that will affect the Australian political scene for some time.

This place has an opportunity today to do the right thing, the just thing; to do something that is equitable and will protect some of the most marginalised and remote places in Australia. This bill impacts negatively only on people smugglers and those people seeking to come to this country unlawfully. I urge those people on the other side to consider their wider responsibilities in this place and consider the impact on the people who
do not live in Sydney, Melbourne, Adelaide and Brisbane. This needs that wider consideration. It is very important to note in relation to some of the recent debate that this is a place of equity; this is a place of the states and territories. We have reviewed it. But, remember, if you are going to deliver equity to those places that are not founded on a large population base you need to consider that. I can tell you right now that Territorians are watching very closely what happens to this particular bill. I commend the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 [No. 2] to the Senate.

Senator SANTORO (Queensland) (1.15 p.m.)—I very much enjoyed the speech just given by Senator Scullion. He delivered it with a great degree of feeling for and commitment to the people from the Northern Territory he represents so ably. I also place on the record that a lot of the statements he has made on behalf of his constituency are also applicable to Queensland, which has a vast and, most often, very isolated coastline where local communities are also vulnerable to the potential incidents and occurrences of the kind Senator Scullion mentioned in relation to the Northern Territory coastline. What I really want to pick up in my remarks is the point he made very eloquently: he, like me, believes that it is wholly unexceptional that a sovereign country should have the absolute right to decide who crosses its borders. That notion is wholly unexceptional, and it is something that the Labor Party has ignored at its own electoral peril. It paid the price at the last election and it will continue to pay the price if it continually ignores that basic Australian sentiment, wish and will.

It is a fundamental matter of national law and national security. It just should not be the subject of argument from anyone, including those who sit opposite in this place and who should have learnt their lesson at the last election. Yet when the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 [No. 2] first appeared before the Senate, it was the subject of Labor Party politicking which will of course not be affected, far less ameliorated, by the events in the Labor caucus today. If anything, what happened in the Labor caucus this morning will make the Labor Party more confused and more unAustralian than it already is in relation to this issue. Labor and the minor parties in this chamber seem to take the view that Australia’s sovereignty is less than complete. They seem to believe that our borders should be made more porous by legislation rather than impermeable, and that people who have the means to jump the queue should be able to do so and should in fact be helped to do so. This side of the chamber does not agree that Australia should reduce its sovereignty. That is one of the key issues we are debating here today.

We believe that our borders should be sealed against illegal entrants. We believe that our island territories, as Senator Scullion has stated, should not be used as convenient landing points well short of the mainland for people who come here having broken the law. This is an issue that is of particular relevance and interest. As I indicated at the commencement of my remarks, it is a concern not just to Queenslanders—the people I represent in this place—but also to Western Australians and to Territorians. The majority of Queenslanders would think it entirely proper to include the Coral Sea Islands territory and Queensland islands north of latitude 12 degrees south within the list of excised offshore places. Indeed, I would not be surprised if a large majority of Queenslanders demanded such action be taken. I submit to the Senate that they would be absolutely right to take this view and to adopt that position.
The history of this legislation is not, however, one that permits any confidence in the Labor Party as a party for the national interest. We can leave aside the soft and fluffy feelings of the Democrats and the Greens on the matters of illegal entry. However, the Labor Party cannot escape its duty in this place. It may be a long way from forming government, but it is a party that can still genuinely aspire to form government during the next two or three decades. I submit that it cannot escape its responsibilities and its duties to the people in this place and in the other place. In government you need to take the hard decisions. That is why this bill is before the Senate today; not for the cynical reasons attributed to us by Senator Sherry, whose speech I listened to. That is why its provisions almost exactly replicate the terms of the disallowed Migration Amendment Regulations 2002 (No. 4). The only real addition is section 4, which clarifies the operation of section 46A in relation to the commencement of the new excisions.

If the Labor Party thinks that illegal immigration has gone away, that it is no longer an issue we need to confront or that it is something we do not need to bother to legislate for, then it should say so. The Australian people can make their own judgment about the capacity of the Labor Party to formulate practical policy and to protect our country at our borders. But the Labor Party does not think illegal seaborne immigration has gone away. If it opposes this legislation, it is able to do so only because the firm and forthright policy of this government—of the Howard government—has been successful for the moment in deterring people smugglers. The original bill was referred to the Senate committee. The key recommendations of the committee report were that the bill and the wider offshore processing policy should not proceed. Alternatively, the committee said the offshore processing policy should be subject to new standards, either under the Migration Act 1958 or in international agreements with declared countries. It said that initial assessments for refugee status purposes should be reviewed by the Refugee Review Tribunal or the federal magistracy.

The committee further said that if the bill were to proceed its provisions should not be retrospective. These might seem to be esoteric points, even though I acknowledge that for their advocates in this place they are points of principle. The sad fact is that they miss the point. Our duty as a legislature is to make our borders as impermeable as possible to people who break the law to jump the queue. It is as simple as that, and the Labor Party knows it. There are clear implications for border security and the whole issue of illegal entry. These are not academic issues for the people in Queensland, the Northern Territory or Western Australia, or for that matter New Zealand, which might well be the destination target for future boat people. Preventing the use of a greater range of our offshore islands as illegal entry points seems to me to be fundamentally an issue of commonsense.

Speaking as a Queenslander, I can tell the Senate without hesitation that the idea of illegal entrants arriving at Thursday Island or some other Torres Strait island is anathema. Queenslanders expect the federal authorities to ensure that our borders—their borders, in this instance—are as impenetrable as possible. It is only the Labor Party that suggests that, since it is impossible to guarantee impermeable borders, we should not even try to seal them. Labor’s fellow travellers on the limp left do not even seem to think we should have borders. That in itself is an even greater travesty. The Labor Party, the party that has the capacity to support this policy more than any other party, needs to understand that.
They all need a wake-up call. Australia is rightly a prime destination of choice for legal settlers: we have an active migration program for people who are prepared to stand in line and take the tests that we as a nation require. We must do all we can to shut off the illegal entrants and foreclose on the businesses of those who take advantage of the market that exists for queue-jumpers. In his second reading speech on the original bill last year, the minister said:

The intelligence that we are gathering suggests that smugglers are now changing their tactics, not necessarily to target the mainland but to bypass the mainland on the way to New Zealand. ... It is that change in tactics that we are noting from the smugglers that this bill—and the regulations that were disallowed—is seeking to prevent.

I believe that this is a good policy that we are considering here today. There is open movement between New Zealand and Australia for citizens of our two countries. That is something that is beneficial to both nations and something that is culturally and socially proper between two countries that are so close in their shared history.

Australians are not opposed to migration. Virtually since first settlement, and certainly since the end of World War II in the middle of the last century, we have welcomed people from a wide variety of places around the globe. I am one of the direct beneficiaries of that policy. We meet our obligations as world citizens—we more than meet them, in fact—and there is no reason to change that policy now. But we must enforce our national right to determine who comes here to live, and when and how they do so. Let us hear no more of this nonsense that we live in a borderless world or that we owe a greater obligation than the people of other countries to those who would prefer to bend the rules and come to our shores illegally.

Senator HARRIS (Queensland) (1.24 p.m.)—I rise today to speak on the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 [No. 2] and in doing so would like to clearly indicate to the chamber and to the Australian people that One Nation fully supports the government’s proposal. The reason that One Nation does that is that we believe that it is absolutely critical that a country has the ability to ensure that those who enter its borders are such that they will become part of a greater Australian community. What we have been seeing over a period of time is the homogenising of our culture, our society and also our religion. It is to some degree the latter of those three that concerns me greatly.

Let me explain it to you in this way. Where we have people who arrive in Australia through the legal immigration system, those people are accepted and they become part of our Australian society. Australia can draw from approximately 160 nations for the people that are going to become part of our immigration system. Last year Australia accepted approximately 127,000 immigrants. That was across a series of different types of immigration. Some were accepted because of their academic skills; some because of their work skills. Some of those people were accepted because they already have relations here in Australia, and a percentage of them because they were true political refugees. But that balance was decided by the government of Australia, and that is the point that I am making. It is absolutely imperative that the decisions as to the make-up of those different people be made from within Australia. What happens when we have illegal immigrants coming to Australia is that that decision is being made by people outside Australia, and that is not in the best interests of Australia as a nation.

I spoke before of the homogenising of our society. The issue that concerns me greatly also is the effect that it is having on the Christian base on which this nation is
founded. Let me put very clearly on the record that One Nation is not saying that, if you are not a Christian, you are not welcome in Australia. That is not my point. My point is that, through illegal immigration, we are seeing an unhealthy bias of other types of religions or beliefs coming into Australia. They have a place within Australia, but that place should be confined to being decided by the government of the day.

If we want to look at some of the profound effects on our religious beliefs, we only have to look at what is happening to the authorised version of the King James Bible. I happen to have a copy of that here in the chamber with me. When I look at the preceding pages in the front of it, it is quite interesting that something does not appear. That is, there is no intellectual property ownership of the authorised King James version of the Bible. But what is happening now is that, through altering the context of that bible, people are now able to take out copyright over it.

So why would a person want to alter the original King James version of the Bible? I believe that it is a step towards homogenising all religions because the thing that has allowed the copyright to be issued on a version of the King James has resulted in 65,000 changes to the words within that bible and they are primarily structured towards removing any reference to the deity of Christ. So how does that help the situation of homogenisation? It does it by bringing what ultimately will become the Bible that is printed in this country into line with other beliefs, in that man is the god and not Christ.

I believe that our border control is absolutely paramount in relation to the people who enter this country. I believe we also need to look at the literary side of what is happening in Australia. We only have to take into account the recent parallel importing legislation which will see the homogenising of our language to see that we will no longer be referring to our clotheslines as a Hills hoist and that we will not be talking about the footpath; we will be talking about the sidewalk. So we are gradually seeing not only a homogenisation of our Australian culture and society but a homogenisation of our language and our religion. This is the concern that I see in relation to the present bill. The government has got it right: it is the government’s intention to ensure that the decision that is made on the people who enter this country is made by people from within Australia, and One Nation totally supports that principle.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (1.33 p.m.)—I speak on behalf of the Australian Democrats on the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 [No. 2]. This is of course the second time that this bill has been before us. The Democrats opposed it the first time around and we continue to oppose it now. It is a part of the so-called Pacific solution, which has resulted in incredible suffering for a significant number of people and in a whole group of people being removed from the rule of law and the protection of law. That is a principle that the Democrats oppose, regardless of who it applies to. The fact that it is applying to people, many of whom are clearly amongst the most vulnerable people on the planet—people who are fleeing persecution, people who are fleeing danger and seeking safety—and putting them in a situation where they have fewer legal rights than anybody else is something that the Democrats do not support and will never support.

It should also be said that the legislation is unnecessary under existing law. Unfortunately, despite the strong opposition of the Democrats—indeed the Democrats were the
only party to vote, alongside Senator Harradine, against those bills at the final reading—legislation was passed through this chamber prior to the last election which provided the minister with ongoing powers to introduce regulations to remove any particular islands offshore from Australia from the jurisdiction of the Migration Act. This legislation seeks to remove the need for that by putting all of those islands—around 4,000 or more islands—outside the jurisdiction of the migration zone for the purposes of the Migration Act. It removes any opportunity for parliamentary scrutiny should the minister want to remove islands in the future and it removes any need for the minister to have to justify the removal of those islands from the migration zone.

It is a massive broad-brush approach that is not needed. It is clearly not needed, as shown by the evidence over the last year or two. But even if there were still boats arriving, from the Democrats’ point of view people are entitled to the same level of protection under Australian law whether they happen to be on an island offshore from Australia or on the Australian mainland. To expand the principle that people have fewer rights depending on which part of the country they are in is completely unacceptable, whether it is in relation to refugees and migration law or to any other aspect of the law. People deserve the protection of the law and they should not be exempted from that protection simply based on which particular piece of Australian soil their feet happen to be on.

The Democrats have noted repeatedly the major draconian aspects of the package of legislation that went through this chamber just prior to the last election. Much has been said about the unfortunate fact that the Labor Party supported all that legislation at the time and have indeed supported, under this current term of government, a few pieces of legislation which further removed people’s rights under the Migration Act. However, we note that they have opposed this legislation and continue to do so. We thank them for doing that and note that at least they are holding the line on this particular issue. I hope that, as part of their continuing review of their immigration and refugee policies, they will commit to winding back further some of the legislation that was passed prior to the last election.

In short, as to the Prime Minister’s suggestion that the Senate is ruthlessly obstructing everything that this government does, if we were wanting to do that we could put up a number of speakers on this legislation and speak at great length on it—and it would deserve it. The fact that I am giving only a short speech on this should not in any way indicate that it is not something that we take seriously. We do take it seriously but we believe the debates have been had before.

We have had a Senate committee inquiry. We had a debate on this bill the first time around, and I think we even had regulations of a similar type prior to that. So it is an issue where the facts are clearly on the table and people’s positions are clearly on the table. The Democrat position is consistent: we opposed the whole idea of having parts of Australian soil outside the migration zone where people do not have the protection of the law. We certainly cannot in any way support this legislation, and we would be completely inconsistent in our philosophy, policy and principles if we were to do so.

I take the opportunity to highlight the fact, and it needs to be emphasised at every opportunity, that this legislation—even though I believe it is not going to pass again today, and I am thankful for that—is nonetheless part of an ongoing policy that is still very much alive and well. It is hard to call a policy like that ‘well’, but it is still very much alive and still very much in operation. That
policy is still operating today—the Pacific solution—under what is called Operation Relex II, and I think we still have about $18 million or $19 million coming out of the Defence budget to require defence personnel to patrol the coasts to keep out people who are seeking protection and safety. We still have people marooned on Nauru at the moment, including people who have been assessed as refugees in need and deserving of protection and who are still being kept in what is, in effect, detention, with no idea of what their future holds and with no rights at all under the law. We still have others on Nauru who have nowhere to go and have no future.

We still have people in Australia—thousands of people—who are on temporary visas whose futures are completely unclear and who are living under the terror of being sent back to the regime and country from which they fled for their own safety. We still have thousands of people who are being kept separate from their families—husbands and wives, children and parents—causing immense suffering, stress and hardship, which is a direct result of this policy. We still have people in detention centres for prolonged periods of time—all of whom are suffering enormously, all of whom have no certainty about their future and all of whom are living under fear of being sent back to a regime where they all genuinely believe they would not be safe.

All of that is costing the taxpayer hundreds of millions of dollars at the same time. It is a bankrupt policy; it is one that needs to be reversed. The Democrats will continue to oppose it in all its forms. This is simply one component of it; unfortunately, it is not a particularly big component. We wish we could do more to reverse the temporary protection visa to reverse the offshore detention regime. We will continue to work to do that, but we certainly will not support any legislation that increases that morally bankrupt and legally disgraceful policy which unfortunately is still in place under the current government.

Question put:
That this bill be now read a second time.

The Senate divided. [1.44 p.m.]
(The President—Senator the Hon. Paul Calvert)

| Ayes | 33 |
| Noes | 36 |
| Majority | 3 |

AYES
Abetz, E. Alston, R.K.R.
Barnett, G. Boswell, R.L.D.
Brandis, G.H. Calvert, P.H.
Campbell, I.G. Chapman, H.G.P.
Colbeck, R. Coonan, H.L.
Eggleston, A. * Ellison, C.M.
Ferris, J.M. Harris, L.
Heffernan, W. Hill, R.M.
Humphries, G. Johnston, D.
Kemp, C.R. Knowles, S.C.
Lightfoot, P.R. Macdonald, I.
Macdonald, J.A.L. Mason, B.J.
McGauran, J.J.J. Minchin, N.H.
Patterson, K.C. Santoro, S.
Scullion, N.G. Tierney, J.W.
Troeth, J.M. Vanstone, A.E.
Watson, J.O.W.

NOES
Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Buckland, G. Campbell, G.
Carr, K.J. Cherry, J.C.
Collins, J.M.A. Cook, P.F.S.
Crossin, P.M. * Denman, K.J.
Evans, C.V. Forshaw, M.G.
Greig, B. Harradine, B.
Hogg, J.J. Hutchins, S.P.
Kirk, L. Lees, M.H.
Ludwig, J.W. Lundy, K.A.
Mackay, S.M. Marshall, G.
McLucas, J.E. Moore, C.
Murray, A.J.M. Nettie, K.
Ridgeway, A.D. Sherry, N.J.
Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (1.48 p.m.)—I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (1.49 p.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

CRIMINAL CODE AMENDMENT (TERRORIST ORGANISATIONS) BILL 2003

The terrorist attacks on the United States on September the 11th, 2001 signalled a terrifying new phase in international terrorism.

And they marked the beginning of what has become known as the War Against Terrorism.

Just 13 months later, the terrible reality of this war was brought home to Australia with a bomb attack on Bali, a favourite destination of Australian holiday-makers.

Recent bomb blasts in Saudi Arabia and Morocco have killed an estimated 66 people, including at least one Australian.

And another Australian was killed by a suicide bomber in Iraq.

Terrorism is clearly not an abstract phenomenon, and not one from which any country is isolated.

In recent months we have witnessed major developments in the war against terrorism.

Key Al Qaida figures have been captured, the brutal regime of Saddam Hussein has been dismantled and the criminal proceedings against those alleged to be responsible for the bombings in Bali have commenced.

But there is no doubt that the war against terrorism is ongoing.

Australia did not ask for this war.

We did not ask for Australians to get caught up in terrorist attacks in the United States, in Bali, Saudi Arabia and elsewhere.

But they were.

Australians have been killed and others have been seriously injured in terrorist attacks.

Terrorism is a very real threat to world peace and it is a real threat to Australia’s national security.

The safety and security of the Australian community and Australian interests is a top priority of the Government.

It is a responsibility this Government takes very seriously.

Our response to the threat of terrorism has been comprehensive and wide ranging.

And it is a task which is ongoing.

In the current environment, complacency is not an option.

As part of our comprehensive approach to the new security environment, the Government developed a package of strong counter-terrorism legislation, the bulk of which was passed by the Parliament in July last year.

Included in that legislation were amendments to the Criminal Code allowing the listing of terrorist organisations, subject to certain strict conditions,
including the requirement that the terrorist organisation be identified as such by the United Nations’ Security Council.

The requirement that Australia wait for the UN Security Council to agree with our own assessment of what constitutes a threat to Australians, and Australian interests, before we can act was an amendment insisted upon by the Opposition.

The Government argued at the time that this potentially created problems where Australia identifies threats by terrorist organisations that do not interest members of the UN Security Council.

UN lists are limited to organisations with links to Al Qaida and the Taliban.

Australia is currently in the unsatisfactory position that we can not act independently of the United Nations to list a terrorist organisation posing a threat to Australia and Australian interests.

Other countries can decide for themselves which terrorist organisations pose a threat to their citizens and to their interests and act accordingly.

In fact we know of no other country whose power to list terrorist organisations is linked to the United Nations.

But, thanks to the Opposition, Australia can not act independently of the United Nations’ Security Council.

We can not list the terrorist wing of Hizballah because it has not been formally identified as a terrorist organisation by the UN Security Council.

Yet we have advice from ASIO that there is evidence that this organisation engages in terrorist activity and has the capacity to do so globally.

Indeed the US, the UK and Canada have all listed the terrorist wing of Hizballah as a terrorist organisation under their laws.

The Government has moved quickly to list terrorist organisations under our laws.

However, the Security Council has only ever operated as a mechanism for identifying terrorist organisations linked to the Taliban and Al Qaida, under resolutions 1267 and 1333.

As is the case with the terrorist wing of Hizballah, we can not list a terrorist organisation that has not been formally identified as a terrorist organisation by the UN Security Council.

Of course, where there is a connection to Al Qaida we can approach the United Nations to identify an organisation as a terrorist organisation.

We did this in the case of Jemaah Islamiyah.

Beyond that, our current legislative arrangements constrain our ability to act in our national interest and to independently list a terrorist organisation, thereby attracting the full weight of the criminal law.

The current mechanism has proved to be unworkable.

This is particularly anomalous given that the Hizballah External Security Organisation has been listed by the Minister for Foreign Affairs under the Charter of the United Nations Act as a terrorist entity, the assets of which must be frozen in Australia.

It is clear that we must have the capacity to independently assess and act on threats to Australians and Australian interests without waiting to see if the rest of the world agrees.

The Criminal Code Amendment (Terrorist Organisations) Bill will amend Part 5.3 of the Criminal Code Act 1995 by removing the requirement for there to be a relevant Security Council decision in place before we can list organisations as terrorist organisations for the purpose of our domestic criminal law.

The bill gives to us independence to make our own decisions about our national security and the application of our criminal laws.

It allows us to list terrorist organisations based on the advice of our intelligence agencies and an assessment of our national interest and security needs.

And it allows us to de-list organisations that cease to meet the definition of a terrorist organisation.

The bill retains a number of important safeguards on the exercise of the listing power.

Importantly, to list an organisation as a terrorist organisation in regulations, the Attorney-General must make a deliberate and reasoned decision that an organisation is engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act before listing that organisation as a terrorist organisation.
That decision will be subject to judicial review and any regulation is subject to disallowance by Parliament.

Further, the bill preserves the requirement that regulations listing a terrorist organisation cease to have effect on the second anniversary of the day on which they take effect.

This is in addition to the obligation imposed on the current Attorney-General, and the future holders of that office, to de-list organisations when he or she is no longer satisfied that the organisation meets the criteria for defining a terrorist organisation.

The de-listing provision is an acknowledgement that the aspirations, methods and leadership of an organisation may change over time.

Future Attorneys-General will have the opportunity to consider whether the decisions made by the current Attorney-General remain current and appropriate.

Again, this is another important safeguard that should not be dismissed.

If passed, this bill will allow us to move quickly to list those organisations that, notwithstanding the absence of a Security Council decision, should be appropriately identified as terrorist organisations under Australian law.

This bill is further evidence of the Government’s continuing commitment to taking all appropriate action to ensure that terrorist threats are dealt with effectively and expeditiously.

And it is clear that Australia needs to have this independence.

But the Opposition has indicated that it will not support this bill.

In such circumstances, the Government is introducing a second bill, the Criminal Code Amendment (Hizballah) Bill 2003, that will allow the terrorist wing of Hizballah to be listed in regulations, provided the statutory criteria for listing are met.

We are introducing this second bill because we recognise the need to take swift action—that is why we proposed the amendments to the Opposition and the States and Territories some two months ago.

The simple fact is that we cannot wait for the Opposition to wake up to the problems they created and support our first bill.

As a result of the second bill, the Hizballah terrorist wing will be listed as a terrorist organisation for the purpose of the Criminal Code provided that the Attorney-General is satisfied that the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not the terrorist act has occurred or will occur.

If the Attorney-General is so satisfied, a public statement to that effect will be issued.

Appropriate regulations will be made and gazetted with effect from the date of that announcement.

Any such announcement will be widely publicised in both print and electronic media.

And that announcement will only be made after consideration of available, relevant intelligence that satisfies the Attorney-General that the criteria for listing an organisation as a terrorist organisation have been met.

The Opposition has admitted that their UN listing process is flawed by acknowledging the inability to list the terrorist wing of Hizballah.

This bill is intended to be complementary, not an alternative, to the first bill.

Together, they create a legislative framework that deals with the immediate issue of the security threat represented by the terrorist wing of Hizballah, and the longer term issue of how Australia can act independently of the Security Council in relation to our domestic criminal laws.

While we welcome the Opposition’s indication that it will support the Government’s Hizballah specific bill, the Opposition has indicated that they will continue to obstruct the passage of our first bill.

The Government intends to vigorously pursue passage of our first bill.

The Opposition’s position on our first bill ignores the longer term problem that we will not be able to act quickly or effectively if other terrorist organisations come to light that pose a potential threat to Australia but have not been listed by the United Nations Security Council.
It does not solve the longer term problem created by the Opposition’s UN linked listing provisions.
That is why we are forced to proceed with two bills.
This is a serious matter of national security.
The Government will not allow the Opposition’s obstinacy to paralyse us and prevent what must be done to ensure the safety and security of Australia and Australia’s interests.
We trust that the Opposition will wake up to the problems they created and support our first bill.
I call on the Opposition to put politics aside and support both Government bills in the interests of the security of Australia.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (1.49 p.m.)—Labor supports strong and balanced security laws to protect the Australian people from the threat of international terrorism. That has been our consistent position since March 2002, when the first anti-terrorism bills were introduced into the parliament. Our starting point in considering the antiterrorism bills has been to ensure that the right balance is struck between taking effective measures against international terrorists to protect Australians and preserving Australia’s hard-won democratic freedoms.

Today we debate two bills proposing further legislative measures to deal with international terrorist organisations that may threaten Australia’s national security: the Criminal Code Amendment (Terrorist Organisations) Bill 2003 and the Criminal Code Amendment (Hizballah) Bill 2003. The Criminal Code Amendment (Hizballah) Bill 2003 is essentially the same as the bill proposed by the Leader of the Opposition in early April 2003. The bill will permit the Attorney-General to put the Hezbollah external security organisation on the list of terrorist organisations for the purposes of the Crimes Act. It does this by defining the Hezbollah external security organisation in the principal act and allowing a regulation to be made if the Attorney-General is satisfied that it is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act.

With the passage of this bill, three mechanisms will exist in Australian law by which a terrorist organisation and its activities can become illegal. These are, firstly, where there is a finding of fact by a court in relation to an offence committed by an individual—for example, directing the activities of a terrorist organisation. Such a finding against an individual may create a precedent in relation to other members of the relevant organisation. The other mechanisms are: secondly, where an organisation is the subject of a decision by the United Nations Security Council that it is an international terrorist organisation and the Australian Attorney-General is satisfied that it is a terrorist organisation and then issues a regulation listing the organis-
tion; and, thirdly, if the Criminal Code Amendment (Hizballah) Bill 2003 is passed by direct legislative amendment of the Criminal Code by parliament.

The second bill before the Senate today is the Criminal Code Amendment (Terrorist Organisations) Bill 2003. In this bill, the government is again proposing to give a single minister the power to ban organisations and to make their activities and the membership of such an organisation a very serious criminal offence. This proposed measure was rejected by the parliament in June 2002. I will deal with this second bill, spell out its flaws and outline Labor’s alternative in more detail later, but let me say now that Labor strongly opposes, and has always strongly opposed, giving a minister the unilateral power to ban organisations.

The Criminal Code Amendment (Hizballah) Bill 2003 is narrow and specific. It places parliamentary consideration at the centre of the decision to declare an organisation to be a terrorist organisation. In now proposing a bill to ban the Hezbollah external security organisation, the government must accept that once again Labor has the balance right in the fight against terrorism and terrorists. On 2 April 2003, the Prime Minister wrote to the Leader of the Opposition setting out his concerns over the threat posed to Australian interests by the Hezbollah external security organisation. After a security briefing, Labor’s alternative was both strong and responsible. The Leader of the Opposition wrote to the Prime Minister urging the government to approach the United Nations Security Council to have the Hezbollah external security organisation listed. We offered to support a specific amendment to the Criminal Code to name that organisation as a terrorist organisation within the act. But the government did not make any attempt to have the Hezbollah external security organisation listed by the United Nations. They did nothing but make another tired attempt to reintroduce executive proscription.

In contrast the Labor Party found, and the Labor Party proposed, a solution—a solution that has now been adopted by the government. I should be absolutely clear about this: the best solution to this particular issue would be the listing of the Hezbollah external security organisation by the United Nations Security Council. However, as we know, the Howard government is not serious about full and responsible participation in the international community through the United Nations Security Council. So the situation presented to the parliament is one where we are told there is a serious terrorist threat to Australian lives by this organisation but the Howard government refuses to take the most appropriate and the simplest steps to counter it.

In the absence of action from the government, seeking the United Nations Security Council to list the Hezbollah external security organisation, Labor proposed a bill providing for its parliamentary proscription. Our support for this parliamentary mechanism to deal with the specific problem of the Hezbollah external security organisation, through specific targeted legislation, should be interpreted for what it is: it is a response to the circumstances of this particular case. I welcome the fact that the government has changed its mind on this matter. The government has, on this occasion, put national security ahead of wedge politics. The gov-
ernment will have Labor’s support because we believe that this bill should be passed.

I now turn to the second bill before us today, which is the Criminal Code Amendment (Terrorist Organisations) Bill 2003. The government’s terrorist organisations bill is another example of the Howard government seeking to play politics with Australia’s safety and Australians’ freedoms. The bill specifically removes the United Nations Security Council safeguards and the balance that the Prime Minister said was ‘right’ after the antiterrorism bills were passed in June 2002. This attempt by the government to reopen the executive proscription debate now, less than 12 months after the parliament decided not to proceed with it, should be seen as the cynical political exercise that it is. The government says that the UN listing process is not good enough, but it has already listed—I remind the Senate—13 terrorist organisations through this mechanism.

The government says it needs more time and an efficient process for listing terrorist organisations. So let us have a look at its track record on the question to see how tardy or how incompetent—take your pick—it has been. The power to list an organisation through the UN process was given to the Attorney-General on 22 July last year, almost 12 months ago. He then took three months to list al-Qaeda. And remember the Prime Minister told the parliament only three weeks ago, in May 2003, that the government knew about the threat from al-Qaeda even before September 11, 2001. But when it had the power to list it, it took three months to do so.

Debate interrupted.

QUESTIONS WITHOUT NOTICE
Howard Government: Senate Powers

Senator ROBERT RAY (2.00 p.m.)—My question is directed to Senator Hill representing the Prime Minister. Given that the Prime Minister has suggested an amendment to section 57 of the Constitution to allow a joint sitting of the parliament without a double dissolution election, has the government considered what guarantees should be put in place to protect the scrutiny powers of the Senate? What consideration has been given to ensuring that a government could not, for example, reduce or emasculate the proper accountability functions of the Auditor-General, as the Kennett government did in Victoria? What guarantees will there be to ensure that no government attempts to reintroduce malapportionment into the Commonwealth electoral system? Can we be assured that the Prime Minister’s proposal could not be used to obliterate freedom of information legislation?

Senator HILL—The Prime Minister has said that options should be considered, including a referendum, that would allow a joint sitting to consider bills that have been blocked in the Senate for some time and that have failed to be passed by the Senate on a number of occasions in order that the wishes of the Australian people, as demonstrated through the previous election, might be implemented. In other words, what the Prime Minister has said is that there was never any intention that a very small minority within the Senate would be in the position of blocking the will of the mass of the Australian people. That, to us on this side of the chamber, seems reasonable, particularly in the current circumstances, where a number of critically important pieces of legislation are not going to be carried despite the fact that they were put to the Australian people at the last election and the government was re-elected on those promises. There is a contrast. We on this side of the chamber, the coalition, actually put matters to the people at elections and seek their endorsement. We, unlike the Labor Party, do not hide what we intend to implement during a forthcoming administration and, furthermore, we do not
make promises that we are going to take certain action and then take other action.

Having said that, the Prime Minister has suggested that the Australian people might like to consider this option in order that the government’s program might be implemented. It has not gone further than that at the moment because we would like to encourage that public discussion. It might include some of the matters that Senator Ray referred to in his question. But what Senator Ray fails to appreciate is that there have been many circumstances in which the Senate has not been, in effect, dictated to by a small minority of independents and small parties. There have been cases in the past, obviously, where the government has had a majority in the Senate. How does Senator Ray address the sorts of issues that he puts up as issues of concern in such circumstances? I did not hear the Labor Party at that time saying that the Senate was open to these abuses simply because the government had a majority in the Senate as well as in the lower house. There have also been other occasions, such as when the Labor Party were last in government, when a compliant Australian Democrats basically endorsed their principal pieces of legislation. They would quarrel—

Senator Sherry—Oh, rubbish! They gave us just as hard a time as they give you.

Senator Hill—We all know what happened to the Leader of the Australian Democrats in the end: she actually came clean and joined the ALP. But, certainly, when the Labor Party were last in government, on almost all occasions they could be confident that, in the end, after some debate, the Australian Democrats would respect the fact that they had been elected to government, and they could therefore implement the key parts of their program. That is in contrast to today. So there are certainly these issues for debate, but the mistake that some people are making—and I think Senator Ray is starting to fall into it—is to look at the current mix of the Senate and the way in which it is operating as the model one should take as the appropriate mix and conduct of the Senate. We are saying that it is not that; in fact, the Senate was never designed to operate in this way and, therefore, if it is failing to operate in the way it was intended to operate, you have to start looking for alternatives. (Time expired)

Senator Robert Ray—Mr President, I ask a supplementary question. I would ask whether the minister could avoid presuming what is in my mind and answer on behalf of the government, because I have not expressed a view one way or the other. I will later this afternoon. Minister, when you say that all options are open, is one possible path to the future to make this particular provision applicable to budget and budget related bills—in other words, the substantial things government want to get through—but not to those sorts of scrutiny areas, such as the audit act or the Ombudsman Act or freedom of information? Isn’t that a middle path where you might get the best of both worlds?

Senator Hill—I think that that could be part of the discussion and I would welcome Senator Ray putting in a response to the discussion paper. It may be possible also to distinguish matters that have clearly been put to the Australian people at the previous election, where the government has clearly obtained a mandate. Perhaps they should be treated differently to matters that are raised during the course of the subsequent sitting of the parliament. One can think of other ways in which such a proposal could be refined. But what we say at this stage is that these are matters that should be discussed. There should be a recognition that the Senate is being abused at the moment, that the wishes of the Australian people are not being implemented because of the minority in the Senate and that a government has therefore
got a responsibility to look to ways in which reform could achieve the people’s wishes. Ultimately, of course, if the people are unhappy with the way in which the government puts its legislation, then they will say so at the following election. *(Time expired)*

**Economy**

**Senator CHAPMAN** *(2.07 p.m.)*—My question is addressed to the Leader of the Government in the Senate. Will the minister inform the Senate how the Howard government’s responsible management of the economy is continuing to benefit Australian workers and their families?

**Senator Cook**—The premise of the question is wrong.

**Senator HILL**—Yes, I am very pleased to answer this question. You could almost call it the Senator Cook response because we remember that when he was in government he said that the budget was in surplus when it was $10 billion in deficit. Some seven years later we are still trying to educate Senator Cook on very basic economics. I doubt if we will ever be successful but we will continue to try.

Despite the difficult international climate the Australian economy continues to be one of the strongest growing economies in the world. This of course is providing enormous benefits to all Australians in creating a climate that provides opportunities for employment, investment and, Senator Cook, innovation. Indeed, the *Far Eastern Economic Review* recently stated:

> Australia’s growth rate stands as the envy of the struggling or stalled economies of continental Europe and Japan.

The national accounts for the March quarter 2003 show that Australia’s GDP grew by 0.7 per cent in the quarter and by a solid 2.9 per cent over the year. The March quarter national accounts are in line with the budget forecasts of three per cent growth in 2002-03. This compares with 2.1 per cent growth in the United States and 1.9 per cent growth in the Group of Seven nations.

Employment has also been a stunning success for the government. Since the Howard government came to office we have created more than 1.2 million jobs, or more than 450 jobs a day. The unemployment rate fell to six per cent in May. This is the lowest unemployment rate since February 2003 and the first time since March 1983 that Australia has had a lower unemployment rate than the United States. While the participation rate was unchanged in May at 64 per cent, it remains at a historically high level.

Due to continuing firm economic growth, the government forecasts economic growth to remain solid at around 3¼ per cent and the unemployment rate to remain steady at about six per cent in 2003-04. Just more economic success stories for the coalition government. You can put those against a background where interest rates have been at their lowest for 30 years with Australians saving $4,000 per annum on an average loan of $100,000, continuing low inflation, unemployment at its lowest rate in 10 years, repayment of $63 billion of Labor’s debt—Senator Cook, surely you would applaud that—personal income tax cuts of $12 billion as part of the tax package, six budget surpluses, and one could go on with this outstanding record of economic success.

What a vivid contrast to the economy that we inherited. As I said, when we came to
office we faced a $10 billion budget deficit and $96 billion of Labor’s accumulated debt. We all recall Labor’s record high interest rates, record high business interest rates, record high unemployment, record budget deficits and the massive damage inflicted on Australian families. (Time expired)

Iraq

Senator FAULKNER (2.11 p.m.)—My question is directed to Senator Hill as Minister for Defence and Minister representing the Prime Minister. Does the minister recall saying there may have been ‘flaws in what Australia understood’ to be Iraq’s weapons arsenal before the war, and that:

It’s important for public confidence that the full story is told, even if it leads to a debate as to whether the intelligence was good enough or not. In terms of public confidence it needs to be open and frank.

Can the minister confirm that the other two members of the coalition of the willing have commissioned at least three comprehensive inquiries between them into the nature and accuracy of intelligence information leading up to the war? Given the willingness of the US and UK governments to be open and frank with their people, why does the Prime Minister refuse to order any inquiry, be it official, judicial or parliamentary, in public or in camera, about the intelligence advice to the Australian government which led directly to our participation in the war?

Senator HILL—Senator Faulkner might have missed it during the break, but there was quite an intense debate within the Senate committee system on this very issue in which the heads of relevant Australian intelligence organisations, such as the Defence Intelligence Organisation, appeared before the Senate estimates committee and were questioned in depth—

Senator Chris Evans—He said he couldn’t say anything; it was a secret.
ment in the UK and by the congress in the United States. Apart from that, the CIA in the United States said that it is doing its own inquiry, but that seems to relate back in time to matters before this question of weapons of mass destruction.

So this government has nothing to hide. We are contributing specialists to the ongoing search in Iraq. We do believe that it is important that the full picture is developed and that ultimately the full picture is communicated because it is important that the public has confidence not only in intelligence provided to governments but also in the way that governments use that intelligence. So this government certainly has nothing to hide in that regard.

But as the Prime Minister said last week, there is a need to be patient in this matter. There is a need to develop the full picture. It is not easy. There are literally hundreds of sites that still need to be examined and literally thousands of scientists and other individuals able to provide information through interrogation and discussion. Ultimately the full picture will be developed and communicated. I think that will be an important thing because from that we can learn for the future.

Senator Faulkner—Mr President, I ask a supplementary question. Is the minister serious in suggesting that albeit very effective questioning—questioning from Senator Evans that took one hour where witnesses at the table were unable to answer questions because of confidentiality considerations—is an excuse for a comprehensive inquiry? Minister, isn’t the joint parliamentary committee which oversees ASIO, ASIS and DSD well placed to undertake such an inquiry into the nature and accuracy of intelligence which forms the basis of decisions to commit Australian forces to conflict? Hasn’t that particular committee got a track record of approaching these sorts of issues in a secure and non-partisan way? Couldn’t the joint committee in its inquiry simply take account of the fact that there is an ongoing search for weapons of mass destruction but that certainly has not stopped the UK and the US pressing these inquiries with great vigour? Why doesn’t Australia do it?

Senator Hill—Senator Faulkner is really asking me why the parliament is not acting. I am here responsible for the government’s position, but apart from that I remind him that the defence department—

Senator Faulkner interjecting—

Senator Hill—You asked the question; now you have to cop the answer.

Senator Faulkner interjecting—

Senator Hill—I am about to remind you that the defence department appeared before the Senate committee for two full days, morning, afternoon and night. It was the decision of the Labor Party to spend one hour on this particular issue. It saw the priority being Point Nepean or the sale of land at Brighton and a whole lot of other minor matters.

Senator Faulkner interjecting—

Senator Hill—It was the choice of the Labor Party.

The President—Order! Senator Faulkner, you have asked your supplementary question and I think you should give the minister the right to give an answer, and I would ask both sides of the chamber to pay attention.

Senator Hill—Two full days could have been used by the Labor Party to question—

Senator Faulkner—You’re the one who stopped the witnesses—

The President—Order! Senator Faulkner, please pay respect to the chair and
stop interjecting. Senator Hill, your answer should be through the chair.

Senator HILL—Two full days; Labor chose to use an hour. Senator Faulkner says, ‘But it was open.’ In the interests of democracy, it is generally preferred that it be open, but they could have asked for it to go in camera if they wished. *(Time expired)*

Health: General Practitioners

Senator JOHNSTON (2.20 p.m.)—My question is to the Minister for Health and Ageing, Senator Patterson. Will the minister update the Senate on steps taken by the Howard government to address the shortage of general practitioners by increasing the number of medical school places across Australia? Will such additional GPs be targeted to particular areas and is the minister aware of any alternative policies?

Senator PATTERSON—I thank Senator Johnston for his question. The government is committed to ensuring that the health care system is able to meet not only current needs but also future needs. This is part of a long-term solution to the issue of shortage in the medical workforce. There are other solutions as well but this is a long-term one which is going to address the shortage of medical practitioners into the future.

We recently announced the $917 million package of Fairer Medicare: Better Access, More Affordable health care. The Labor Party seems to think that just bulk-billing is an issue, but access is important. Medical student places are important and the number of medical registrars in training and GP specialists in training is important. Where doctors are located is important. It is not just about bulk-billing. These additional 234 funded medical school places are being made available as of the beginning of next year, 2004. I would like to put on the public record my appreciation to the deans of the medical schools, because it is going to mean, particularly for some universities, a heavy load. For example, the University of Queensland is taking 40 students and placing them until they can be located in the new medical school. I appreciate their cooperation.

The 234 places equate to an increase of 16 per cent in national medical school places. All of the new places will be bonded to areas of work force shortage. Under this arrangement students who take these places—and they will be spread evenly across the universities at about 20 per cent of each medical school’s intake—will be in bonded places. Students will be required, when they have completed their area of specialty training—it does not just have to be general practice—to work for six years in an area of work force need. This will be of significant benefit particularly to outer metropolitan areas and rural areas.

We have discussed with Dr Nelson, the Minister for Education, Science and Training, the allocation of these places and have carefully looked at each state, taking into consideration projected population estimates, relative doctor supply and the needs of smaller medical schools to ensure their viability. The universities in New South Wales and the ACT will receive an additional 94 funded student places. This means that there will be 80 places for the new medical school at the Australian National University, which is to commence in 2004. Victoria will receive 10 extra places. For the 2004 intake, the University of Queensland will take an extra 40 places and James Cook University an extra 10. Western Australia’s allocation is 45 extra students. South Australia and the Northern Territory combined will receive 14 additional places, and I have asked that some of those places be dedicated particularly to students from the Northern Territory—those students either having undertaken their high school education in the Northern Territory or having undertaken their training at the Uni-
versity of the Northern Territory. Twenty-one extra places will be provided to Tasmania.

In allocating these new places, the government has given in-principle support to the establishment of new medical schools at the University of Notre Dame in Western Australia and on Queensland’s Gold Coast. These new medical schools can only begin operation from 2005 provided they have achieved Australian Medical Council accreditation and the states have made available suitable facilities for clinical training. The increase in the medical school places of 234 per annum is consistent with advice from the Australian Medical Workforce Advisory Committee on future workforce needs and will help ensure that growth in the medical work force meets the emerging needs of the community.

The interesting thing is that when the Labor Party brought out its package, which is totally focused on bulk-billing, hidden in the underskirts of that was acceptance of the fact that we needed to address issues of work force shortage. Mr Crean and the former shadow minister for health and ageing, Mr Smith, obviously thought so highly of this part of the package that they have chosen to put it into their own Medicare proposal. But when the Labor Party was in government, it neglected this. We inherited a maldistribution of general practitioners and a maldistribution of doctors. (Time expired)

Senator JOHNSTON—Mr President, I ask a supplementary question. I thank the minister for her answer. Could she further advise the Senate how such additional medical school places will specifically assist outer metropolitan and rural and regional communities?

Senator PATTERSON—These places will obviously be able to be used in particular initiatives which are very important—the 10 university departments of rural health and the nine rural clinical schools. Members and senators who have visited those clinical schools and those university departments of rural health will have felt the enthusiasm of the medical students training there. For example, I was in Wagga Wagga recently talking with the students in one of the facilities there who are doing their medical school training at the University of New South Wales. For the last three years of their clinical training they will spend very few weeks back in the city; they will spend most of it in the country. And the students are saying to me that they see it as important, that they will now go and work in the country. There are myriad programs that have been put in place to ensure that we get doctors into outer metropolitan areas. The rural clinical schools and the university departments of rural health are just two of these. The rural student network, which is—(Time expired)

Imigration: Ministerial Discretion

Senator WONG (2.25 p.m.)—My question is to Senator Ellison, representing the Minister for Immigration and Multicultural and Indigenous Affairs. Can the minister inform the Senate just what are the broad principles and criteria used by Minister Ruddock in the exercise of his ministerial discretionary powers under sections 351 and 417 of the Migration Act 1958?

Senator ELLISON—I think Minister Ruddock has placed on record his approach to the exercise of that discretion. He has exercised it on a number of occasions. As he has indicated, it has been on a case by case basis. It was on the merits of each case presented to him. He is certainly dealing with the number of East Timorese applications that he has on a case by case basis. It is not with a predetermined mind-set in any way, shape or form. I believe that Mr Ruddock exercises his discretion more than appropriately and, of course, in accordance with the sections.
**Senator Wong**—Mr President, I ask a supplementary question. Can the minister inform the Senate of the number of occasions on which a favourable decision was made under ministerial discretion by Minister Ruddock since 1996? What are the relevant figures for each of his three predecessors since these powers were inserted into the act?

**Senator Ellison**—Mr President, I do not have those figures. I will take that question on notice and get back to the Senate.

**Iraq**

**Senator Bartlett** (2.27 p.m.)—My question is to the Minister representing the Prime Minister and Minister for Defence. I note the quote by Mr Andrew Wilkie, formerly an intelligence analyst at the Office of National Assessments. He said:

Australia went to war … on the basis of what our Prime Minister described as a massive weapons of mass destruction program in Iraq. That claim was obviously false.

Does the minister agree with this assessment? Does the minister believe that the Australian government was lied to or misled by the US or UK governments about the extent of weapons of mass destruction in Iraq? If not, how will the government demonstrate to the people of Australia that it has not lied to them about such a crucial matter?

**Senator Hill**—Mr President, these matters were discussed for about an hour in the estimates committee. I am sorry that Senator Bartlett could not be there, because he would have heard me on that occasion say that I do not believe we were misled by our allies. We have a very good relationship with very professional intelligence bodies in both the United States and the United Kingdom. The information that we obtain through those relationships is vitally important to Australia’s national security. In other words, we believe that they are able organisations and that, in the same way as their governments rely upon the intelligence that they develop, that intelligence is also very useful to us.

Our agencies also have the opportunity to compare the intelligence of each of those two organisations, and that of other organisations to which they have access, to add to what they know as a result of their firsthand work and, out of that, to paint a picture that they believe to be correct for the benefit of the Australian government and, therefore, through the government, the Australian people. But it is not a precise science. It is the best assessment of the best information that is available. Firstly, in this instance it was based on a background of a recognition by the international community, and the United Nations Security Council in particular, that Saddam Hussein did have weapons of mass destruction. Secondly, it was on a background where he had used those weapons of mass destruction against his own people and his neighbours. Thirdly, it was on a background where he had clearly deceived the world in the past as to the extent of those weapons, as was evident from the revelations in 1995 relating to his biological weapons program. In all those circumstances, perhaps it is not surprising that the intelligence agents were extremely cautious in the advice that they gave to governments. Certainly the Australian government took into account the advice of its agency and, through its agency, that of other agencies of friends and allies, and we make no apology for that.

**Senator Bartlett**—Mr President, I ask a supplementary question. Is the minister aware of the finding by an official British investigation into two trailers that were found in northern Iraq, which were claimed by both Prime Minister Blair and President Bush to be mobile germ warfare laboratories, that they were for the production of hydrogen to fill artillery balloons? The scientists said:
They are not mobile germ warfare laboratories. You could not use them for making biological weapons and they do not even look like them.

Is this the form of cautious statements by Prime Minister Blair and President Bush that the minister is referring to in his additional answer? Is this the extent of the veracity that we can expect from the British and the US when they are providing us with intelligence, or is it the case that our own Prime Minister is as willing to be as fast and loose with the truth as Prime Minister Blair and President Bush?

Senator HILL—The latest advice of my department—the Department of Defence—and therefore, through it, our intelligence agencies on that subject, is that US and UK experts have assessed that two mobile trailers discovered in Iraq have no other purpose than the production of biological material.

Australian Broadcasting Corporation

Senator MACKAY (2.32 p.m.)—My question is to Senator Alston, the Minister for Communications, Information Technology and the Arts. Given the minister has flagged he wants to set up a complaints mechanism for the ABC, what guarantees will the minister give the Senate that such a complaints mechanism will be independent? What appointment processes does the minister intend to establish for such a complaints body? How will appointments be made which are independent of both the ABC and the government?

Senator ALSTON—I suppose it is a legitimate venture for Senator Mackay to have a dry run for the MPI this afternoon. The reality is that what we are proposing to the ABC is not that we determine independence but that they have mechanisms in place which will provide the public and the parliament with sufficient confidence that their own assessments—peer group responsibility exercised by executive directors and others—meet that crucially independent test of accountability, because at the end of the day it is not for governments to make a judgment about impartiality. It is about the ABC honouring its statutory obligations. As the Auditor-General has pointed out, it is very important that it is able to satisfy both the board and the parliament that it is meeting those statutory obligations which relate to accuracy and impartiality. That is the concern that many Australians would have—that it should not be just a matter of what happens behind closed doors, that you handed down an Auditor-General’s report in April last year and 14 months later, as far as the public is concerned, nothing has happened. If the ABC is doing things to improve its accountability mechanisms, the parliament and the public ought to be aware of that. After all, the parliament is funding the ABC to the tune of $760 million a year plus some $600 million over 10 years for digital rollout and a one-off $72 million additional to its original triennial funding commitment. The ABC should accept the primary responsibility for satisfying that obligation. That is what we are concerned about. I would think that very many Australians would be as well.

Senator MACKAY—Mr President, I ask a supplementary question. Given that the minister has flagged that he wants to set up a complaints mechanism for the ABC, can the minister please advise the parliament what the nature of that complaints mechanism will be? Further, what statutory independence provisions does the minister envisage for this complaints body and when does he propose to present legislation to the parliament?

Senator ALSTON—Get this right for the MPI. There is a fundamental difference between peer group assessment ensuring accountability on the one hand, which you can say is top down, and a complaints mechanism, which is bottom up. Complaints have
got nothing to do with this. The idea that somehow you satisfy the former by doing an annual news poll or asking people how they feel about the ABC, or even some people writing in or ringing up, has nothing to do with management responsibility. Do you understand that? There is a fundamental distinction. I am not talking about complaints. Those who want to change the subject are talking about complaints. If you want to take this issue seriously, you will look at the statutory obligations in section 8 and you will not rabbit on about complaints, because complaints are not the issue.

Environment: Murray River

Senator LEES (2.36 p.m.)—My question is to Senator Hill, Minister representing the Prime Minister and also Minister representing the Minister for the Environment and Heritage. As a fellow South Australian senator, Senator Hill would be aware that the South Australian government has finally seen the light and has put water restrictions in place for both urban users as well as cutting water allocation for irrigators who are using River Murray water. Is the federal government comfortable with the idea of expanding irrigation using River Murray water at this time, and using the supposedly spare capacity that is apparently in the river? Is the federal government happy to see a new, large pipeline to the Clare Valley being built with a capacity of over seven gigalitres of River Murray water a year? Is the federal government happy to see SA Water, South Australia’s water authority, actively selling River Murray water this week and last week to whoever it can find to buy it in the Clare Valley?

Senator HILL—It has obviously been a year of very severe drought, and that is part of the problem being faced by the River Murray at the moment. But, beyond that, there is also clearly a background of a history of overextraction. If we look over a longer time span than just a year or two, the lack of flow largely results from overuse. Because we still have the difficult constitutional situation in this regard in that the honourable senator, for example, is calling upon the Commonwealth government to take action yet the primary responsibility lies with the state governments, we still have a situation where there is more water allocated from the river and either being used or held within sleeper licences or in other forms than the river can sustain. That is the historical situation that is currently being faced.

One would like to think, if this were a new river system and we were looking at future uses, that one would start by working out what water flow was necessary to sustain the health of the natural system and, from that, determining what could be extracted for other uses. But the history is that it developed the other way around—basically, water was extracted and the river system was supposed to remain healthy with what remained. Governments have been endeavouring to remedy that situation. Certainly in some areas there have been successes—for example, the level of salinity flowing into South Australia at Morgan has actually reduced, which is a credit to the work of the Murray Darling Basin Commission. But in other areas of environmental damage that damage is continuing, as anybody who has recently visited the mouth of the Murray would appreciate.

The question is then asked: is it sensible to be looking at ways to exploit the water for other new uses? I think the answer to that is whether this is going to be additional water or whether this is going to be water that is going to be utilised towards its highest economic value. Certainly part of the solution to the River Murray issue has to be that less water is extracted but applied to uses of higher economic value so that you can get the win-win outcomes in terms of good eco-
nomic outcomes as well as good environmental outcomes. So it is very difficult to answer purely in relation to the Clare Valley pipeline without looking at what is happening in relation to the balance of the system. As we do know, modern irrigation for grapevines is an efficient way of using water for a high-value product. If that is going to be the usage instead of, say, broadscale use on pastures, which is a highly inefficient use of the water, then it might be a worthwhile investment. If it is to be in addition to the broadscale use on pasture, then the answer would be no. So I would suggest to the honourable senator that action taken by governments, including capital investments that will lead to the water that is going to be used for irrigation to be used for higher economic ends rather than lower economic ends, can actually be a step towards better environmental outcomes for the Murray as well as better economic outcomes.

Senator LEES—Mr President, I have a supplementary question. I thank the minister for his answer. Unfortunately, Minister, this is not water purchased from upstream or moved; it is claimed that it is spare water within SA’s entitlement. While extraction and overuse is otherwise agreed to up and down the river, the South Australia government seems to be determined to push ahead with what is a completely new scheme. Under section 100 of the Constitution, the Commonwealth has the power to intervene if this expanded irrigation is not reasonable use. So I ask: does the Commonwealth government believe that expanding irrigation at this time, particularly using not new water but supposedly water that we already have, is a reasonable use?

Senator HILL—It is hard to imagine any water being spare water at the moment. I think my answer remains correct in that we have seen modern irrigation techniques adopted, at significant cost principally to irrigators but also in some instances to governments in terms of government capital investment, the outcome has been better from both an environmental and an economic perspective. Government capital investment that will encourage that water which is to be used for irrigation to be used for high-value products will lead to the win-win situation. Certainly it is another example that demonstrates that the system needs to be looked at as a whole and that what needs to be determined is what can be afforded to be extracted for commercial and other worthwhile economic ends that will nevertheless allow the system to be sustainable, because at the moment the system is simply unsustainable.

Australian Customs Service: Peter Tomson Case

Senator LUDWIG (2.43 p.m.)—My question without notice is to Senator Ellison, the Minister for Justice and Customs. I refer the minister to the report on the 60 Minutes program last night of the case of a Sydney small businessman who was bankrupted by actions of the Australian Customs Service. I ask the minister: when was he first made aware of this case and what was the outcome of the review of the case that the minister promised in August 2001, nearly two years ago?

Senator ELLISON—I became aware of this matter early in 2001. As a result of inquiries, a member of my staff met, I think, with one of the representatives for Mr Tomson and discussed the matter. But what we need to do is correct a few things that 60 Minutes said last night. In fact, there were quite a few things that 60 Minutes got wrong last night. The first is the suggestion that Customs seized all of Mr Tomson’s shipments, which is not correct. I am informed that Customs detained and subsequently seized four shipments, which Mr Tomson
valued at $13,000. There is no record of any other subsequent or prior shipment being seized.

The program also suggested, as did Senator Ludwig, that the actions of Customs resulted in Mr Tomson being made bankrupt around 1990. The bankruptcy records indicate that, indeed, Mr Tomson was not declared bankrupt until 1999—almost 10 years after the action complained of by Mr Tomson. There were other problems with the report. The program indicated that I had been asked in parliament about this matter and that I said it was being reviewed. What 60 Minutes failed to mention was that the review is concluded. The review was conducted independently by a barrister commissioned by Customs to carry out the inquiry. That barrister considered copious material provided by Mr Tomson’s lawyers. I am advised that Customs sought further information from Mr Tomson’s legal representatives. Customs has no record whatsoever of having received a reply to that request. That was something not mentioned by 60 Minutes last night: the fact that the barrister carrying out the inquiry wanted more information from the solicitors concerned and did not receive it. On that basis the inquiry was concluded, as I understand it. A summary of counsel’s conclusions on each allegation was provided to Mr Tomson’s representatives. Customs has no record whatsoever of having received a reply to that request.

Another mistake that 60 Minutes made was the caption identifying the former Comptroller-General of Customs. In fact, the person identified was a much more junior officer, a Mr Petering, who retired over 12 years ago. 60 Minutes could not even get that right. Mr Carleton indicated that when he approached the department he had been told to ‘go away and mind his own business’. In fact, when approached, Customs provided material to the program but declined to participate on the program on the basis that the House of Representatives Standing Committee on Legal and Constitutional Affairs is conducting an inquiry to which submissions on this very matter have been submitted. Customs has said that it will cooperate fully with that parliamentary committee and answer any questions that will be raised. In fact, I understand it is due to give evidence on that matter on 23 June this year. A number of matters were put to the program, and those were not put forward by 60 Minutes. Another matter this program did not indicate, nor did the member for Werriwa, was that the acts complained of occurred under the previous Labor government. When the member for Werriwa talked about the government riding roughshod over small business, he did not say which government he was talking about. It was the previous Labor government.

Senator Sherry—What did you do to fix it?

Senator ELLISON—A lot has been done. There has been a total reform of Customs methods of handling these sorts of issues, and that was well documented. (Time expired)

Senator LUDWIG—Mr President, I ask a supplementary question. The issue then is: what is the minister doing about it? Can the minister make the report available to this parliament? The minister has been able to provide a long speech about what he is going to do, but can he inform this parliament of what he intends to do and what he will do to assist small businessmen to ensure they are compensated as soon as possible for the actions of the Australian Customs Service in this matter?

Senator ELLISON—The CEO of Customs has asked for the same independent barrister to have a look at this review again. Hopefully this time we will get the informa-
We sought from Mr Tomson’s legal advisers. As I indicated, Customs will be giving full cooperation to the committee on any questions that are put to it. That will be done next week. The situation we have here is one that occurred a long time ago, and there have been great changes to Customs since the Midford Paramount matter. The program last night mentioned Midford Paramount, of which we are all aware. As a result of that there were sweeping changes made to the way Customs did business. The matters complained of last night have been remedied by reforms in Customs. That is what has been done.

Social Welfare: Reform

Senator COLBECK (2.49 p.m.)—My question is to the Minister for Family and Community Services, Senator Vanstone. Will the minister inform the Senate how the most vulnerable in our community are protected by good economic management? Is the minister aware of any alternative policy approaches?

Senator VANSTONE—I thank the senator for his question. As with other senators on this side of the chamber, we are very concerned about vulnerable Australians, and not just in talking about it but in doing things that will result in their having a more secure future—unlike my colleagues on the other side of this chamber, who of course endorsed the recession their Prime Minister said we allegedly had to have. The consequences of a recession are terribly bad for vulnerable Australians because we have long-term unemployment, and it is always the young people, the least skilled and the most vulnerable, who get laid off. We have high interest rates, so that the ones who first become unable to afford to pay their mortgages are the low-income earners. The small businesses that are struggling to survive go out of business because they cannot finance their debt. We have lower employment and, of course, lower wages.

The recession we allegedly had to have resulted in interest rates as high as 17 per cent. No wonder that small businesses all around Australia went broke, and that meant that lots—hundreds of thousands—of Australians lost their jobs and teenage unemployment rocketed up. That recession destroyed the livelihoods of countless Australian families, affecting not just the individual who lost their job but the family for whom that person may have been the breadwinner. As usual, any survey of the facts will show that it was the Aussie battler who suffered most, not the people with plenty of education and not the people with plenty of money but the ones who were really struggling.

Under Labor, between 1992 and 1996 the real value of the minimum wage fell by five per cent; so much for helping the vulnerable people. The real value of the minimum wage fell under Labor by five per cent. In comparison, strong economic growth under this government has produced the longest period of growth in the postwar period and has therefore produced gains for many vulnerable Australians. Over a million new jobs have been created since 1996. It has taken seven years to re-establish additional full-time jobs growth after the recession we allegedly had to have.

Now we see major reductions in long-term unemployment, and—an achievement we are very, very proud of—we have more than halved the number of long-term unemployed created by colleagues opposite. GDP growth since 1996 has made us one of the best economic performers in the world, and this is a good thing not because journalists write about it and not because academics are pleased with it but because vulnerable Australians have a better chance. They pay much less—hundreds of dollars less—per month.
on their mortgages. This is most important for the most marginalised in the community.

Under this government, of course, spending on income support has grown significantly—up by 58 per cent since 1996. In dollar terms, that means spending has increased from $33.9 billion to $53.7 billion in income support to help the vulnerable. Family payments have more than doubled—up by 113 per cent—and the age pension has increased by 50 per cent. Of course, without a strong labour market and strong GDP growth you do not get those employment opportunities, but we have seen growth in a number of sectors of the economy—in manufacturing, housing, retail and of course the farm sector. In conclusion, I have heard a lot in the last few days about the farm sector from my colleagues opposite.

Three roosters’, I believe it was. But in this chamber we have a chicken man. It appears that Baby Face does not have a brave heart.

The PRESIDENT—Order! Minister, I think you reflected improperly on another member of the chamber. I would ask you to withdraw.

Senator VANSTONE—Mr President, it appears you know whom I was referring to. ‘Baby Face’ must really mean something. I do withdraw—I unreservedly withdraw it.

Agriculture: Sugar Industry

Senator MARK BISHOP (2.54 p.m.)—My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Ian Macdonald. Can the minister confirm that, in assessing applications for the sugar industry assistance package or exceptional circumstances relief administered by Centrelink, veteran applicants in receipt of disability pensions arising from their war service have that compensation treated as income? Does this mean that an applicant without war service or a war-caused disability will be treated more generously than one who has had such service? If this is the case, what does such discriminatory policy tell our veterans about the value of their service to our nation?

Senator IAN MACDONALD—I saw Senator O’Brien giving this question to Senator Bishop. I wish he had asked it, because I am afraid I did not quite hear everything that you said, Senator Bishop, which makes it very difficult for me to attempt to answer the question. It did seem to be a fairly technical question about the sugar industry package. Did I hear you correctly to be talking about the sugar industry package and how veterans’ entitlements interact with that? Not being the relevant minister—I simply represent Mr Truss here—I will take that on notice. It is the sort of thing I thought you might have questioned at the estimates committee when you had all the officials there to properly address that. I know Senator O’Brien spent days at the estimates committee. He did not ask too much about sugar. Perhaps he should have asked something about sugar and you would have had all the officials there. But it does highlight the very good work that this government does in trying to help those on the land and elsewhere who are impacted upon by the drought.

Opposition senators interjecting—

The PRESIDENT—Order! The Senate will come to order. Senator Bishop asked a question and he deserves to hear an answer.

Senator IAN MACDONALD—I was mentioning that it does indicate what the Howard government has done to help those on the land who are in some difficulties because of exceptional circumstances. They are in fact initiatives that the Howard government has taken that have been thwarted at every turn by the state governments. Regrettably, all those state governments are Labor-controlled state governments, and they have
thwarted every initiative that Mr Truss has attempted to bring in to create some real progress in the exceptional circumstances debate. So I will take that question on notice; I will ask Mr Truss for the details of that answer, and I will give that to Senator Bishop when I have it available.

Senator MARK BISHOP—Mr President, I ask a supplementary question arising from that response. Will the minister immediately inquire and inform the Senate of the number of veteran applicants who have had sugar industry assistance relief or exceptional circumstances relief applications rejected or reduced as a result of their veterans’ pension being classed as income? Will the minister directly inform those veterans currently demonstrating outside the parliament just what the government’s intentions are in relation to this blatant discrimination against veterans?

Senator IAN MACDONALD—I reject the claim that this government is discriminating against veterans. In fact—and, again, this is not even the minister I represent; it is another portfolio area—this government has done more for veterans than any government in the history of this nation and has a very fine record on that. But I will add the question to the inquiries I will make. No doubt they will have to be made not only of Mr Truss but also of Mrs Vale.

Telecommunications: Internet Services

Senator CHERRY (2.58 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts. Is the minister aware that the recent OECD Communications Outlook was very critical of the slow uptake of broadband in Australia, with uptake rates just one-eighth of those of Canada? Does he agree with the OECD that a key problem is the high price of broadband access in Australia and Telstra’s policy of download caps, Australia being one of only three countries where caps are imposed? In light of this report, the 45 per cent increase in broadband complaints to the Ombudsman and the huge unmet demand for broadband in country Australia, will the minister review the regulation of broadband pricing to ensure that Telstra does not use its dominant position to push up prices?

Senator ALSTON—I think I would agree with Senator Cherry on the last aspect. We certainly do not support anyone misusing market power and if there is evidence of that then obviously the ACCC would be very interested. In the meantime I should let Senator Cherry know that there are players in the marketplace who are offering uncapped broadband—as much as you can eat—and that is exactly what you want. If you think that is a discriminatory approach, if you do not like what is being offered, you go elsewhere. That is what choice is all about. We are not in the business of setting prices. In fact, you cannot do it under the Constitution. But what we are about is making sure that people are able to get what they want and that there is maximum competition in there. That drives prices down and gets quality of service up.

In terms of broadband take-up, if you have been following the debate, you will find that we are basically on the first lap of a 10,000-kilometre race. In other words, it does not really matter where you are if you are in the leading bunch. There are Korea, Canada and maybe the US and then there are about 10 or 15 others, and we are in that second pack. If you look at some of the analyses that have been done, even on places like South Korea, which is a tearaway leader, you will not find any connection between the level of broadband penetration and economic growth. In other words, it can often be a function of the government heavily subsidising roll-outs, as has occurred in South Korea. It does not necessarily have much to do with benefiting the
economy if it is simply providing entertainment services to households a little faster than they might otherwise receive them because of their own level of demand. In other words, if the content is not compelling or if the price is not attractive enough or if they are already getting ISDN and they think it is okay, they may well choose not to take up broadband services. We are very much enamoured of the potential of broadband: I think even just ‘always on’ is a great attraction in itself.

Senator Lundy—Why don’t you act as minister for Telstra and do a bit of cross-promotion?

Senator ALSTON—Sorry?

The PRESIDENT—Order! Minister, address your remarks through the chair and ignore the interjections.

Senator ALSTON—We might come to your Telstra policy, which was released by Mr Tanner like a cork in a storm last week. When all hell was breaking loose, there was Mr Tanner out there launching a Telstra policy! This is basically a get-Telstra policy. Telstra has actually done very well in terms of broadband roll-out on DSL take-up—I think the figure is something like 163 per cent over the last 12 to 18 months—so it is moving very much in line with international experience. If you take it from years from start-up—

Senator Lundy—Why do people want broadband?

The PRESIDENT—Order! Senator Lundy!

Senator ALSTON—Why do they want it? So they can probably send you faster emails complaining about your total lack of policy commitment.

The PRESIDENT—Senator Alston, answer through the chair!

Senator ALSTON—They just simply cannot understand, Mr President, why this Labor Party not only cannot keep itself up to date but will not do the hard yards. Mr Crean claims to have won on the basis of being a policy freak. I have got to say he has a long way to go if he is going to persuade us of any of that. If broadband will help him then we might be able to do something about it, but I suspect the problem is much more deep-seated than that.

In the meantime, broadband is available if you want it. As Senator Lundy knows, Mr President, there are a number of options out there. If you are in rural areas you can get it by satellite or by DSL, or you can get it by cable if you are in the metropolitan areas. Maximum choice is what it is all about. At the end of the day the consumer will decide. We have special responsibilities in areas like health, education, research, national security and international connectivity, and we will be dealing with those. But like other countries, including the US and the UK, we think the market is best placed to decide the level of take-up, and it is pretty much sorting the players out right now.

Senator CHERRY—Mr President, I ask a supplementary question. I am pleased to hear that the minister will take action on misuse of market power, and we look forward to amendments to section 46 on that matter, but I want to draw the minister’s attention to other impediments to competition in broadband, in particular the involvement of Telstra in Foxtel, and I want to quote from Communications Outlook, which says:

… structural separation of cable TV activities from incumbent … operators may help in growing the cable industry as well as providing alternate … competition …

I am wondering whether the minister will in fact be moving to ensure that we maximise competition in broadband by requiring Tel-
stra to down-sell from Foxtel. Will that be his recommendation when the ACCC reports on that matter?

Senator ALSTON—That is a pretty flimsy basis for making a very fundamental proposition. You said 'may'—that was the evidence that you rely on. I would not have thought that was a very strong case. If you are able to identify a very serious policy deficiency, then obviously we are interested in dealing with it, but I have not seen that deficiency. In fact, I have seen broadband take-up increasing quite markedly. It is nothing to do with being involved with cable television, which is what Foxtel is about; it is all to do with ensuring that there are competitive telecommunications services out there. If you really want to know what structural separation is not, go and talk to Mr Tanner, because that is the sort of silly nonsense that he went on with until we flushed him out, if you remember. In fact, the ultimate policy humiliation, I would have thought, was running that up the flagpole, having a House of Reps committee set up to look into it and then throwing in the towel the day beforehand. That is about as good as it gets.

Opposition senators interjecting—

Senator ALSTON—It does not, in my view, qualify you to be a candidate for the leadership of the Labor Party just yet, but on the other hand there is not much talent around, so, Senator Carr, you may be fighting Mr Tanner in due course. (Time expired)

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

THERAPEUTIC GOODS AMENDMENT BILL (NO. 1) 2003

Senator PATTERSON (Victoria—Minister for Health and Ageing) (3.05 p.m.)—Mr President, I seek leave to clarify the record in relation to comments that I made in answer to a question from Senator Nettle in the debate on amendments to the Therapeutic Goods Amendment Bill (No. 1) 2003.

Leave granted.

Senator PATTERSON—In my answer to Senator Nettle, I said that I had been advised that the Complementary Healthcare Council of Australia had indicated their support for the amendments proposed by the government in a press release. I should point out for the record that the TGA formally advised the CHC, along with all other industry associations at its industry consultative committee meeting on Wednesday 7 May 2003, of the proposed amendments and provided them with details in writing. No concerns were raised by the CHC at that meeting. Furthermore, senior executive members of the CHC, in a delegation led by Mr Marcus Blackmore, met with the National Manager of the TGA that same afternoon when they sought clarification as to whether the amendments encompassed changes to requirements for efficacy. Upon receiving assurances that the amendments did not address efficacy, support for the amendments was indicated. No further contact from the CHC was received by the TGA, my office or my parliamentary secretary’s office about the amendments. Mr Marcus Blackmore, a prominent member of the CHC, met with my parliamentary secretary on Wednesday, 14 May 2003 and, while he expressed concerns about the membership of the Expert Committee on Complementary Medicines in the Health System, again no concerns about the government’s proposed amendments were raised. Furthermore, there is written advice available from Mr Marcus Blackmore, in a paper dated 7 May 2003, stating:

… Government should regulate for ‘fit and proper persons’ to hold manufacturing licences, as suggested by the Parliamentary Secretary, Trish Worth …
Further, in a paper dated 9 May 2003, Mr Blackmore expressed support for penalties and recall procedures being reviewed. Subsequently, in a letter to me dated 2 June 2003, Mr Blackmore said that, while the CHC had not put out a press release supporting the amendments:

... we were generally supportive of the government’s initiatives.

In clarifying the record, I wish to point out that, while there was not a single CHC press release indicating their support, the CHC was generally supportive of the government’s amendments. In the atmosphere at the time of the debate, with people relying on their memories, it was these events that advisers were recalling, which were clearly indicative of the CHC’s support of the government’s amendments. I think it is important that I clarify the record for the Senate so that any misinterpretation that might have been placed on my statement to the Senate, that I had been advised that the Complementary Healthcare Council had issued a press release, is corrected.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Howard Government: Senate Powers

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.08 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Defence (Senator Hill) in response to a question without notice asked by Senator Ray.

Senator Ray asked a very important question in question time today about the proposal that was announced recently by the Prime Minister in relation to the Senate’s powers. Personally, I am pleased that the Prime Minister has raised the issue of Senate powers and the role of the Senate. It is an important debate for us to have. I also believe that as far as the Labor Party are concerned, particularly when we have found ourselves in opposition, we can say with absolute certainty that the Labor Party have always acted with responsibility in the Senate chamber. The Labor Party have never debauched the Senate processes. The Labor Party have never turned Senate inquiries into witch-hunts against public servants. The Labor Party have never denied the government a capacity to govern.

Of course, I think it is also fair to say that the current government, the Liberal Party, does not come to this debate with clean hands. Who can forget, as recently as 1993 in the first budget of the last parliament of the Keating government, when the then Liberal opposition, along with the support of the minor parties in the Senate, decided to gut the then Dawkins budget and refused to pass the six budget bills. I do not say that there is any purity here; I know that both Labor and non-Labor Senate oppositions have joined with the minor parties in blocking budget bills and non-budget bills. They have been amended and opposed by both sides of politics. But, of course, only the Liberals have brought a democratically elected government down by blocking supply. Perhaps Mr Howard has forgotten that sorry record. Perhaps Mr Howard has forgotten how the Liberal Party debauched the Constitution of Australia in 1975. Perhaps he has not forgotten. Perhaps the current representatives of the Liberal Party are just hypocritical in how they approach this issue.

I do not accept Mr Howard’s comments at the Liberal Party convention that the Senate is not an effective house of review. I believe this chamber has evolved, particularly since the establishment of proportional representation as the voting system for the Senate after 1949, into a very effective house of review. But while Mr Howard has said that—and I would argue about it because I happen to think the accountability mechanisms of the
Australian Senate are the best accountability mechanisms available in this Commonwealth parliament or, for that matter, any parliament in Australia—I do accept Mr Howard’s view that we should look at the powers of the Senate, not some manipulation of the voting system which of course has been something pursued by his colleagues, particularly Senator Coonan, over recent years. I have never supported a proposal to rort or manipulate the electoral franchise of the Senate. So I do think that looking at powers is more important than manipulating a voting system, and I hope other senators would share that view.

Ultimately, if you look at powers, it becomes a matter for the Australian people—that is one of the strengths. They would have the final say on the shape of any changes to our Constitution but, in doing so, the important issue raised by the opposition in question time in the Senate today has to be given due consideration: how do you protect and defend those very important legislative constraints and accountability mechanisms on government? That is an essential task here and we look forward to seeing how the Prime Minister and the government plan to address those issues.

Senator LIGHTFOOT (Western Australia) (3.13 p.m.)—I have looked at the function of the federal parliament over some decades and I was not all that upset about the proper functioning of the parliament on 11 November 1975 when, for the second time in the history of the Commonwealth—and prior to that, incorporating the old British Empire—a prime minister was dismissed from office. As I recall—and I stand to be corrected—it was Lord North, the British Prime Minister, who was dismissed by George III for losing the American colonies some time in the latter part of the 18th century. The only other time was when the then Prime Minister, Mr Whitlam, was dismissed in 1975 by, technically, Her Majesty the Queen. I thought it was a proper function in retrospect, though I was not of Mr Whitlam’s particular political persuasion, and Mr Fraser was elected as Prime Minister of Australia with the greatest majority in federal parliamentary history. I think that majority was wasted, to some degree, because not much reform took place when he had control of the Senate then. When he was re-elected subsequently, he was re-elected by the second greatest majority in our history. If that is not the case, then it was certainly in the post-world war history, I think the Senate did function properly. It reflected the will of the people. No matter what one thought about it, the acid test was the election of Mr Fraser—or the re-election of Mr Fraser—and, of course, history tells us precisely what happened then.

This is a different case here today. This is a case where the will of the people, after a significant win by the Howard coalition government in 2001, is being thwarted. It is being thwarted because those policies that were spoken about by Mr Howard, his ministers and others in the electorate are now unable to be implemented in this place. That is a process of democracy that cannot be sustained in a country like Australia. We need to have a process whereby those policies that are clearly enunciated by an incoming government or opposition are not frustrated here in the Senate. It is not that they are necessarily being frustrated in a proper fashion. You have a group of people on the other side—not the Labor Party; the Labor Party is a broad church in the sense of the socialism that it embraces—a handful of uncoordinated, dysfunctional people in the Democrats and a couple of people who come in here ostensibly as Independents but in fact are socialists. They are the ones who join with the Labor Party to prevent this legislation from going through.
Those triggers are significant for the people of Australia and to demonstrate clearly that the process of Westminster—admittedly a peculiar form of Westminster—that we have here does work. Those triggers can broadly be defined as these: the National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2]; the Trade Practices Amendment (Small Business Protection) Bill 2002 [No. 2], with its secondary boycott provisions; the Workplace Relations Amendment (Fair Dismissal) Bill, again with respect to unfair dismissal laws; and the Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2002 [No. 2]. Today we had the frustration of the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 [No. 2] and tomorrow we will probably have the ASIO bill coming up and rejected yet again.

These issues were clearly spoken about by the Prime Minister, his ministers and the Deputy Prime Minister from the National Party leading up to the 2001 election. It is a frustration or abrogation of democracy in this place—issues that are spoken so clearly about and for which the people of Australia voted so decisively and surprisingly well under the circumstances, leading up to the 2001 election. It was a decisive win by the Howard government, as indeed the election before that was decisive—decisive even with the GST. Someone said that you would never win an election by introducing a new tax. The coalition government did win that election and it is currently serving the democratic process in Australia because it was enunciated in its policies. You heard Mr Crean say that it is not about personalities; it is about policy issues. Even he admits that—he knows that. Look at the decisive win that Mr Crean had today. (Time expired)

Senator ROBERT RAY (Victoria) (3.18 p.m.)—I found Senator Hill’s answer a just a tad disappointing today because it lacked any real depth. I would have thought that, having floated the idea of amending section 57 of the Constitution—one of the more dramatic proposals ever floated before this parliament and one that I have great sympathy with—that would have been able to be fleshed out just a little more. The key issue here is Senate power. Every time I raise this matter with Liberal senators I get back a blank stare—they cannot believe that I would ever raise such an outrageous subject. Suddenly, here they are, signed up to it—terrific!

You do not take much pleasure in being so prescient, because previously they had all gone on about how you elect senators, how you could rort it and how you could get a government majority—that is, when they are in government they argue that. When they are in opposition they argue the following: it is ‘one of the most democratically elected chambers in the world—a body which at present more faithfully represents the popular will of the total Australian people at the last election than does the House of Representatives’. That is what John Howard had to say in 1987. He changes his view 180 degrees according to whether he is in opposition or in government. We on this side of the chamber have to be consistent and say that we will contemplate a change to the powers of this chamber.

A lot is said about Senate obstructionism. The previous speaker talked about a mandate. Who determines a mandate? This is the problem. To the previous speaker I say: do you have an independent body say, ‘You went to the Australian people on this and we can say there was a mandate’? There was no mention of the pharmaceutical proposal at the last election. Does the Senate have the right to reject that piece of legislation because you did not mention it at the last election, or are you going to mention in fine print a thousand things, not emphasise them and
then claim a mandate? It is a very, very flawed concept.

What we have here is the classic confrontation between Senate powers: the ability of the Senate to exercise powers that could be obstructionist, as opposed to its main evolving role as the chamber of scrutiny of executive government. That is what we have become. Forget about us being a states house—forget all those things in the past. This is where the Senate has evolved to in the last three decades: to be the main weapon to scrutinise government. It is not the only one, but through estimates committees, through references committees, through legislative committees, through returns to order—through all the tools available to this chamber—we are the ones who keep the executive government honest. It would be a tragedy if an unscrupulous government fiddled with the Constitution—I know that it is not the intention but it would be a tragedy—and eliminated the tools of scrutiny that are available to the Senate. At the moment executive government is somewhat kept in check by the media, FOI legislation, the Auditor-General, various inspectors-general in various departments and the Ombudsman Act. All those various tools are there to make sure that, in the adversarial nature of our politics, honesty and integrity exist in the administration of government in this country.

The problem is that the government has not properly defined how far it will take these joint sittings. That is why I am seriously suggesting that the government look at budget related bills. I do not just say ‘supply bills’. I am not just talking about supply; I am talking about mainstream bills that would finance a government. If we want to use some examples, yes, the government bill that privatised Telstra would be a budget related bill. The government’s ASIO bill would not be a budget related bill and it would not be subject to this measure. That I think would mean you would have a better chance of having it carried out there in the public.

We are in a position in this country in which constitutional change can only occur when a Liberal-National Party government suggests it. The reason is that, if ever a Labor government suggests any constitutional change, our conservative opponents oppose it for the sake of opposing it. They do not look at it on its merits. They use it as a chance to sabotage a Labor government’s agenda and, in fact, be oppositionists. That is a bit of a tragedy, and I think they should rethink that. Nevertheless, we are not going to adopt that as a standard. Obviously the Prime Minister is serious about making a major constitutional change in this country. We have not ruled it out. We may well embrace it, provided the relevant protections exist to make this a meaningful chamber of scrutiny, without ever letting it lapse into some sort of obstructionist, anarchist outfit, which on occasions through history it has become. (Time expired)

Senator HUMPHRIES (Australian Capital Territory) (3.23 p.m.)—The Prime Minister placed on the national agenda recently an issue of extreme importance to the way in which Australia’s democracy functions. He has asked the Australian community, and the Australian elected representatives in particular, to take part in a debate about the way in which Australian democracy works. Members of this place and other places who might imagine that Australian democracy has evolved to a state where it is perfect, where it is incapable of reform, I believe would be seriously deluding themselves.

Our system of government is a good system of government, but it can be improved. The power of the Senate to block the vital legislation of a duly elected government is a central issue which simply has to be addressed in a process of considering reform.
Some jurisdictions in Australia have abolished their upper houses. Some have never had upper houses. Those systems manage to work. We need to ask ourselves what role the Senate should play in a fair, democratic system of government. I believe that the issues that the Prime Minister has placed on the table represent a positive and an appropriate way of being able to take that debate forward.

I have heard senators opposite make reference to the events of 1975. Senator Faulkner, in particular, was quick to condemn the Liberal Party for having ‘debauched’ the democratic process, as he put it, with its use of numbers in the Senate. He said in response that the ALP had never done anything of that kind with respect to the powers of the Senate, citing the events of 1975. Obviously, those events still rankle very much within the ranks of the Labor Party, but it seems to me to be a little short-sighted to make that observation. The fact is that, prior to 1975 and prior to the Whitlam government, the Labor opposition, on numerous occasions, voted against budget bills not only in this place but also in the House of Representatives. They voted again and again against coalition government budget bills. The difference between what happened in those years and 1975 is that the vote of the opposition succeeded in changing the outcome of those bills. It had not done so previously. It seems to me a bit rich for the Labor Party to claim to have ‘clean hands’, as Senator Faulkner put it, when they had so often attempted to do what was done successfully in 1975.

As Senator Lightfoot made clear earlier, this government’s agenda has been clear. It has been out in the open. It has been put to the Australian people in clear terms. Many of the bills which have recently been rejected by the Senate are bills which have been a very explicit part of this government’s agenda. Legislation to provide for reform of the unfair dismissal laws was a matter tabled in clear terms by the government before the last election. Yet this opposition and this chamber have seen fit to reject those laws, despite what could clearly be said to be a mandate for their passage in this place.

Senator Ferris—At three elections.

Senator HUMPHRIES—as Senator Ferris reminds us, a mandate given not just once, not just twice, but on three separate occasions. Where is the democratic process at work in that? Where is the government’s capacity to govern, as it has been elected to do, when the Senate behaves in that way? Quite appropriately, the Prime Minister has said it is time to consider how we can change the system for the better. Senator Hill, in his response to the question today, made it clear to Senator Ray that he is happy to see submissions made by Senator Ray, or others opposite, to the process the Prime Minister has put in train. Let us see that happen. Let us see the government’s capacity to govern, as it has been elected to do, when the Senate behaves in that way.

Quite appropriately, the Prime Minister has said it is time to consider how we can change the system for the better. Senator Hill, in his response to the question today, made it clear to Senator Ray that he is happy to see submissions made by Senator Ray, or others opposite, to the process the Prime Minister has put in train. Let us see that happen. Let us see a positive response from the Labor Party to this exercise. Let them put their money where their mouth is. If they are in favour of some kind of reform, and they have said in the past that they were—who was it that called this place ‘unrepresentative swill’ if not a Labor Prime Minister?—they should stop bleating in this place about the process the government has begun and put together their own proposals and put them forward. That would be a constructive way of dealing with this important debate that has been initiated by the Prime Minister. (Time expired)

Senator KIRK (South Australia) (3.28 p.m.)—I also rise to take note of the answer given by Senator Hill to a question asked by Senator Ray in question time today. As has been mentioned here in the chamber today, the Senate has been granted strong constitutional powers by the Australian Constitution and, in its 100-year history, has become a strong and influential chamber. Recently,
however, this is something that has frustrated the Prime Minister and the government, and it is as a consequence of this frustration that the proposals for reform to the Senate have come forth. The Senate’s powers are substantial under the Australian Constitution. They include defending the interests of minority groups and, importantly, providing for a system of checks and balances on the government through the Senate’s role as a house of review.

As Senator Ray mentioned earlier, the Prime Minister has had an evolving relationship—perhaps we can call it that—with the Senate. While he was in opposition in 1987, the Prime Minister quite rightly called the Senate one of the most democratically elected chambers in the world. More recently, in 1994, the Prime Minister—as he then wasn’t—said in relation to the role of the Senate:

The truth of the matter is that the national interest is not always synonymous with Canberra. It is not always synonymous with the decisions of a central government. The national interest often is to disperse and divide power. That is what our constitution was built on.

The Labor Party concurs with these views put in 1994 by the current Prime Minister. However, more recently, since the government have been prevented from passing certain bills in this chamber—these are, of course, bills that they never sought to bring before the Australian people in an election campaign—we see the government attacking the chamber, attacking the Senate and its powers, and proposing hasty changes to the Constitution.

Labor have fought and will continue to fight the subject matter of the bills that are the subject of so-called obstruction, such as the Pharmaceutical Benefits Scheme, the higher education changes and the ASIO bill that we blocked in the Senate last year because of its attempts to significantly curtail civil liberties and human rights in this country. The Labor Party have no qualms about forcing these bills to be blocked. If the government wish to force a double dissolution election on these changes, then they have before them the constitutional means to do so through the mechanism in section 57 of the Constitution. But, rather than take this course, it seems the government prefer to attack the Senate and not have their unpopular policies scrutinised by the Australian electorate.

As has been said by other speakers on this side today, it has been the Labor Party’s policy for many years to reform the Constitution with regard to the Senate, but we will not support reform to the Senate’s powers that will make this chamber less democratic. What we do support is reform to the Senate’s powers as a package of reforms to make it a more workable chamber in our system. Such reforms cannot simply be a single proposal to reduce the power of the Senate and increase the power of the executive government. It cannot be done by a simple announcement at what was an otherwise dull Liberal Party convention in my home state.

Senator Ferris—How would you know? You weren’t even there.

Senator KIRK—Fortunately. Constitutional amendments are very hard to achieve in this country. The Prime Minister will have no chance of this if the level of public engagement he has embarked upon so far is all that he intends to have. This is merely an attempt at a quick fix solution. Constitutional experts, including Cheryl Saunders from Melbourne University, have said that the government’s proposal would result in a very significant reduction to the Senate’s authority. If the government were serious, they would allow public debate on the issues of the Senate’s power to block supply and fixed and four-year terms. These are the sorts of
reforms that would make for a better Senate and for a better parliamentary system in this country. The government appear not to be listening to these other proposals for change; they simply want a shallow solution which, more than likely, would be rejected by the Australian people. Whilst never perfect, opinion polls suggest that up to 22 per cent of people in the electorate would not support these changes. *(Time expired)*

**Senator Bartlett** (Queensland—Leader of the Australian Democrats) *(3.33 p.m.)*—I also wish to speak on this matter before the Senate. It is a crucial matter, not just for the future of the Senate but, far more importantly, for the Australian people. It is not simply a matter of speaking to try to preserve the powers of the individual senators here; it is about preserving the powers and rights of the Australian people. That is why this debate is so important. What the government have put forward through Prime Minister Howard and in some of their contributions here today, as well as in the minister’s answer in question time, is not just a flight of fancy by the Prime Minister trying to distract people; it is actually a serious attempt to make an outrageous and massive power grab.

It is not a power grab from the Senate or the parliament; it is a power grab from the Australian people. This is a power that the Australian people have through their representatives in the Senate, which is the only mechanism that provides a check and balance on what the government is doing. It is a power and a right that will be removed if what the Prime Minister is proposing sees the light of day. That is why the Democrats oppose it so strongly. But we do welcome the fact that the Prime Minister has put it forward. We quite openly say to him that if he wants to put that to a referendum of the Australian people, then bring it on. I have no doubt that it would be absolutely and totally rejected, fundamentally. We would be quite happy—

**Senator Ferris**—Just like you will be at the next election.

**Senator Bartlett**—If you want to bring it on, Senator Ferris, please convince the Prime Minister to do so. We would love to have that debate before the Australian people so they can see how clearly and openly this Prime Minister is willing to grab every piece of power possible. But we would urge him, if he is genuine about constitutional reform, to open up that debate that he says he wants to have to all the other areas the Democrats and others in this country have been calling for for many years, even on something as basic as the fundamental right to stand for parliament that is being denied to millions of Australians because of section 44 of the Constitution. It is a change that I believe every party in this place supports so that public servants and dual citizens can stand for parliament, the same as the rest of us. Let us make that change; we all support it.

The Prime Minister apparently now supports some constitutional change, some updating, some reforms, some modernising. Let us put that one up; I can assure you that one would be supported by the Australian people and certainly by the Democrats. Let us put up there the issue of fixed terms, let us put up there the issue of four-year terms—all of those are appropriate for debate. If the Prime Minister wants to include in there a question about giving him total power and effectively removing the right of the Senate to do anything other than delay something for a little while, then let him do that as well. I am quite confident—indeed, absolutely certain—that that question would be rejected by the Australian people.

The other aspect of this debate is this attempt, and the intent, to create this com-
pletely false perception that the Senate is being obstructionist. We have seen some of the statistics that have been released in recent times. The fact is that, in about 15 months since this parliament first sat in February last year, with a record low number of sitting days in that 15 months, we have passed 200 bills. Do not give me any suggestion that this Senate has been obstructionist when it has passed 200 bills in what probably has been about 80 sitting days over the course of 15 months. That includes about 84 of those bills being referred to committee.

The Prime Minister suggested that we need to look at the Senate because it is not functioning as a house of review. We had 84 of those 200 bills sent to a committee in a 15-month time frame with a minimum number of sitting days. We passed 200 of those bills. If he wants us to do more reviewing, we will—we will send them all to committees. We will ensure that everybody gets more input into them. That is really where the problem is. This government is trying to slam through literally hundreds of bills in a minimum number of sitting days. In addition to those 200 bills, how many bills have actually been negatived? Five. Five out of 200 is 2½ per cent, I believe. For the government to suggest that somehow it is having its program gutted by an obstructionist Senate is a joke.

This government did not go to the last election saying they were going to gut Medicare. They did not go to the last election saying they were going to increase student fees. They did not go to the last election saying they were going to increase the cost of medicine through the Pharmaceutical Benefits Scheme. Yet they somehow think that the Senate should roll over and let the government do whatever they want. I know the public, on many days, wake up and think, ‘Thank God the Senate is there.’ They are thinking, ‘Thank God the Senate has this power at the moment with the Medicare changes and the higher education changes.’ That is what the Democrats see as our role as being. And that is what we are going to continue to do.

If the Prime Minister and the government want to continue this debate, I welcome that. I urge them to do so. I urge them to have a proper public debate about necessary constitutional and parliamentary reform. The Democrats would gladly be part of that. (Time expired)

Question agreed to.

CONDOLENCES

Wentworth, Hon. William Charles AO

The PRESIDENT (3.38 p.m.)—It is with deep regret that I inform the Senate of the death, on 15 June 2003, of the Hon. William Charles Wentworth, a member of the House of Representatives for the division of Mackellar, New South Wales, from 1949 to 1977, and at various times in that period Minister for Social Services and the minister in charge of Aboriginal affairs under the Prime Minister.

Senator HILL (South Australia—Leader of the Government in the Senate) (3.39 p.m.)—by leave—I move:

That the Senate records its deep regret at the death, on 15 June 2003, of the Hon. William Charles Wentworth AO, former federal minister and member for Mackellar, and places on record its appreciation of his long and meritorious public service and tenders its profound sympathy to his family in their bereavement.

William Charles Wentworth was born on 8 September 1907 in Sydney. He was privately educated at Armadale School and went on to receive a master of arts from Oxford University. He married Barbara Chisholm in 1935. Mr Wentworth was a descendant of Darcy Wentworth and his son William Wentworth, one of the first explorers to cross the Blue Mountains.
William Wentworth worked as a public servant and was an economic consultant and adviser to the New South Wales Treasury from 1934 until 1936. He was a prominent publicist, writer, speaker and an active anti-communist campaigner. William Wentworth was a member of the New South Wales division of the Liberal Party, serving on the council and the executive. In 1941 he enlisted in the Army Reserve and served as a captain with Headquarters, First Division, until 1942.

William Wentworth was elected to the House of Representatives seat of Mackellar in 1949, holding the seat until his retirement prior to the general elections in 1977. He later stood unsuccessfully as an independent senator in 1977 and 1984. William Wentworth was a colourful, passionate and highly intelligent member of parliament. During his long parliamentary career he was an active member of several parliamentary committees, including the House of Representatives Standing Committee on Aboriginal Affairs and the government members committee on rail gauge standardisation, as chairman. He was also the parliamentary representative on the Council of the Australian Institute of Aboriginal Studies.

In the Gorton government he served as Minister for Social Services from 1968 until 1972, and was minister in charge of Aboriginal affairs under the Prime Minister from 1968 until 1971. He was the first person to hold this position. William Wentworth was a strong advocate of Aboriginal rights and Aboriginal land rights. He was instrumental in the overturning of constitutional provisions that barred Aboriginal people from inclusion in Australia’s population, ensuring that they were included in the 1967 census. William Wentworth was also the driving force behind standardising the rail gauge between Sydney and Melbourne. Standardisation of the gauge in 1962 eliminated the need for passengers to change trains at Albury. It was for these and other achievements that he was awarded an Officer of the Order of Australia in the 1993 Queen’s birthday honours list for service to the Australian parliament.

After leaving politics, William Wentworth continued to make an active contribution to the Australian community, including writing many papers, articles and letters on current issues, as typified by his involvement in campaigns such as Buy Australian. He also lobbied me extensively on a range of issues, particularly in recent years on greenhouse gas matters. On behalf of the government I extend to his wife, Barbara, and his children and to other family members and friends our most sincere sympathy in their bereavement.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (3.43 p.m.)—Billy Wentworth—William Charles Wentworth IV was born, as we have heard, on 8 September 1907. He first stood for parliament as an Independent for the newly created seat of Mackellar in 1943. Perhaps the decision to contest that seat as an Independent can be seen as a precursor to his later independent turn of mind. He did not win that time and successfully recontested the seat for the Liberal Party in 1949. He would hold that seat for the Liberals for 28 years, until disgust at Mr Fraser’s economic policies and spending cuts prompted him to resign.

Great grandson of the explorer, politician and would-be bunyip aristocrat of the same name, Bill Wentworth’s family background and privileged upbringing undoubtedly smoothed his early path. However, he was not interested in dwelling in the past and journalists often found him unwilling to talk about family history. He was a man very much of his own time and sometimes ahead of his time. Even before he first stood for
In the 1938 party conference of the United Australia Party he was howled down and, according to Alan Reid, assaulted with umbrellas by North Shore matrons for aggressively insisting to the then Prime Minister, Joseph Lyons, that an alliance between Japan and Germany would produce a Japanese attack on Australia and that the Lyons government should beef up its defence spending.

It was far from the last time that the extravagance of Bill Wentworth’s style obscured the sense of his subject. It was also far from the last time that he was proved right. When war did come to Australia, Bill Wentworth’s vision was not good enough for him to join the Army and so he joined the CMF instead. Told to lead a mock invasion at Cronulla as a training exercise, he threw himself into it with alarming enthusiasm and imagination. He and his small force struck overland from Cronulla, took the emergency services prisoner, captured the defending force’s headquarters and their colonel, and put a sticker on the door of the Liverpool ordnance depot: ‘Destroyed by W.C. Wentworth, captain’. Having established the general unreadiness of Australia’s civil defence, he was shortly thereafter dismissed from the CMF as medically unfit.

After being elected to parliament in 1949 he discovered that his tendency to speak his mind had already done him harm. He told the then UAP Prime Minister Menzies in the early days of World War II that, if Mr Menzies wanted to serve his country to the best of his ability, he should resign. Mr Menzies never forgave him, and Mr Wentworth found the long years of the Menzies rule barren of promotion and advancement. Unsurprisingly, later he became an advocate of an elected rather than an appointed ministry in the Liberal Party.

Stuck on the back bench with no hope for improvement until Menzies moved on, Wentworth threw himself into committee work. While a backbencher—a backbencher for 18 years—Wentworth became passionately committed to the issue of the standardisation of railway gauges throughout Australia. The lack of will in the Menzies government to pursue the issue infuriated him. He formed an unofficial committee that assumed authority that the committee had never been granted to negotiate with Commonwealth and state railway commissioners. Unable to get the necessary money out of Menzies, he made sure that whenever more money was needed the request occurred at a time when Menzies was overseas and when Arthur Fadden, more sympathetic to Wentworth than Menzies, was Acting Prime Minister.

He will undoubtedly be remembered mainly for two things: his devotion to the cause of Australia’s Indigenous people and his fanatical anticommunism. The 1967 referendum that included Aborigines in the census and gave the Commonwealth government the power to legislate on their behalf was a Wentworth cause celebre. In 1968 his dedication to the cause of removing discrimination against Aborigines became an official responsibility when he became the first federal minister for Aboriginal affairs. As minister he was an advocate for land rights and for self-determination. When he became minister, assimilation was still the dominant idea for Indigenous affairs. Although it did not often make the front pages, Wentworth fought a long campaign—again, with others in his party—to shift the agenda towards integration. When others believed that the Indigenous people of Australia should either learn to live just like whites or stay essentially imprisoned on reserves in the outback, Wentworth introduced a third concept into the debate: privacy where wanted and assistance where that was wanted too.
He railed against those who used the Aboriginal rights movement to feed their own vanity and often suspected that the Aboriginal rights movement had been infiltrated by communist forces.

In fact he often suspected that just about everything in Australia had been infiltrated by communist forces. Some of his generation saw Reds under the bed; Bill Wentworth saw them wherever his gaze fell. His anticommunist outbursts really caused amusement more than anything else. Once in 1963 when Bill Wentworth railed against communist forces in the House of Representatives, Les Haylen, Clyde Cameron and Eddie Ward determined to exploit his agitation on the topic. While other Labor speakers drew attention to Wentworth's increasing excitement, Les Haylen slipped quietly out of the House, borrowed a long white coat from one of the waiters in the parliamentary bar and, wearing the coat and equipped with a stethoscope borrowed from a Labor senator who was also a medical doctor, he entered the House on the government side and stood quietly beside Wentworth. As Wentworth rose to the peroration of his long tirade against Labor and Labor's association with communists, Haylen murmured softly to him that the green cart was waiting outside to take him away for a nice quiet rest. Alan Reid reported that even Wentworth laughed at the joke but Les Haylen himself was in no doubt that the most appreciative member of the audience was Wentworth's old foe, Menzies. Indeed, Bill Wentworth used the condolence debate on Mao Tse Tung's death to speak against Mao and then walked out of the House at the vote.

He was always straightforward and plain spoken. He did not believe in moderating the expression of his opinion even if the circumstances or the place might otherwise dictate a more moderate tone. This led him to be suspended from parliament quite regularly in later years for a range of offences, including offering Gough Whitlam a glass of water to wash his hands of the Vietnamese refugee problem, disrupting the joint sitting after the 1974 election by addressing the public gallery on the importance of the economy and loudly accusing the Whitlam government of being a bunch of Red fascists.

Despite a privileged background, being anti trade union and anticommunist to the point of extremism, he certainly was not a stereotypical Tory. When he first became Minister for Aboriginal Affairs he also became Minister for Social Security and as much a thorn in the side of his own party over social security as he was over Aboriginal land rights and self-determination. He supported, again ahead of his time, a national superannuation scheme. He embarrassed Billy McMahon by breaching cabinet solidarity to publicly advocate his idea. McMahon commented: Whenever the Minister for Social Security speaks on matters relating to his portfolio I believe that he speaks from the heart rather than from the mind.

Bill Wentworth certainly put his heart into the issues covered by social security as much as he did the portfolio of Aboriginal affairs. I think he did have a genuine feeling for the disadvantaged. McMahon's allegation that Wentworth failed to apply his mind to the questions that exercised his heart was wrong. Wentworth did apply a keen mind and an innovative imagination to the problems that concerned him. What was wanting was any sense that ideas should ever be subordinated to political judgment. He did not see why a good idea should be held back for an election period just for polling reasons. He did not see why he should shut up on things he believed in just because it wasn’t done for a cabinet minister to stump the country arguing that the Prime Minister was wrong. He did
not see why he should vote for government policy when he disagreed with it.

Indeed, when the Fraser government began to pursue spending cuts, Bill Wentworth abstained from the vote for the Fraser government’s 1977 budget. A few months later he resigned from the Liberal Party, condemning the then Fraser government’s policy of salvation through stagnation. Bill Wentworth’s key problem with Fraser’s policies was his conviction that the greatest economic evil was chronic unemployment. He remembered the Great Depression. He believed in Keynesian economics. He believed that it was entirely reasonable and right that the government should spend money to create jobs. He believed that cutting spending and reducing the number of jobs was neglecting the national interest. Bill Wentworth warned time and time again against accepting any level of ongoing unemployment. As early as 1976 he predicted the social problems of long-term intergenerational unemployment.

After retirement he made a bid to be elected to the Senate as an Independent, describing himself as a policy in search of a party. Unsuccessful, he retired from politics but not from policy, continuing to advocate such favourite causes as support for Australian manufacturers, railway improvements and the need for full employment. He did all this with unbridled energy and enthusiasm. I had some contact with him over the last years of his life, following through with him some issues which he spoke about in parliament prior to the election of the Whitlam government. I found him extraordinarily helpful in my quest for information on those matters and I certainly appreciated his cooperation. I understand that others who similarly made requests of him over the years also found him to be very cooperative, regardless of what side of the parliament they may have represented. Bill Wentworth is survived by his wife, Barbara, four children, nine grandchildren and three great-grandchildren. To all his family and friends, on behalf of the opposition, I express our sincere sympathy.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.57 p.m.)—On behalf of the Australian Democrats I would like to express our condolences to the family of the Hon. William Charles Wentworth and to acknowledge the immense contribution he made to our society and our community in a life spanning over 95 years. As has been mentioned, he was the member for Mackellar in the House of Representatives for a total of 28 years up until 1977. The election in which he finished his term in the parliament was the election in which the Democrats first got elected to parliament. In that sense, his overlapping with our party is fairly minimal, but a lot of the issues he worked on and a lot of his achievements have, of course, lived on beyond that time. Twenty-eight years in the parliament is a long period, as I am sure all in this chamber would acknowledge. I think I am right in saying that only Senator Harradine amongst us has been a member of this chamber for a time approximating that period of 28 years. It certainly is a long time of service.

As we have heard from previous speakers, Bill Wentworth was an outspoken and determined politician with strong views on a wide range of issues, including economic policy, the removal of means testing for age pensions, establishing a national savings scheme, placing limits on free trade, and anticommunism. He was passionate about his own beliefs and was not afraid to publicly disagree with his own party when he thought it necessary. Senator Faulkner has outlined some of the areas where he did disagree with his own party. I believe this led to his crossing the floor in 1977 as a member of the government in a vote on the exchange rate issue and resigning from the party.
around that time. He was suspended from the parliament a number of times because of outspokenness. All of these things add up to part of what made the character of Bill Wentworth. But more important are his long-standing achievements. The achievements I would like to focus briefly on here are his achievements in the field of Indigenous affairs. He worked diligently on behalf of Indigenous Australia, albeit in the context of being a man of his time, but in many ways he was nonetheless ahead of his time in relation to some of the other attitudes held around Australia.

He was responsible for key measures that enabled the proper recognition of Aboriginal people in a federal context. Senator Faulkner has already mentioned Mr Wentworth’s support for the historic 1967 referendum that gained constitutional recognition for Indigenous people and enabled laws to be made on behalf of Indigenous people for the first time. In 1968 he became the first Minister for Aboriginal Affairs in the history of Australian federal politics. That alone is a significant legacy, particularly given the work he did in that position and the stances he took.

I think all would agree that he stuck to his guns on issues he believed in. One of the most important outcomes of his efforts was the establishment of the Australian Institute of Aboriginal Studies in the early 1960s. In 1959, reflecting a view that was common at the time, Mr Wentworth believed that Aboriginal people and their cultures were heading for extinction, and he called for urgent research into Aboriginal culture before it was lost. He persuaded the Prime Minister to hold a conference in 1961, out of which the Australian Institute of Aboriginal Studies was born. That name was later changed to include recognition of Torres Strait Islander people, and it became known as the Australian Institute of Aboriginal and Torres Strait Islander Studies.

Mr Wentworth was ultimately—thankfully—very wrong, for once, in his prediction of the inevitable extinction of Aboriginal peoples. Nonetheless, there was, and continues to be, a significant threat to the ongoing survival and recognition of much of the culture of Aboriginal and Torres Strait Islander people. Thanks to his efforts, we now have an independent Commonwealth statutory authority devoted to Aboriginal and Torres Strait Islander studies. It is Australia’s premier institute for information about the culture and lifestyles of Aboriginal and Torres Strait Islander peoples. The chairperson of the institute, Mick Dodson, has noted that the institute ‘is a repository of the colonial history of the survival of Aboriginal and Torres Strait Islander peoples. It is a source of sustenance to Aboriginal society and culture and continually enables Indigenous people to remember, maintain and transmit to future generations’. Bill Wentworth played a significant role in the establishment of that, and for that he should be thanked. Even one achievement as significant as that is one that all of us would be proud to have as a legacy. I have focused on that one here today, but he had many other achievements throughout his long life. As with many people who contribute to our community, his contribution should be noted and he should be thanked. Again, I pass on the Democrats’ condolences to his family: his spouse, his surviving children, his grandchildren and his great-grandchildren.

Question agreed to, honourable senators standing in their places.

PETITIONS

The Clerk—Petitions have been lodged for presentation as follows:
Immigration: Asylum Seekers
To the Honourable the President and Members of the Senate in Parliament assembled.
We, the undersigned, are moved by the plight of the more than 1600 East Timorese asylum seekers currently residing in Australia and consider that there is a need for the Australian government to address their situation.
These asylum seekers have lived in Australia far almost a decade and have integrated well into our way of life, with many of their children being born here and knowing no other reality. Many of these people have close family ties here in Australia, they have contributed positively to the Australian community and are held in high esteem within their neighbourhoods. For many, returning to East Timor is not a viable option. Some have severed emotional ties with East Timor to enable them to cope with the traumatic experiences that they suffered there. While others have lost their homes and land and have no remaining relatives and have nothing to return to. We acknowledge that the human rights crisis has passed in East Timor, but with most of the infrastructure decimated by the Indonesians it will be many years before they enjoy a viable economy.
We ask that you make it a matter of conscience to give these East Timorese asylum seekers special consideration and vote to grant them permanent residency,

by The President (from 94 citizens).

Immigration: Asylum Seekers
From the citizens of Australia to the President of the Senate of the Parliament of Australia
We the undersigned Australians respectfully request the President of the Senate and the Senate as a whole, as an Act of Grace from the Parliament to the people of Australia, to support all asylum seekers and refugees in Australia’s care. They are people who have committed no crime and deserve our compassion and help.
We ask that the symbolic date of Easter 2003, an Act of Grace by the Parliament of Australia take place to:
1. Grant permanent residence to all refugees currently on Temporary Protection Visas who have been law abiding.
2. Authorise the immediate release into the community of all asylum seekers who are not a health, identity or security concern.

by The President (from 18 citizens).

Iraq
To the Honourable the President and Members of the Senate in Parliament assembled.
The Petition of the undersigned calls on the members of the Senate to support the Defence Amendment (Parliamentary Approval for Australian Involvement in Overseas conflict) Bill introduced by the Leader of the Australian Democrats, Senator Andrew Bartlett and the Democrats’ Foreign Affairs spokesperson, Senator Natasha Stott Despoja.
Presently, the Prime Minister, through a Cabinet decision and the authority of the Defence Act, has the power to send Australian troops to an overseas conflict without the support of the United Nations, the Australian Parliament or the Australian people.
The Howard Government has been the first Government in our history to go to war without majority Parliament support.
It is time to take the decision to commit troops to overseas conflict out of the hands of the Prime Minister and Cabinet, and place it with the Parliament.

by Senator Bartlett (from 20 citizens).

Iraq
To the Australian Senate:
We the undersigned call upon the Australian Government not to involve Australia in a war against Iraq.
There is no clear evidence that Iraq poses an immediate threat to Australia or any of our allies.
There is no established link, between Iraq and the shameful attacks of September 11, 2001.
Democracy in Iraq cannot be enforced by war. Australia must play a part in diplomatic and peaceful solutions to this conflict, and, must help the Iraqi people move, towards democracy.
There is no need for Australia to support or be involved in this conflict. We call upon you to put the interests of peace and the world community above those of the United States.
by Senator Nettle (from 6,276 citizens).

Petitions received.

NOTICES

Presentation

Senator Hutchins to move on the next day of sitting:

That the Community Affairs References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 19 June 2003, from 3.30 pm, to take evidence for the committee’s inquiry into poverty and financial hardship.

Senator Bolkus and Senator Greig to move on the next day of sitting:

That the following matter be referred to the Legal and Constitutional References Committee for inquiry and report by 3 March 2004:

The capacity of current legal aid and access to justice arrangements to meet the community need for legal assistance, including:

(a) the performance of current arrangements in achieving national equity and uniform access to justice across Australia, including in outer-metropolitan, regional, rural and remote areas;

(b) the implications of current arrangements in particular types of matters, including criminal law matters, family law matters and civil law matters; and

(c) the impact of current arrangements on the wider community, including community legal services, pro bono legal services, court and tribunal services and levels of self-representation.

Senator Bolkus to move on the next day of sitting:

That the Legal and Constitutional References Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 18 June 2003, from 6 pm, to take evidence for the committee's inquiry into progress towards national reconciliation.

Senator McLucas to move on the next day of sitting:

That the time for the presentation of the report of the Select Committee on Medicare be extended to 8 October 2003.

Senator Sherry to move on the next day of sitting:

That the draft Superannuation Industry (Supervision) Amendment Regulations 2003 and the draft Retirement Savings Accounts Amendment Regulations 2003 be referred to the Select Committee on Superannuation for inquiry and report by 21 August 2003, with particular reference to:

(a) the extent to which portability of superannuation benefits already exists;

(b) the role of current, and likely future, barriers to portability, including exit fees;

(c) the desirability and practicality of the portability regime contained in the draft regulations, particularly in the context of the existing structures of the superannuation and financial planning industries; and

(d) additional consumer protection measures.

Senator Brown to move on the next day of sitting:

That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 18 August 2003:

The role, operation and effectiveness of Australia’s security and intelligence agencies in the lead-up to the Iraq war, including:

(a) the discrepancies, if any, between claims made by the Australian Government and its agencies concerning Iraq and Iraq's weapons of mass destruction (WMD) program and information supplied by Australia's intelligence agencies;

(b) the discrepancies, if any, between information gathered by Australian intelligence agencies concerning Iraq and Iraq’s WMDs before the war and the actuality of the WMD program discovered after the conflict;
(c) the discrepancies, if any, between Australia and other nations, including the United States of America, in intelligence received regarding Iraq and Iraq’s WMD program; and

(d) any other matters relating to claims concerning Iraq or Iraq’s weapons of mass destruction.

Senator Robert Ray to move on the next day of sitting:

That, in accordance with the provisions of the Public Works Committee Act 1969, the following public work be referred to the Parliamentary Standing Committee on Public Works for consideration and report:

The Christmas Island Immigration Reception and Processing Centre.

Senator Faulkner to move on the next day of sitting:

That, pursuant to section 29 of the Intelligence Services Act 2001, the following matter be referred to the Parliamentary Joint Committee on ASIO, ASIS and DSD for inquiry and report by 13 August 2003:

(a) the nature and accuracy of intelligence information received by Australia’s intelligence services in relation to:
   (i) the existence of,
   (ii) the capacity and willingness to use, and
   (iii) the immediacy of the threat posed by, weapons of mass destruction (WMD);
(b) the nature, accuracy and independence of the assessments made by Australia’s intelligence agencies of subparagraphs (a)(i), (a)(ii) and (a)(iii) above;
(c) whether the Commonwealth Government as a whole presented accurate and complete information to Parliament and the Australian public on subparagraphs (a)(i), (a)(ii) and (a)(iii) above during, or since, the military action in Iraq; and
(d) whether Australia’s pre-conflict assessments of Iraq’s WMD capability were as accurate and comprehensive as should be expected of information relied on in decisions regarding the participation of the Australian Defence Forces in military conflict.

Senator Faulkner to move on the next day of sitting:

(1) That a select committee, to be known as the Select Committee on Ministerial Discretion in Migration Matters, be appointed to inquire into and report, by 3 November 2003, on the following matters:

(a) the use made by the Minister for Immigration of the discretionary powers available under sections 351 and 417 of the Migration Act 1958 since the provisions were inserted in the legislation;
(b) the appropriateness of these discretionary ministerial powers within the broader migration application, decision-making, and review and appeal processes;
(c) the operation of these discretionary provisions by ministers, in particular what criteria and other considerations applied where ministers substituted a more favourable decision; and
(d) the appropriateness of the ministerial discretionary powers continuing to exist in their current form, and what conditions or criteria should attach to those powers.

(2) That the committee consist of seven senators, three nominated by the Leader of the Government in the Senate, three nominated by the Leader of the Opposition in the Senate, and one nominated by minority groups and independent senators.

(3) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.
(4) That the chair of the committee be elected by the committee from the members nominated by the Leader of the Opposition in the Senate.

(5) That the deputy chair of the committee be elected by the committee from the members nominated by the Leader of the Government in the Senate.

(6) That the deputy chair act as chair when there is no chair or the chair is not present at a meeting.

(7) That the quorum of the committee be three members.

(8) That, in the event of the votes on any question before the committee being equally divided, the chair, or deputy chair when acting as chair, have a casting vote.

(9) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

(10) That the committee have power to appoint subcommittees consisting of three or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to consider.

(11) That the quorum of a subcommittee be two members.

(12) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(13) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it and a daily Hansard be published of such proceedings as take place in public.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Extension of Time

Senator FERRIS (South Australia) (4.05 p.m.)—by leave—At the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the provisions of the Aviation Transport Security Bill 2003 and a related bill be extended to 25 June 2003.

Question agreed to.

Rural and Regional Affairs and Transport Legislation Committee

Extension of Time

Senator FERRIS (South Australia) (4.05 p.m.)—by leave—At the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I move:

That the time for the presentation of the reports of the Rural and Regional Affairs and Transport Legislation Committee on the provisions of the Civil Aviation Amendment Bill 2003 and the provisions of the Wheat Marketing Amendment Bill 2002 be extended to 18 June 2003.

Question agreed to.

Economics Legislation Committee

Extension of Time

Senator EGGLESTON (Western Australia) (4.12 p.m.)—by leave—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I move:

That the time for the presentation of the reports of the Rural and Regional Affairs and Transport Legislation Committee on the provisions of the Civil Aviation Amendment Bill 2003 and the provisions of the Wheat Marketing Amendment Bill 2002 be extended to 18 June 2003.

Question agreed to.

Economics Legislation Committee

Extension of Time

Senator EGGLESTON (Western Australia) (4.12 p.m.)—by leave—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I move:

That the time for the presentation of the reports of the Economics Legislation Committee on the provisions of the Taxation Laws Amendment Bill (No. 4) 2003 and on the provisions of the
Taxation Laws Amendment Bill (No. 8) 2002 be extended to 19 June 2003.
Question agreed to.

Corporations and Financial Services Committee

Meeting

Senator EGGLESTON (Western Australia) (4.13 p.m.)—by leave—At the request of the Chair of the Parliamentary Joint Committee on Corporations and Financial Services, Senator Chapman, I move:

That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate today, from 7.30 pm, to take evidence for the committee’s inquiry into the Corporations Amendment Regulations 2003 (No. 1), as contained in Statutory Rules 2003 No. 31, and Regulation 7.1.29 of the Corporations Amendment Regulations 2003 (No. 3), as contained in Statutory Rules 2003 No. 85.

Question agreed to.

LEAVE OF ABSENCE

Senator EGGLESTON (Western Australia) (4.13 p.m.)—by leave—I move:

That leave of absence be granted to Senator Payne for the period 16 June to 19 June 2003, on account of ill health.

Question agreed to.

NOTICES

Postponement

An item of business was postponed as follows:

Business of the Senate notice of motion no. 2 standing in the name of Senator Brown for today, relating to the reference of a matter to the Environment, Communications, Information Technology and the Arts References Committee, postponed till 18 June 2003.

Withdrawal

Senator MURRAY (Western Australia) (4.14 p.m.)—I withdraw business of the Senator notice of motion No. 1 standing in my name for today proposing the reference of certain matters to the Economic References Committee.

GLOBAL DEMOCRACY AND GLOBAL PARLIAMENT

Senator BROWN (Tasmania) (4.14 p.m.)—I move:

That the Senate—

(a) supports global democracy based on the principle of ‘one person, one vote, one value’; and
(b) supports the vision of a global parliament which empowers all the world’s people equally to decide on matters of international significance.

Senator MURRAY (Western Australia) (4.15 p.m.)—I seek leave to move amendments to the motion as circulated on sheet 2952.

Leave not granted.

Question put:

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

The Senate divided. [4.19 p.m.]

(The Acting Deputy President—Senator A.B. Ferguson)

Ayes.............  2
Noes.............  45
Majority........  43

AYES

Brown, B.J. *   Nettle, K.

NOES

Allison, L.F.     Alston, R.K.R.
Barlett, A.J.I.    Bishop, T.M.
Buckland, G.      Campbell, G.
Carr, K.J.        Chapman, H.G.P.
Cherry, J.C.      Colbeck, R.
Collins, J.M.A.   Conroy, S.M.
Cook, P.F.S.      Crossin, P.M.
Denman, K.J.      Ferguson, A.B.
Forsyth, L.       Eggleston, A. *
Forshaw, M.G.     Greig, B.
Hogg, J.J. Humphries, G.
Hutchins, S.P. Johnston, D.
Kirk, L. Lees, M.H.
Ludwig, J.W. Lundy, K.A.
Mackay, S.M. Marshall, G.
McLucas, J.E. Moore, C.
Murray, A.J.M. Ray, R.F.
Ridgeway, A.D. Santoro, S.
Scullion, N.G. Sherry, N.J.
Stephens, U. Stott Despoja, N.
Tchen, T. Troeth, J.M.
Watson, J.O.W. Webber, R.
Wong, P.

* denotes teller

Question negatived.

MATTERS OF PUBLIC IMPORTANCE

Australian Broadcasting Corporation: Independence

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—The President has received a letter from Senator Mackay proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The need to protect the independence and integrity of the Australian Broadcasting Corporation from political interference by the Howard Government, and in particular by the Minister for Communications, Information Technology and the Arts, Senator Alston.

I call upon those senators who approve of the proposed discussion to rise in their places.

More than the number of senators required by the standing orders having risen in their places—

The ACTING DEPUTY PRESIDENT—

I understand that informal arrangements have been made to allocate specific times to each of the speakers in today’s debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

Senator MACKAY (Tasmania) (4.25 p.m.)—The Howard government and the Minister for Communications, Information Technology and the Arts, Senator Alston, have launched an unprecedented and outrageous attack on the independence of the ABC, which is causing great concern, to say the least, within the community. The ABC is Australia’s much-loved and respected public broadcaster and already comes under a high level of scrutiny. This is reasonable and proper—it would be expected that a public broadcaster of the stature of the ABC would seek to set and maintain the highest of standards. According to a recent Newspoll survey, over 13 million people watch ABC television at least once a week, more than 6.5 million people listen to ABC radio at least once a week and in excess of one million people use ABC Online monthly. Even more importantly, the Newspoll results also show that eight out of 10 respondents in 2002 believed that the ABC was balanced and evenhanded when reporting news and current affairs.

To date, no criticism of the ABC from any source has come anywhere near the level of vitriol or threatened censorship that is now coming from the government and the minister. It is simply outrageous. Having stacked the ABC board with conservatives and reduced the ABC’s funding, the Howard government has now launched an all-out war on the ABC. The war against the ABC by Minister Alston has come in the form of a petty and vicious attack on the ABC’s AM radio program. Senator Alston’s claims of pro-Iraq or pro-United States bias in the ABC’s war coverage are laughable. The Howard government is clearly aiming to intimidate the ABC and turn it into something much closer to a propaganda outlet for the Liberal Party than it is now.

In a letter to Senator Alston this month, the chair of the ABC, Donald McDonald, responded to the minister’s latest complaints by effectively accusing the minister of blatant hypocrisy in his attack on the ABC. You really cannot blame him for that. Mr
McDonald has pointed out that Senator Alston originally welcomed a 2002 Australian National Audit Office report on the ABC last year and, in fact, went so far as to state that he was pleased with the report and the improvements in the ABC’s processes mentioned in that report. In the same letter of 6 June from Mr McDonald to the minister, the ABC has reiterated the ongoing commitment of the ABC board and management to the implementation of all 14 ANAO recommendations. Everybody is committed to the implementation of those recommendations. In my view, the ABC is to be commended for its ongoing efforts to maintain the highest of standards through the full implementation of these recommendations. The Auditor-General in his report found no evidence to indicate that the ABC did not comply with its charter requirements. He also praised the procedures and practices of ABC news and current affairs. Yet, unbelievably, the minister has now used that same ANAO report that he originally welcomed as positive to try and beat up on the ABC.

Since becoming managing director of the ABC in May 2002, Russell Balding has actively responded to the concerns of the government and implemented reforms to the audience and consumer affairs unit so that complaints are assessed and responded to independently of programs. This step makes the ABC complaints handling process even more rigorous than that of the BBC, which still handles complaints within program units. This new process has also included the appointment of a separate complaints review executive to introduce even greater internal scrutiny. At the time these changes were announced last August, the minister for communications said that he was happy with the ABC’s decision, and so he should be—it would have to be amongst the best in the world for public broadcasters. Yet now, not one year later, he has taken the unprecedented step of threatening the ABC once again, suggesting that the ABC’s funding could be at risk.

As it now stands, if an ABC audience member is dissatisfied with a response from the ABC, the Independent Complaints Review Panel can examine that complaint if it relates to bias, lack of balance or unfair treatment. Each year the outcome of panel reviews and a list of its members are published in the ABC’s annual report, and an additional tier of review is available through the Australian Broadcasting Authority process; yet this is not enough for the minister, who recently said, according to the Australian on 29 May this year:

They—are the ABC—being the ABC—are accountable to government in the same way any other organisation is, but if they choose to ignore it then it is a matter for the parliament.

The minister is wrong here. The ABC is not accountable to government, to the Howard government, but it is accountable to parliament. The ABC board provides to the parliament a yearly account of how it meets the statutory requirements under section 8(1)(c) of the act. This is contained within the ABC annual report. The corporation is also accountable to the parliament through the Senate estimates process and through the Auditor-General’s reports to parliament.

Why did the government suddenly attack the ABC? The answer lies in the recent round of Senate estimates where the ABC complained to the government about its inadequate funding and was forced to cancel its two multichannels, ABC Kids and Fly TV. This was a huge embarrassment to the minister, and his response has been to step up his attack on the ABC. The government’s rejection of the ABC funding bid in the 2003 budget has not only seen the cancelling of the ABC’s digital programs but also seen
around 50 regional communities refused access to regional radio programming like NewsRadio and Triple J. Those of us from regional areas, such as in my home state of Tasmania, know just how important the ABC is in regional areas and what an important role it plays. Additional services such as NewsRadio and Triple J would have been a huge bonus to regional areas, yet it is not to be because the government’s priorities clearly lie elsewhere.

It is a sad fact that the minister for communications has failed just about every test of his administration of the communications portfolio. On digital TV we have had a data-casting auction that failed, two channels that ended up nowhere and high-definition television going nowhere. He has had to change the rules on that several times. He has also supported multichannelling, but nothing has happened. He has gone to cabinet a couple of times and sought to get multichannelling for the commercial networks and that has got nowhere.

Of course, contrary to his statements, the minister now has to suffer the indignity of the ABC cancelling its digital multichannels, which he was warned about on several occasions. To date, only 50,000 to 60,000 digital units have been taken up by consumers around Australia. The digital rollout was proceeding at an absolute snail’s pace, and now it is going in reverse. So the minister has been embarrassed by the ABC. The ABC has had to instigate these cuts in order to meet its budgetary constraints imposed by the government.

Basically, what happened at estimates was that the minister’s embarrassment turned to rage, especially post estimates when he launched this extraordinary attack on the ABC, and yet again we have another indication of the government attempting to impose some level of scrutiny or level of censorship on the ABC that the vast majority of consumers have indicated they do not want.

(Time expired)

Senator EGGLESTON (Western Australia) (4.33 p.m.)—Senator Mackay’s matter of public importance is curious in that it calls for the protection of the ABC from the political interference of the Howard government, and the Minister for Communications, Information Technology and the Arts in particular. This is really a nonsensical proposition because the ABC, after all, is managed by an independent board whose duty is to ensure that the functions of the corporation are performed efficiently and with maximum benefit to the people of Australia and to maintain the independence and integrity of the corporation. It is, I repeat, an independent board; it is free from political influence. The very suggestion that the Howard government in general and the minister for communications in particular, who is doing an outstanding job and is far and away the best minister for communications this country has seen, would be politically interfering in the programming of the ABC is really not worth commenting on. But Senator Mackay has raised the suggestion here today, so it needs to be refuted. It is an absolute nonsense and it is not really worthy of discussion, but since we are here we will discuss it.

Senator Alston has raised the issue of accountability of the ABC. The ABC is supposed to be accountable to the people of Australia for its programming and to ensure that its programming is fair and unbiased and represents in an unbiased way the news which comes through to the ABC. There is very grave doubt, whether in its reporting of the war in Iraq in particular or on other issues such as Indigenous issues, issues to do with some of these leftie causes, one might say—gay rights—
Senator Wong—Indigenous issues are not a leftie problem.

Senator EGGLESTON—I know, I said some of the others—and some issues to do with the environment, that on these issues the ABC tends to present both sides of the picture, because there is a fairly well established feeling that in many cases the ABC does have a very biased view on these issues. The minister put out an analysis, as we all know, of the AM program’s covering of the war in Iraq. In particular, the reports by Linda Mottram had an incredible bias and cynicism in the way she presented the news. There is very little doubt when one reads some of the things she said. For example, when a US spokesman denied deliberately targeting a marketplace and suggested Iraq might have been to blame for the explosions which occurred there, Linda Mottram editorialised:

... it sounds very much like they’re spinning this quite strongly out of some degree of concern.

Subsequently it was shown, I believe, that it was not US bombing but Iraqi weapons that had gone astray which caused explosions in the marketplace. Next morning, it was back to ridiculing the US and Britain and the American leaders, for ‘obviously unjustified’ optimism:

They’re refusing to deviate from their firm belief in Coalition victory, brushing aside what’s become the constant background noise of the war, the concern that it’ll drag out well beyond initial expectations.

As we found, the war was over in about three weeks. The optimism that it would be over quickly with a low level of casualties was more than justified by the actual history of what occurred. The kinds of comments that Linda Mottram was putting out about the allied effort, in this cynical and critical way, were quite unjustified. There is another quote, from Eleanor Hall:

... Tommy Franks has today angrily denied reports that ground forces have been ordered to halt their advance on Baghdad.

What was the evidence for that? Tommy Franks actually said:

We’re in fact on plan and where we stand today is not only acceptable in my view, it is truly remarkable.

... ... ...

One never knows how long a war will take. We don’t know.

He was not saying that they had halted the advance at all. He was in fact quite pleased about the way in which the war had progressed and the advance of the troops to that point. There is no doubt that, throughout the reporting of the war in Iraq, the ABC took a very negative view of the aims and objectives of the allies. If one listened to it, one would almost think that the ABC, or some of the people within it, for some reason had suspended judgment about the brutality of the regime in Iraq and about the need for improvement in human, political and civil rights and the rights of women. These reporters were suspending that judgment simply because they saw the opportunity to criticise the United States and the allies for what they were doing as a bigger and more important point to make. I find that really quite objectionable.

Why shouldn’t the ABC be accountable to the people of Australia and the parliament of Australia when it is the parliament and, through the parliament, the people of Australia who fund the ABC? We provide the ABC with hundreds of millions of dollars every year to provide its programming. It is quite reasonable that the ABC should therefore be accountable to the parliament for the balance and integrity of its programming, to ensure that its independence and impartiality is maintained, as required under the charter. That is not an unreasonable thing to expect.
But what is happening is that there is no real assessment or accountability of the ABC’s programming, no real determination being made as to whether or not ABC programming is fair and impartial. It seems that no criticism is being levelled when ABC reporters are quite obviously biased in the way they present news and information.

There is a very interesting quote here, where Gerald Stone, a well-known journalist, SBS board member, former executive producer of 60 Minutes and former editor of the Bulletin, says of Senator Alston’s dossier:

As a former senior producer and editor, I must say I didn’t find Alston’s dossier of 68 alleged offences as far-fetched as some of my colleagues. I noted at least 20 instances where, had I been an ABC news executive, I would have called AM staff members to task for making smug and gratuitous comments blatant enough to bring the program’s impartiality into question ...

Gerald Stone is a journalist respected throughout Australia, somebody with a great deal of integrity. If a man like that makes that sort of comment, I think one has to agree that Senator Alston’s views about the impartiality of the presentation of the war in Iraq by the ABC are more than justified and he is more than justified in insisting that some mechanism to examine the impartiality and the independence of the programming of the ABC be set up. That is, after all, the charter of the ABC.

The board is required to maintain the integrity and independence of the corporation. That is a reasonable thing to expect to be done. It goes without challenge, I think, that the way in which the news on the war in Iraq was presented by some reporters in the ABC was quite irresponsible and did not reflect the reality of what was happening on the ground but simply reflected the biased political views of the presenters. I do not think that is consistent with the charter of the ABC and I do not think anybody here, having agreed with that point, would disagree with the point Senator Alston, the Minister for Communications, Information Technology and the Arts, is making—that the people of Australia, through the parliament, have every right to expect the ABC to be accountable and for the charter to be honoured. (Time expired)

Senator CHERRY (Queensland) (4.43 p.m.)—I was very disappointed when I first saw this particular attack on the ABC started at estimates by Senator Santoro. I remember listening to the various questions in the dossier and about things in surveys going back to, I think, 1998 and thinking it was disappointing that a government would be engaging in such a thinly veiled attempt to try to shift the story from the fact that the digital multichannels of the ABC were going to have to be closed down due to the government’s failure to fund them.

It is very disappointing that this particular story has taken off over recent days. It is classic distraction politics and it is something that the Democrats have found very disappointing coming from the government, disappointing in the sense that we would have hoped the government would have actually talked about the issue of this government’s funding of the ABC and not the issue of whether the government agreed or disagreed with the particular coverage provided during the war.

When we look at the war coverage we see that one of the most interesting aspects not dealt with by the government was the fact that 170 newspapers around the world all took an identical position of supporting the war and the only thing that all those newspapers have in common is that they are all owned by Rupert Murdoch. That is the analysis that came through from the Guardian newspaper.
The government is not jumping up and down and saying that all those terrible Murdoch journalists were adopting an inappropriate position of not being balanced in not putting both sides of the argument. No, they were quite happy to take that particular one-eyed view coming through all the editorials of all of the Murdoch newspapers around the world. But when the ABC starting raising questions—legitimate questions that were also raised by the BBC, CNN, NBC, the ABC in the US and other channels around the world—suddenly it became a matter of bias. It is interesting to note that the sorts of assertions that Senator Alston made about the ABC’s war coverage were the same sorts of assertions being made by a triumphal Donald Rumsfeld and George W. Bush after the war when they were claiming that the media in the US had been biased somehow against the interests of the US government.

I found it a disappointing debate. At the end of the day, we can all have opinions about what is on the ABC or other media organisations but we have to make sure that processes are in place to ensure that, where there are incorrect statements, where there are mistakes made, where there are misrepresentations of fact or where there is genuine bias, these things are corrected. I have great confidence that the ABC’s processes have been found to fulfil those criteria. In fact, an Auditor-General’s report made it quite clear—and this is in the ABC board’s response to Minister Alston—that, by and large, those matters have been dealt with. The ANAO were basically fairly happy with the ABC’s complaints mechanisms, and the few recommendations they made for improving them the ABC has, of course, taken fully on board.

I am pleased to see on the ABC web site something that no other media organisation in Australia provides—that is, a quarterly report on complaints. It is a quarterly report on what those complaints were, how they were dealt with and what the outcomes were. No other media organisation in Australia does that. It is worth pointing out that, from Mr McDonald’s very measured response to Minister Alston’s vitriol, the ABC’s sound complaints process goes well beyond that of any other organisation.

Recently, as a result of Senator Santoro’s comments at estimates, I went back and read every single breach finding by the Australian Broadcasting Authority since June 2000. It was a very interesting exercise, and I commend it to all senators. What emerges from those figures is absolutely fascinating: since June 2000, there have been two complaints that resulted in breaches being found against ABC television, and about four were dismissed by the ABA. That is the end of the complaints system if people are not happy with the ABC’s complaints process. There were just two breaches: one of those was about an inappropriate ad for news during the children’s programming session and one was about a mistake in a news broadcast.

By contrast, in the same period there were some 20 code breaches, as opposed to complaints, against Channel 9. Senator Eggleston mentioned Gerald Stone, the former executive producer of 60 Minutes. Five breach complaints were found against 60 Minutes by the ABA. These were breaches of the code of conduct about decency, about fair comment, about accuracy, about fairness. There were 10 breach complaints of the code of practice found against A Current Affair and four were found against Channel 9 news. The only breach complaint found by the ABA for bias coming out of the 2001 election was not against the ABC but against Channel 9 news, and that was about completely misrepresenting the result of a news poll, a news poll in which Channel 9’s viewpoint was completely contrary to the interests of the then Labor opposition. Only one
breach was found against SBS, two against Channel 7 and one against Channel 10.

When you look at that you see that if the minister were particularly concerned about bias and fairness and misrepresentation he would call in the Channel 9 executives and ask them to have a look at these issues. That is where his adviser on broadcasting standards, the ABA, is saying the problem is. But we are not seeing that. We are seeing vitriol being piled on the ABC, which—according to the ABA, at least—has one of the best records of any of the networks. The problem is not how the ABC deals with complaints, as the Auditor-General’s report has shown; rather, it is how the commercial broadcasters deal with complaints. The real problem is that the ABC does not have the teeth to deal with repeated complaints and breaches against commercial broadcasters.

How we deal with that is probably something we will come to when the Senate looks at the Broadcasting Services Act in a couple of weeks time. If Senator Alston wants to do something significant about improving the quality of broadcasting in Australia, he should look at the powers of the ABA, look at the codes of practice, look at how the commercial as well the public broadcasters are dealing with them and try to even up the picture a little more.

I know people would say that the commercial broadcasters are private money, that they are not public money, that the ABC is public money and, therefore, it does not matter. But let us remember that the commercial broadcasters get access to publicly owned spectrum. For that privilege they pay around $280 million a year and they receive around $3 billion to $4 billion a year in revenue. That revenue has been increasing faster than the rate of economic growth for all but the last year in the previous two or three decades. So they are very privileged in public policy and I think it is reasonable that this parliament, through the Broadcasting Services Act, expects that there should be fairness, accuracy, full representation of facts and decency in privacy standards. But we are seeing that that picture is not coming through.

I have been very pleased with the way the ABC board have responded to the assertions of the minister. They have taken them on board in a right and proper way. They have looked at the issues he raised from the Auditor-General’s report and pointed out how they have implemented those in full. The complaints made by the minister have not been given any special treatment; rather, they have gone in the queue, behind all the other complaints in their complaints department, to be dealt with by the proper process. I think that is right and appropriate as well, because the minister, like all of us, is just an Australian taxpayer. The ABC’s accountability is not to the minister, in my view, but to this parliament. Their accountability to this parliament is for the implementation of the charter of the ABC, which is about fairness, accuracy, decency and ensuring that as many points of view as possible are put to the Australian people.

The other things I want to speak about today, very briefly, are the personal attacks on the ABC’s Director of News and Current Affairs, Max Uechtritz, and the performance of the radio program AM. As I said earlier, this whole thing has been a very thin-skinned response to the ABC’s decision to end multichannelling. In the case of Mr Uechtritz, the agenda also seemed to be about payback against people associated, rightly or wrongly, with the downfall of former ABC Managing Director Jonathan Shier. Minister Alston would appear to be more engaged in the politics of vendetta than any substantive issues of bias. I will be interested to see how the
minister deals with that particular assertion later on.

I am pleased to note that under the act the minister has no capacity to direct the ABC, and the Democrats would never vote to give the minister such a power. I note that the real problem is not how the ABC deals with complaints but, rather, how the commercial broadcasters need to deal with them. It is worth pointing out that, according to the ABA’s independent surveys, the ABC was by far and away the most relied upon and used news service in Australia—relayed on by over 25 per cent of Australians for its television compared with 17 per cent for Channel 9 and 10 per cent for all the Murdoch daily newspapers combined. That is a very strong vote of confidence by Australian viewers—the same viewers whose interests the minister is clearly not serving by his continued political attacks on the ABC’s independence.

In closing, I ask the minister to look again at the ABC’s funding proposals. It is quite clear that we are going to see further cutbacks in content provision and service delivery—particularly in regional Australia—if the government does not review this issue. (Time expired)

Senator WONG (South Australia) (4.54 p.m.)—I found it interesting that in his contribution to this debate Senator Eggleston continued the government’s recent tradition of politically motivated allegations of bias against the ABC, citing as an instance of the ABC’s bias its reporting of ‘leftie issues’ such as Indigenous affairs. I would have thought that Indigenous issues are issues of national importance, not leftie issues. Again, we see that this government really has no basis for genuine allegations of bias against the ABC.

The government’s guiding principle when it comes to the ABC appears to be ‘he who pays the piper calls the tune’. The government approach appears to be one of saying, ‘We fund you; therefore, you toe the line.’ This is not something that is new to the government; it is a view that seems to have affected a number of ministers through the estimates process and thereafter. Until he found out he could not do it, we had Minister McGauran threatening to cut South Australia’s science funding if the South Australian government proceeded with plans to defend the state of South Australia from the locating of a nuclear dump there. Then we had Senator Alston saying in relation to the ABC:

‘If the parliament thinks they have lost the plot they could be defunded. It is a pretty blatant threat, isn’t it? It is an outrageous attack on the independence of the ABC and it gives the ABC a clear message: ‘Unless you, the ABC, do as we, the government, wish, we, the government, can defund you.’ This is political thuggery at its worst, and to threaten the national broadcaster in this way is, frankly, appalling.

We say this notion of ‘he who pays the piper calls the tune’ is wrong. It is wrong as a matter of principle. It is also wrong because, frankly, Minister, it is not your money; it is taxpayers’ money. It flies in the face of the editorial independence that Australians expect and demand of the ABC. Senator Alston also said of the ABC, in the Australian of 29 May:

They (the ABC) are accountable to government in the same way any other organisation is, but if they choose to ignore it then it is a matter for the parliament.

Accountability does not mean toeing the government line and not saying anything that the government does not like, and it certainly does not mean running government propaganda; it means calling it as you see it and providing balanced, fair and, hopefully, incisive coverage of news and current affairs.
Let us look at the bias that is complained of. One of the instances of bias that Senator Eggleston referred to is that of Eleanor Hall, also from *AM*, who was accused of anti-Americanism when she said on 31 March:

> Tommy Franks has today angrily denied reports that ground forces have been ordered to halt their advance on Bagdad.

I find it hard to understand how that could be judged as a biased report. The primary basis of the allegation of bias that Senator Alston peddles about is that the ABC engaged in blatant anti-Americanism. In some ways that is one of the more amusing aspects of this whole debacle: the ABC are not accused of being anti the Howard government but anti-American. It seems to show how desperate the government are to shore up that next invitation to the ranch and how prepared they are to go into battle with the national broadcaster on America’s behalf.

Returning to the scrutiny of these allegations of bias, I suggest that any reading of the so-called Alston dossier really would show that the government has a somewhat paranoid response. Linda Mottram, a Walkley award winning journalist who is highly respected, has been one of the targets of the government’s attack. One of the reports about which she has been criticised includes the following comment:

> A test for coalition claims about the accuracy of their weapons and a bloody one, as images of carnage in suburban Bagdad fuel difficult new questions for the coalition.

I would have thought that was a pretty reasonable comment—if you are suggesting that your weapons are accurate and there are clear reports of civilian casualties then that is a reasonable comment for a journalist to be making.

So just what is Minister Alston doing as communications minister? He is compiling dossiers of examples of bias which we say are flimsy and paranoid at best. He is threatening to defund the ABC if it does not toe the line. He also says he wants an annual report to the parliament by the ABC. He has made the suggestion that the ABC should provide an annual report to the parliament proving empirically that it had been balanced in its news coverage. The mind boggles as to what that actually means. Does that mean a report to the House of Representatives, where the government has a clear majority and members such as those on the other side get to tick off whether or not they think a particular report is sufficiently progovernment or not? Surely this flies in the face of the ABC’s charter of independence. One wonders whether this means giving the likes of Ross Cameron a vote on this issue—he has already gone on the public record to demonstrate his contempt for the ABC.

**The ACTING DEPUTY PRESIDENT**

(Senator Ferguson)—Senator Wong, you should refer to a member in the other place by their proper title. He is ‘Mr Cameron’ or ‘the member for Parramatta’.

**Senator WONG**—Today in parliament Minister Alston refused to confirm that his suggested complaints mechanism would be statutorily independent of government. One wonders whether this would be in fact another star chamber approach. What Minister Alston has engaged in—ably assisted by some senators on the other side through the Senate estimates process—is an extraordinary attempt at political interference by the government in the ABC’s editorial content. We say this is political thuggery at its worst, and it ought to be most strongly argued against and most strongly opposed in this parliament. The ABC is our national broadcaster. It is entitled to call things as it sees fit, it is entitled to fair comment and it is entitled to disagree with the government and also with the opposition—which, to be honest, it does on a fairly regular basis. I support the
continued editorial independence of the ABC, and it seems to me that some of the attacks on it have been thinly veiled politically motivated attacks—including flimsy allegations of bias and, frankly, unprecedented suggestions of defunding the ABC. (Time expired)

Senator SANTORO (Queensland) (5.01 p.m.)—I rise to also speak on the matter relating to the Australian Broadcasting Corporation. It is the Labor Party, the Democrats and the Greens that have politicised the issue that we are debating today. They have got up in this place today and they have run a straight political line, asking the Senate to debate the ABC motion. There is no question of the independence and integrity of the ABC being under threat from the government.

The ABC, under its own act, is required to maintain editorial balance in its news and current affairs reporting. No-one, least of all the majority of rank and file journalists who work there, would want it any other way. In 2003-04 the ABC will get $760 million to meet its legislated requirements. It is important that the ABC be fully accountable to the government for the taxpayer dollars it spends. The minister has asked the ABC to report annually to parliament on how it is meeting its obligations. The ABC is considering this request. It is a reasonable proposition. It is not interference; it is just ensuring accountability. It is another reasonable move to ensure accountability.

The matters that I raised during estimates, like those that Minister Alston raised, were not about having a go at the rank and file. The matters raised at the estimates committee hearing on 19 May were legitimate issues that should be canvassed and were quite properly canvassed in that forum. As honourable senators know—and indeed as Senator Cherry stated—I asked those questions. The managing director of the ABC, Mr Russell Balding, took most of the questions on notice. Like all members of the committee, I await with keen anticipation the answers to my questions and those put by the minister. The evidence I presented speaks for itself—no pun intended. My questions were asked in the public interest, and it is the public interest that the Senate and this parliament should at all times strive to protect.

News judgment and current affairs analysis are complex questions and complex issues. But let us take one example of the remarks of Max Uechtritz, Director of News and Current Affairs at the ABC. Where is the objective public interest in some of his comments? This comment was just weeks after the horrific barbarism of the World Trade Center attack:

Max Uechtritz ... pointed out that at least 1,000 fewer people had died in New York than perished at Srebrenica, when “people were taken out and shot” in an even more horrific manner than the instant deaths on September 11. “Because it was a western capital, the scale seemed bigger” ...

Commentator Errol Simper wrote in the Australian on 29 May that Mr Uechtritz, whom he described as ‘an old-fashioned foot-in-the-door reporter’, was about as ideological as a wardrobe. But Mr Simper, like many in the media on this issue, misses the point.

As the ABC’s director of news and current affairs, Mr Uechtritz has a direct responsibility to ensure that the ABC complies with its statutory obligation to provide an accurate and impartial news and current affairs service. In that role it might be fine to have your foot in the door—or even the wardrobe—but you need to be careful you do not put it in your mouth. At the very least his comments playing down the horror of New York just weeks after the event were distasteful and inappropriate. Fewer people died on 12 October 2002, as a result of the Bali bombings, than on 11 September 2001 in New York. Would Mr Uechtritz make similar comments
in relation to Bali? To my mind and to the minds of many people, his judgment of a contemporary terrorist outrage that was the biggest and the worst in history was simply horrific. On the basis that such views were publicly expressed by someone on the public payroll and, at the time of speaking, representing an Australian public entity, the Australian people have plenty of reasons to ask whether they are actually getting value for money.

Many people contacted me following publicity about the questions that were put to the ABC at the estimates committee hearings and since then. Many of them say that they too have serious concerns about the balance—or lack thereof—and implicit bias of some ABC reporting. The Labor Party apparently would like people to think that everyone is happy with their ABC; sadly, that is not the case. And it is sad. The ABC is a national institution. Public broadcasting has an honourable place, an honoured place, in our country’s history, and I want to see that continue. The people of Australia want to see that continue. The danger is that perceptions of unbalanced reportage and bias in commentary will damage the ABC. That is the bottom line. No-one wants the ABC to be damaged. That is why we need to ensure that there is corrective action and that it is taken swiftly and firmly.

There are two issues at stake here. One is whether the ABC is getting the best possible value from the way it spends the taxpayers’ dollars. The other is the ABC’s lack of balance in reporting news events. Whether the ABC is spending wisely is clearly a matter for the estimates committee; indeed, that is why we have estimates committees. That is why, at the estimates hearing, I asked Mr Balding if he could provide to the committee a detailed costing for each overseas trip taken by ABC staff since November 2001. That is why I asked who had travelled and for what purpose. That is why I asked where they went, how long they stayed, what their travel costs were, where they stayed, what their accommodation costs were, what the conference participation costs were and whether there were any other costs paid by the ABC. That is why I asked what was the ABC’s annual corporate and stakeholder entertainment budget and why I asked for a detailed list of all employee benefits provided to ABC staff during the last financial year. That is why I asked how many reporters were currently employed or contracted by the ABC and how this compared with the figures for 1999 and 1996, and why I asked the same question about program producers.

These are accounting questions. These are auditing questions. They are not ‘get square’ questions. I ask honourable senators opposite to consider that point objectively. I ask honourable senators opposite who sit on committees to look at the hundreds, probably thousands, of pages of committee Hansard that transcribe forensic questioning of government departments and agencies that is designed, quite properly, to tease out the most minute detail of expenditures, and then to examine their own consciences in relation to the implicit claim by themselves and others that the ABC is somewhat different—that it is somehow exempt from close scrutiny. It is because the ABC is not exempt, because it is rightly subject to the same level of scrutiny as any other public entity, that I also asked how much the ABC received in depreciation funding from the government. Funding that was not made available before the move to accrual accounting in the late 1990s and funding that since has been an annual financial benefit to the ABC—’How much?’ I asked.

And that is why I asked how much the ABC expected to receive from the sale of its Gore Hill establishment in Sydney when it first made the decision to sell it and how
much that estimate differs from what the ABC now anticipates it will receive from the sale. That is why I asked what the current budgets were for the ABC’s *Stateline* programs that run in place of the *7.30 Report* on Fridays and how much it would cost to run nightly state based *7.30 Report* programs—as used to be run—rather than a national program.

As the minister pointed out earlier in question time, this business is not about complaints; it is about accountability. As Senator Eggleston clearly put in his contribution, accountability is simply different from complaints—and Senator Cherry should take particular note of that. Senator Cherry cannot be serious when he says that the minister’s and my own statements about bias that we have observed in the ABC are a response to the ABC abolishing its funding priority of digital channels. If Senator Cherry had read the transcript of the committee hearing where I raised issues of bias in the ABC, he would have noted that I asked dozens of questions at that hearing and had placed several dozen more on notice by mid-afternoon on the day when the announcement was made about the funding cuts to those digital channels. The minister, a couple of days after that hearing, also placed dozens of questions to the ABC.

How could we have prepared those dozens of questions within a few minutes of the ABC’s managing director announcing the funding to digital channels had been cut? It is ludicrous to suggest that this was a knee-jerk response to a statement—a prepared statement, I should add. What got me going was the first question being asked, the folder being opened and the prepared Dorothy Dix being read out. That is what particularly riled me. But we spent weeks and months researching our quite justifiable claims of bias in the ABC, and the spending questions came on top of that. *(Time expired)*
What about the Insiders program that we are treated to every Sunday morning with Andrew Bolt or, variously, Piers Akerman? These are right-wing ideologues—neoconservatives who long ago lost any pretence of balance, or having a handle on the truth even. I know that Andrew Bolt has said that he lives on the street, but he certainly has not got the wisdom that comes with it. His loaded, biased and, very often, childish descent into the realms of imaginary plotting by almost everybody that he disagrees with—the same goes for Piers Akerman—is not balanced on that program.

We hear Radio National Breakfast. Each week we are treated to Gerard Henderson on Peter Thompson’s program. Where is the balance to that? I do not hear it. Will I write and complain? No, I will not. But then you get to the Greens in Tasmania in the last state election campaign. Guess who they brought onto the panel? No Green was allowed. In fact, the ABC made the very biased decision that Peg Putt, the leader of the Greens in the Tasmanian parliament, would not be represented in the leaders’ debate. Tell that to a European jurisdiction or to British Columbia for that matter, which has a representation of more than two, but not to our ABC. Then on election night, who do they bring onto their panel? Robin Gray, to spout forth his anti-Green invective on election night.

Then we moved onto plastic bags just last week. You would swear that the Minister for the Environment and Heritage, Dr Kemp, was leading the campaign. There was no mention of the Greens, the Democrats or the community organisations. And what about the Meander Dam on Sunday and reporter Pip Courtney on Landline? The report was biased, loaded and anticommmunity because it represented a special sectional point of interest to the detriment of the rest. I can go into the specifics but I do not have time to do that. What about the economic analysis? It was almost frivolously left out of that program. So on it goes. But you expect that; you expect to hear things you do not agree with. What would it be otherwise? Congratulations to the ABC. It is a great and much loved institution, and thank the Lord it is there. (Time expired)

Senator KIRK (South Australia) (5.14 p.m.)—I rise to speak on this matter of public importance: the need to protect the independence and integrity of the Australian Broadcasting Corporation from political interference by the Howard government, and in particular by the Minister for Communications, Information Technology and the Arts, Senator Alston. As we have heard today, Senator Alston’s allegations of bias against the ABC, in a shameful and unprecedented attack on the independent public broadcaster in this country, have been mentioned by a number of speakers. As I understand, the attack by Senator Alston was triggered by the announcement of the ABC during Senate estimates recently that the ABC’s digital channels, ABC Kids and Fly TV, would be axed. Senator Alston immediately complained of being ambushed. If this is the case, you have to wonder whether or not he has been less than efficient, even negligent, in his role as Minister for Communications, Information Technology and the Arts. The ABC board’s funding submission in February quite clearly stated that, should there be no additional funding given to the ABC, their digital channels would have to be axed. Senator Alston did not provide this additional funding. So it went without saying that these channels were going to have to be axed.

What have we seen following the Senate estimates hearings? We have had allegations of bias by Senator Alston against our inde-
dependent public broadcaster. Over the past few weeks, we have seen the minister and his office compiling dossiers on the so-called or supposed anti-American and pro-Iraq reporting on the radio program *AM*, particularly allegations against the program’s presenter, Linda Mottram.

Today in the Senate, Senator Santoro, surprisingly and shamefully, added further examples of what he and no doubt other members of the government regard as bias and/or unbalanced reporting by the ABC. Senator Alston has demanded that the ABC present proof to parliament, through an annual report—separately and in addition to its annual report—that it is not biased. As Senator Wong said, you can only wonder exactly how this annual report would be presented and what would satisfy the government that its reporting and its programming is not biased. In my view and in the view of the Labor opposition, the minister’s time would be much better spent by responding to the Estens report about regional telecommunications or by carving out for Australia some sort of leadership position in broadband.

What has been the response of the ABC to these allegations of bias? Despite the fact that the ABC board has been stacked with conservative appointments, even the Chairman of the ABC, Donald McDonald, a personal friend of the Prime Minister, has rallied to the defence of the ABC. He has stated publicly that it is the public itself—the viewers and consumers of the ABC content—who should be left to judge whether the ABC is biased. In his response, Donald McDonald pointed to the complimentary Australian National Audit Office report No. 40 2001-02: *Corporate Governance in the Australian Broadcasting Corporation*, released just over a year ago, which commended the ABC’s reporting standard in news and current affairs. The report found:

... that the ABC’s News and Current Affairs Division has effective procedures and practices in operation that assist it to deliver news and current affairs programs that reflect the Charter requirements of independence, accuracy and impartiality. I need not point out why it is that we need an independent ABC. Briefly, of course it is the case that we need an independent media as a vital element in our democratic society and as an important support to the separation of powers, helping to ensure the accountability of parliament, the executive and the independence of the judiciary. Our public broadcaster, the ABC, is only one of the necessary ingredients for a vibrant and independent media. It is, however, one of the most important. Its charter specifically requires that the ABC provide innovative and comprehensive broadcasting programs that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of the Australian community. (Time expired)

**Senator TCHEN (Victoria) (5.19 p.m.)**—In the matter of public importance before the Senate which states that there is a need to protect the independence and integrity of the Australian Broadcasting Corporation from political interference by the Howard government, and in particular by the Minister for Communications, Information Technology and the Arts, Senator Alston, I wonder whether Senator Mackay means that the ABC does not need to be protected from political interference from anyone else. This matter of public importance is politically very biased. Before we look at it, let us have a look at the ABC’s independence and accountability to the Australian community.

In the current budget, 2003-04, the ABC receives $780 million from the Australian people. That is about $38 per head of population—$38 from every man, woman and child in Australia. We know that $38 is not a large sum of money. True, it will get you a lot more than a hamburger and fries; in fact, it
will get you a gourmet steak dinner in most places in Australia, with more than enough left over for a generous tip. But $38 is not a large sum of money for a quality, national broadcasting service. I think we can all agree on that. When the ABC accepts this public money—and let it be noted that this money was not thrust upon it; the ABC actively went out and sought it and indeed sought a lot more of it, $200 million more—the ABC must also accept a responsibility to be fully accountable to the people of Australia for that money, and that means accountable to parliament, the legal and constitutional embodiment of the Australian public.

Under section 8(1)(c) of the Australian Broadcasting Corporation Act, the ABC is required to provide an accurate and impartial news and current affairs service. This is a statutory responsibility that has been laid down by the parliament, which provides the ABC with this funding. I do not think anyone would disagree that a quality, national broadcasting service is synonymous with an accurate and impartial news and current affairs service. It is surely only proper for the ABC to be fully accountable to the parliament for adherence to its statutory responsibility to provide an accurate and impartial news and current affairs service.

Senator Mackay, in her opening speech, complained that the reason she raised this matter of public importance for discussion was that the ABC is not accountable to the government—it is only accountable to the parliament. Let me make two important point about this: firstly, constitutionally, a government must have the confidence of the parliament and, as long as it has the confidence of the parliament, it acts for the parliament. If it does not act properly for the parliament, then it loses its confidence. I would put it to Senator Mackay, were she here, that in this context parliament and government are synonymous. The second point I would make about Senator Mackay’s complaint is that Senator Alston has not in fact asked the ABC to be accountable to the government; he has asked the ABC to be accountable to the parliament—that is all—not to government.

Senator Cherry, in his speech on behalf of the Democrats, complained that we should not be complaining about bias in the ABC. Presumably that means that Senator Cherry accepts the ABC’s bias. He said that we should not complain about the ABC being biased, because what about the Murdoch media? According to Senator Cherry, they are consistently biased. But has he not missed the point completely? The Murdoch media do not receive any public money and therefore are not accountable to the Australian public. Senator Cherry also made a great point about the ABC being accountable to the parliament. But, as we have already said, if the government does not have the confidence of the parliament, it cannot govern.

What do Senator Cherry and Senator Mackay actually mean? Perhaps they think the ABC should be accountable to the Senate—because the Australian Democrats are only represented in the Senate, the ABC should not be accountable to the parliament, only to the Senate. Where in the ABC statute does it say that the ABC should be accountable to the Senate only?

Senator Santoro—It is accountable to the people via their representatives.

Senator TCHEN—Very good, Senator Santoro. It is accountable to the people through their representatives, which is the parliament as a whole, and the government which holds the confidence of the parliament. Let us now consider how and whether the ABC’s reporting of the recent Iraq war meets its statutory responsibility, which is the crux of Senator Alston’s recent complaints about the ABC’s consistent bias in
reporting, which presumably led to this discussion.

Senator Alston has released an Iraq dossier listing 68 cases of biased reporting by the ABC within 25 days. I find it strange—and I am not sure whether you find it strange, Mr Acting Deputy President—that no-one, not one speaker from the opposition and the Democrats, made any reference to that dossier. Should we take it that they all agree that the dossier represents an irrefutable case? Of course we should and, of course, they do accept in their heart of hearts that the dossier is a true record of the ABC’s biased reporting, because no-one has come up and said that it was wrong. Therefore, the issue Senator Alston has raised—an issue that very properly should be raised—is the accountability of the ABC in providing accurate and impartial reporting. (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Cook)—Order! The time for discussion on this matter of public importance has expired.

DOCUMENTS

Tabling

The ACTING DEPUTY PRESIDENT—Pursuant to standing orders 38 and 166, I present documents listed on today’s Order of Business at items 12 (a) to (d) which were presented to the President, the Deputy President and Temporary Chairman of Committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised. In accordance with the usual practice, and with the concurrence of the Senate, I ask that the government response be incorporated in Hansard.

The document read as follows—

COMMITTEE REPORTS PRESENTED TO THE PRESIDENT SINCE THE LAST SITTING OF THE SENATE

Economics Legislation Committee—Report, together with documents presented to the committee, on the provisions of the Designs Bill 2002 and a related bill (presented to the President on 28 May 2003).


GOVERNMENT RESPONSE TO A PARLIAMENTARY COMMITTEE REPORT PRESENTED TO THE PRESIDENT SINCE THE LAST SITTING OF THE SENATE


GOVERNMENT DOCUMENTS PRESENTED TO THE PRESIDENT SINCE THE LAST SITTING OF THE SENATE


Department of Defence—Corrigendum to portfolio budget statements 2003-04: Defence portfolio (Department of Defence and the Defence Housing Authority) (presented to temporary chair of committees, Senator Brandis, on 30 May 2003).

REPORTS OF THE AUDITOR-GENERAL PRESENTED TO THE PRESIDENT SINCE THE LAST SITTING OF THE SENATE

Services and Centrelink (presented to temporary chair of committees, Senator Brandis, on 23 May 2003).


The response read as follows—

GOVERNMENT RESPONSE TO RECOMMENDATIONS OF JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES ON DRAFT AMENDMENT 39 (DEAKIN/ FORREST RESIDENTIAL AREAS)

Recommendation 1—That Designated Area status applying to the Deakin/Forrest residential area between State Circle and National Circuit be retained.

Government Response:
The Government agrees with the recommendation of the Committee.

Recommendation 2—That the established use of the land in the Deakin/Forrest area for residential purposes continue and non-residential development be prohibited.

Government Response:
The Government agrees with the recommendation of the Committee.

Recommendation 3—That development along State Circle between Hobart and Adelaide Avenues continue to be residential and be required to achieve a design and landscape outcome appropriate to the setting of Parliament and which reflects the Main Avenue role of State Circle.

Government Response:
The Government agrees in principle with the recommendations of the Committee to investigate the detail development controls proposed to ensure the design and landscape outcome is appropriate to the setting of Parliament and reflects the role of State Circle as a Main Avenue. This will take the form of a final Draft Amendment 39 which, if approved, will be submitted to Parliament within 6 sitting days of the notice of approval appearing in the Commonwealth Government Gazette.

Recommendation 4—The Australian Capital Territory (Planning and Land Management) Act 1988 be amended to require public consultation by the National Capital Authority in relation to works proposals in Designated Areas.

Government Response:
The proposal to amend the Australian Capital Territory (Planning and Land Management) Act 1988 to require public consultation on all works proposed in Designated Areas is not supported.

The Deakin/Forrest area is the only area of standard residential development in the Designated Areas of the National Capital Plan.

The Government acknowledges that, as far as possible, proposed works in relation to residential development should be notified to local residents to the same extent that they are notified by the ACT Government for development proposals in residential areas outside of Designated Areas.

To achieve this does not require an amendment to the enabling legislation, the Australian Capital Territory (Planning and Land Management) Act 1988.

The National Capital Plan (a statutory document) already requires proposals for dual occupancy development to be notified to neighbours for comments. These requirements will now be applied to all residential development proposals as part of the provisions of Draft Amendment 39 that will provide statutory effect to consultation requirements.

Works approval applications from lessees of residential properties in the Deakin/Forrest area will be subject to the following process, including public consultation:

Step 1 Applicant submits sketch proposal
Step 2 Authority considers and advises on consistency with the National Capital Plan...
Step 3 Revised Scheme submitted as formal application
Special Application Form used
Affected lessees identified

Step 4 Affected lessees advised and invited to a meeting with proponent and the Authority’s Project Officer

Step 5 Affected lessees views considered

Step 6 Scheme amended as required

Step 7 Authority decision on Works Approval Application made

Step 8 Applicant advised of Works Approval decision

Step 9 Affected lessees advised of outcome

The proposal for an amendment to the legislation to require all works in Designated Areas to be subject to statutory public consultation is not supported.

Many of the applications for works approval in the Designated Areas involve works undertaken by the Commonwealth (such as the Department of Defence and the Department of Finance and Administration) as well as the Territory Government, the Diplomatic Community, National Institutions and other significant bodies. Where the interests of adjoining lessees could be affected then consultation can be undertaken without the need for legislation change. A precedent for such ‘good neighbour’ consultation by the Commonwealth is evident in relation to Commonwealth land development in other States.

In addition the Commonwealth Public Works Committee considers major Commonwealth projects (above a specified value) outside of the Parliamentary Zone. Development proposals in the Parliamentary Zone are required to be approved by both Houses of Parliament under the Parliament Act 1974 as well as by the National Capital Authority. This provides a significant level of consideration. Many works in Designated Areas are also informed by steering committees (or similar) and/or jury consideration (through design competitions).

In Designated Areas in the National Capital the Authority is responsible for decision making related to “national significance”. To be meaningful, any new statutory consultation would need to be undertaken on a national (not just local) level as is already required for amendments to the National Capital Plan. The Authority considers 350 to 400 works approval applications annually. An approach requiring public notification of each such application would be unwieldy and seriously delay development in Designated Areas and therefore in the National Capital.

In the Committee’s Report the view is expressed that the Authority was inclined, on the occasion of considering a development on No 15 State Circle when the DA 39 was under consideration by the Committee, “to have treated the Committee contumptuously”.

The Government objects strongly to the contention that the Authority acted with contempt of the Committee in not advising the Committee of development applications lodged with the Authority for approval. The provisions of the National Capital Plan continue to have effect while a Draft Amendment is being considered. As such, consideration of a Draft Amendment to the National Capital Plan does not impose a moratorium on works approval applications or the carrying out of approved works. The development application was in accordance with the existing provisions of the National Capital Plan and would also have been permitted under the proposed Draft Amendment.

The National Capital Authority is obliged under the requirements of the Australian Capital Territory (Planning and Land Management) Act 1988 to consider all applications for development in Designated Areas and have regard to the consistency of those proposals with the provisions of the National Capital Plan at the time of the application. In respect of the application for development referred to by the Committee, the proposal was being assessed against the policies of the National Capital Plan as they then applied.

It is a matter of record that Ministers responsible for administering the Australian Capital Territory (Planning and Land Management) Act 1988 in this Government, have generally chosen to refer Draft Amendments to the National Capital Plan to the Joint Standing Committee on the National Capital and External Territories for consideration. Such was the case with Draft Amendment 39.
There is absolutely no evidence that the National Capital Authority has treated the Committee with contempt and such a contention is totally rejected by the Government.

Ordered that the report of the Economics Legislation Committee and the report and the erratum of the Legal and Constitutional Legislation Committee be printed.

Responses to Senate Resolutions

The ACTING DEPUTY PRESIDENT (Senator Cook)—I present the following responses to resolutions of the Senate:

(a) from the Parliamentary Secretary to the Minister for Health and Ageing (Trish Worth, MP) to a resolution of the Senate of 19 March 2003 concerning genetically-engineered crops; and

(b) from the Minister for Agriculture, Fisheries and Forestry (Mr Truss) to a resolution of the Senate of 6 March 2003 concerning Ovine Johne’s disease.

Auditor-General’s Reports

Reports Nos 45 and 48 of 2002-03

The ACTING DEPUTY PRESIDENT—In accordance with the provisions of the Auditor-General Act 1997, I present the following reports of the Auditor-General:

Report No. 45 of 2002-03—Business Support Process Audit: Reporting of Financial Statements and Audit Reports in Annual Reports, and


BUDGET

Portfolio Budget Statements

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.29 p.m.)—I table a corrigendum to the portfolio budget statements 2003-04 for the Health and Ageing portfolio.

DEFENCE: PROPERTY

PHARMACEUTICAL BENEFITS SCHEME

AUSTRALIAN GRAND PRIX:

TOBACCO ADVERTISING

Returns to Order

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.30 p.m.)—by leave—I have short statements to make in response to three orders of the Senate. Senator Allison gave notice on 13 May that she would move that there be laid on the table by the Minister for Defence by no later than 5 p.m. on Wednesday, 14 May, 2003 the ‘further information’ CD-ROM, which is obtainable from Colliers International (Vic) Pty Ltd, regarding the expression of interest in defence land for sale at Point Nepean. The government has decided to table the entirety of the CD-ROM, with the exception of one document relating to Indigenous archaeological issues. The government has taken this decision due to the high level of public interest in this disposal activity. Normally, the integrity of an expression of interest process would be maintained by ensuring all registrants receive the complete and unchanged expression of interest documentation by registering and signing a confidentiality undertaking. In this way, Defence is assured that all registrants are given a complete expression of interest package and are not disadvantaged in the expression of interest or tender process.

This expression of interest process is consistent with the tender process used on other significant defence disposal projects. However, in this case, balancing the high public interest in this matter against the fact that the Commonwealth is engaged only in an expression of interest process and not a full tender, the government is prepared to disclose the information publicly, with the one exception mentioned already. I give notice
that the tender process which follows the expression of interest process will be conducted on a conventional basis with registration and confidentiality requirements. This is to protect the Commonwealth’s legitimate commercial and legal interests.

My second statement in response to a return to order is made on behalf of Mr Vail, the Minister for Trade. The order to table arose from a motion moved by Senator Nettle, as agreed to by the Senate, on 2 December 2002. It relates to the inclusion of the Pharmaceutical Benefits Scheme as an item for discussion in negotiations for an Australia-US free trade agreement. The order requested documents held by the Minister for Trade and the Minister for Health and Ageing. On 4 December 2002, the Minister for Health and Ageing informed the Senate that neither she nor her department held any documents that fell within the scope of the order.

I wish to inform the Senate that a number of documents have been identified in the Trade portfolio that fall within the terms of Senator Nettle’s motion. Two of them are security classified cables from Washington which the government does not believe would be in the public interest to table. Another six documents have been identified for tabling. They are: correspondence between the Minister for Trade and the Executive Director of the Pharmacy Guild of Australia; correspondence between the Minister for Trade and the acting State Secretary of the Combined Pensioners and Superannuants Association of New South Wales; the briefing for the Minister for Trade’s interviews on Meet the Press on 10 March 2002, with unrelated text deleted; general briefing points with unrelated text deleted; talking points for DFAT officers appearing before the Senate additional estimates hearings in February 2002, with unrelated text deleted; and a possible parliamentary question prepared by DFAT for the Minister for Trade, dated 18 November 2002, with unrelated text deleted. I table those documents.

My third statement in response to a return to order is made on behalf of Senator Kay Patterson, the Minister for Health and Ageing. This order arises from a motion moved by Senator Lyn Allison, as agreed to by the Senate on 14 May 2003, in relation to the most recent application documents from the Australian Grand Prix Corporation to the federal government for exemption from the Tobacco Advertising Prohibition Act 1992 on the grounds of economic hardship, and the document or documents detailing the government’s reasons for being satisfied that the case for economic hardship was met.

On 15 May 2003, the following documents were laid before the Senate: minute No. M02005650, seeking agreement to extend the 2003 Australian Grand Prix as an event of international significance under section 18(2) of the Tobacco Advertising Prohibition Act 1992; a letter to the Chief Executive Officer of the Australian Grand Prix Corporation advising of the outcome of the application; and a Gazette notice dated 17 July 2002 specifying the 2003 Australian Grand Prix as an event of international significance that would be likely to be lost to Australia without the specification. The remaining documents have been examined by the Australian Grand Prix Corporation, which has also undertaken consultation with contractual third parties named in the documents. Those sections of the documents containing sensitive commercial-in-confidence material have been deleted. I now lay before the Senate the following documents: the application of the Australian Grand Prix Corporation to Senator Patterson; attachment B to minute No. M02005650, background information; and attachment C to minute No. M02005650, assessment against the guideline under section 18.
Senator ALLISON (Victoria) (5.36 p.m.)—by leave—I have some general comments to make, and I wish to comment specifically on the order for the production of documents on the Point Nepean land sale. I think this government has an appalling record on providing documents to the Senate. At close of business last sitting day, 15 May, there were 15 orders for the production of documents in the Senate. Only two were complied with. Eight were not complied with at all. One was only partially complied with and four remain to be dealt with. As Democrats Whip, I wrote to the Leader of the Government in the Senate to say that it was time that he took charge of this issue and developed a consistent policy with regard to the inconsistencies that we are currently experiencing with returns to order and the huge number of refusals on the part of the government to supply the documents that are, in my view, reasonably requested of it by the Senate.

It is usual for the government to say that legal advice is never provided, and yet on some occasions it is. It is often the case that we hear that interdepartmental advice cannot be produced but then some ministers do provide it. More commonly, we hear that commercial-in-confidence is the reason not to disclose information to the Senate. That was given as a reason why the documents to do with the Point Nepean land sale were not provided by 15 May as requested by the Senate—in fact, they are only now being provided. But a document within the group of documents is still being withheld from the Senate, and I want to talk about that briefly.

The Senate may or may not realise that the documents we are talking about here are to do with the sale of some 90 hectares of land at Point Nepean on the Mornington Peninsula in Victoria. This land is of enormous interest to Victorians, particularly those who live in the region, and for some time there has been great debate and contention about whether or not this land will be made available for residential use, subdivision or redevelopment. These documents, it can only be assumed, held the key to that question: just exactly what would the Commonwealth allow in relation to the development of that very precious and special piece of land, which has huge heritage values and open space and is of great importance to the adjacent national park. This was highly contentious, too, with regard to the relationship with the Labor government in Victoria and the kind of planning regime which would apply to this land, and therefore what might be allowed to be developed on the site.

What was requested was called ‘further information’. A CD-ROM was available with further information on it for anyone who chose to pay $100 to the real estate agents who were dealing with this land sale and, after paying the $100, they would receive all of this information, but the Senate could not. One of the reasons expressed for that was—and we have just heard Senator Kemp indicate this—that it was important that anyone who obtained those documents signed a confidentiality agreement and agreed that they would not speak about, pass on or in any way share the information which was available to them.

This is clearly a ridiculous situation—that is, that in the selling of a piece of land which is owned by the Commonwealth this parliament should not be in a position to be able to scrutinise any document which would be made available to developers of that land. Not only is it unreasonable that the Senate should not have access to that documentation but also it is unreasonable that the people of Victoria, the people of Australia, the people who live on the Mornington Peninsula, the people who live in Portsea—people who are intimately interested in what happens to this land—do not have access to it. They are in-
interested in whether or not we are going to see 40-storey hotel towers, the subdivision of residential sites and the demolition of the 70 or so buildings down there that do not get protection from heritage legislation—all of this is up in the air. For some time I pursued this question during estimates, and it became quite clear to me that this government has no intention of restricting residential development at that site, that tourism will be allowed and that no-one really knows what that means in terms of how high, how big or how dense. The government is even prepared to hand over foreshore land to developers to do with as they will, presumably.

This is not just some whim of the Senate to ask for these documents. There was a real and reasonable reason for asking for these documents so that we would know before the close of expressions of interest exactly what riding instructions, if you like, were being given to developers. We do not know and we are not likely to find out. One of the documents that I understand is still being withheld is one which describes archaeological sites. I do not know what that means. Perhaps it is something to do with Indigenous heritage issues but, again, why is it that the Senate cannot see that document when developers can is a mystery to me. It is typical of the way in which this government has tried to avoid its responsibilities by allowing its decisions, and the correspondence and documents that describe those decisions, to be withheld from public scrutiny.

It is time that this house called the government to account on returns to order. The record is poor and it is getting worse. It is time that the government looked at the record over its period of office since 1996 and that we had some consistency and understanding. If commercial-in-confidence is a legitimate argument for refusing to hand over documents, then let us see the reasons for that. Let us have some debate about why it is that commercial-in-confidence suddenly puts a document outside the realm of scrutiny. In my view, commercial-in-confidence is just being used as an excuse not to provide information or documents which may be embarrassing to the government. But we in this place are about embarrassing the government. If it has taken decisions and done things which need to be scrutinised and criticised, that is what this house is for. I do not think it is acceptable any longer for reasonable requests of the government for the provision of documents to be ignored or treated with disdain, as we have seen so many ministers in this place do. I will be looking for some support from the opposition in this because there have been as many returns to order refused of opposition initiated requests in the Senate. I think it is time we called the government to account on this record.

Senator LUDWIG (Queensland) (5.45 p.m.)—by leave—I would like to make a contribution on the same issue of returns to order. This government has been missing in action. It has repeatedly and often either refused to provide or, by omission, not provided the information that has been sought by the opposition and, I suspect, by the Democrats as well. In fact, as I have been led to understand, it is easier to get information through freedom of information processes than it is through this government tabling it in parliament. Not only is this a very bad precedent for this government to set but also it is something that cannot continue.

The returns to order process exists to hold this government accountable. This is a legitimate process to ensure that the government is held accountable, that it can produce documents and that those documents can be open to public scrutiny. That is what the returns to order process is all about. The government remains missing in action on this. You have to ask the question: is the government concerned that the documents might
otherwise embarrass it? Is the government hiding from the returns to order? Is that why the government does not want to produce that material to this parliament? Or is it simply that this government is a lazy government? Is this government too lazy to produce the information?

Senator Buckland—I think that’s it.

Senator LUDWIG—It is likely—and I am told from behind me—that maybe it is the third, that this government is simply too lazy to go and find the relevant information, collate it and bring it back to this parliament. When you look at the record of this government, you see that orders for the production of documents from previous parliaments are still on the Notice Paper. Some of them go back to 1995. There is one from 1995 and one from 1998, and there are five from 2000 and a further seven from 2001. There are up to 40 listed on the Notice Paper—and I cannot provide the dates for all of them today.

This failure to provide documents in response to returns to order is indicative of the government’s performance of not contributing to the representative democracy we have. It is necessary to produce documents. It is part of the process that this Senate has. I put the government on notice that if it continues in this fashion—and this is the second time that I have had to come down to this chamber and criticise the government, quite validly, for ignoring returns to order that have been legitimately requested—then we will eat up the time of this parliament debating why documents are not being produced, why returns to order are not being complied with and why documents are not being legitimately put before parliament for public scrutiny.

BUDGET 2002-03
Consideration by Legislation Committees
Additional Information

Senator FERRIS (South Australia) (5.48 p.m.)—On behalf of the Chair of the Community Affairs Legislation Committee, Senator Knowles, I present additional information received by the committee relating to hearings on the additional estimates for 2002-03.

COMMITTEES
Foreign Affairs, Defence and Trade Legislation Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Cook)—Mr President has received a letter from a party leader seeking a variation to the membership of a committee.

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.49 p.m.)—by leave—I move:

That Senator Bartlett replace Senator Ridgeway on the Foreign Affairs, Defence and Trade Legislation Committee for the committee’s inquiry into the off-setting arrangements between the Veterans’ Entitlements Act and the Military Compensation Scheme.

Question agreed to.

ASSENT

Messages from His Excellency the Administrator of the Commonwealth of Australia were reported, informing the Senate that he had assented to the following laws:

Therapeutic Goods Amendment Act (No. 1) 2003 (Act No. 39, 2003)
The speeches read as follows—
WORKPLACE RELATIONS AMENDMENT (TERMINATION OF EMPLOYMENT) BILL 2002
This bill has three objectives: first, to improve Federal unfair dismissal law for small business; second, to improve Federal unfair dismissal law generally; and third, and most important, to widen very significantly the Federal law’s coverage.

Since my predecessor, Peter Reith, launched a series of discussion papers in late 2000, it has been Government policy to explore options for working towards a simpler, fairer workplace relations system based on a more unified and harmonised set of laws. Maintaining six separate industrial jurisdictions makes as much sense as keeping six separate railway gauges. A national economy needs a national regulatory system and the sooner we can achieve this, the better. A more unified national workplace relations system means less complexity, lower costs and more jobs.

The Government would prefer to proceed by agreement and by referral of powers along the lines pioneered by Premier Kennett in Victoria. In the absence of referrals by other states, the Government proposes to use its existing constitutional powers, where it reasonably can, in a step-by-step progress towards a more unified system. In this case, the Government proposes to ensure that workers and business people operate, as far as is constitutionally possible, under one system of laws governing unfair dismissal.

At present, only workers employed on Federal awards or agreements have access to remedies under the Federal unfair dismissal laws (unless they happen to be employed in Victoria or the Territories). This legislation will ensure, in addition, that any worker employed by a corporation is within the scope of the Federal unfair dismissal jurisdiction and, further, that workers within the scope of the Federal system will be governed by it rather than any State unfair dismissal law. This “cover the field” provision means that the percentage of employees covered by Federal unfair dismissal provisions should rise from about 50 per cent to about 85 per cent and that the number of workers covered by Federal unfair dismissal
provisions should increase from about 4 million to about 7 million.

If this Bill passes, the authority and coverage of the Australian Industrial Relations Commission will be strengthened. If the Bill passes, just 15 per cent of employees, mostly working in unincorporated small businesses, will remain covered by State unfair dismissal systems. The Government believes that an expansion of Federal jurisdiction on this scale should eventually lead to a "withering away of the states" at least in this aspect of workplace law.

Even as it stands, the Federal unfair dismissal law is generally less burdensome to employers and less destructive of employment growth than the State laws. Even if this were not the case, there would be advantages in having to deal with only one imperfect set of laws (rather than several). The Government hopes to achieve, not only one set of unfair dismissal provisions covering Australian workplaces, but also the best possible set of provisions covering Australian workplaces.

A new Melbourne Institute of Applied Economic and Social Research study provides evidence of the confusion caused by overlapping Federal and State unfair dismissal laws and also of the damage these laws can do. Based on a Yellow Pages survey of nearly 2000 small to medium businesses, the study found that almost a third of businesses did not know whether they were covered by Federal or State unfair dismissal laws. If business managers are confused by this complexity, workers can be expected to be just as confused and, as a result, might fail to seek redress or to lodge an application in time.

The Melbourne Institute study also showed that the cost to small and medium sized businesses of complying with unfair dismissal laws is at least $1.3 billion a year and that these laws have played a part in the loss of over 77,000 jobs from small and medium business. This study amply justifies the Government’s continued determination entirely to exempt small business from the reach of the unfair dismissal laws as well as the provisions in this Bill to make these laws less unfair to business and less damaging to job creation.

For small business, this bill:
- extends the standard qualifying period for employees’ access to unfair dismissal provisions from three to six months;
- allows the Commission to deal with some claims ‘on the papers’, that is, without a hearing;
- halves the amount of compensation that can be awarded to an employee;
- streamlines the criteria for determining whether a dismissal was unfair; and
- refines the penalty provisions for lawyers and agents who encourage unmeritorious claims.

For business generally, this Bill:
- requires the Commission to take into account any contributory conduct by an employee when determining compensation;
- limits dismissal claims where an employer no longer has work for an employee (in other words, redundant employees will not usually have access to unfair dismissal claims to supplement any redundancy entitlements);
- requires the Commission, when making an order for back pay, to take account of any income an employee who is to be reinstated may have earned since his or her dismissal;
- requires the Commission to consider whether the safety and welfare of other employees was a factor in the dismissal; and
- emphasises reinstatement as the primary remedy.

Prominent members of the Democrats have offered support for a single, more simplified unfair dismissal system providing a better balance between the interests of employers and employees without impeding job creation. This bill contributes substantially towards achieving that aim. The Bill is the first legislative step towards a single workplace relations system for the whole country.
River Murray catchment above Hume Dam as a result of the corporatisation of the Snowy Mountains Hydro-electric Authority. The amendments also provide for the management of environmental flows in the River Murray.

The corporatisation of the Snowy Scheme, and the implementation of these amendments, provide good news for the River Murray’s environment and the communities and industries that rely on the River. It means that for the first time, water users on the Murray and Murrumbidgee Rivers will receive guaranteed levels of annual releases of water from the Scheme. The River Murray will receive a significant boost in dedicated environmental water, sourced from increased efficiencies in the way we use the water in the River.

The governments of New South Wales, Victoria and the Commonwealth agreed to corporatise the Snowy Scheme for a number of very good reasons. The most significant is to ensure that the benefits of competition reform in Australia’s electricity industry can be accessed by the Snowy Scheme. The legislation necessary to underpin corporatisation was debated and passed by this Parliament in 1997.

The Murray-Darling Basin Amending Agreement, through which governments agreed to the amendments to the Murray Darling Basin Agreement, is one of a series of intergovernmental agreements that will give effect to corporatisation. The Snowy Water Licence, issued by the New South Wales Government, provides for the operation of Snowy Hydro Ltd within the NSW regulatory environment. It specifies rights over water, consultation and direction processes, exchange of data, the annual water licence fee and water release obligations.

Under the Snowy Water Licence, Snowy Hydro is required to release minimum amounts of water into the Murray and Murrumbidgee Rivers each year. Irrigators and the environment will have ‘first call’ on water under the control of the Scheme up to that level. This contrasts with the pre-corporatisation situation, where the volume of annual releases had to be negotiated with the then Snowy Mountains Council each year. The Licence also contains release rules designed to avoid unnecessary spills from water storages and to provide additional water security during summer.

As part of the corporatisation process, the governments of New South Wales and Victoria conducted a Snowy Water Inquiry to consider the benefits of additional environmental flows in the Snowy River to offset the impact of the diversion of water to the Murray and Murrumbidgee Rivers by the Snowy Scheme. The Commonwealth Government also conducted a comprehensive Environmental Impact Statement to assess all the environmental issues associated with corporatisation of the Snowy Scheme, and in particular, to focus on the impacts of additional environmental flows on the Murray-Darling Basin. The governments have decided on the basis of these inquiries to return substantial environmental flows to the River Murray, the Snowy River and key alpine rivers in the Kosciuszko National Park. These flows will be found principally from water efficiency projects in the River Murray and in the Murrumbidgee and Goulburn-Murray river systems.

The Commonwealth has agreed to provide $75 million to fund water savings of up to 70 gigalitres annually that, when released from the Snowy Scheme, will be dedicated to achieving environmental outcomes in the River Murray.

The New South Wales and Victorian governments have agreed to a long term staged process to return 28 percent of average natural flows to the Snowy River. As a first stage the two governments have agreed to provide $150 million each to achieve a target flow rate of 21 percent to be returned over 10 years.

Throughout the corporatisation process, the Commonwealth has insisted on a number of important safeguards. First, allocations of water to environmental entitlements must not adversely impact on irrigators. Second, the allocations must not adversely impact on the rights and interests of the State of South Australia. Third, the commercial viability of the Snowy Scheme will be maintained. Fourth, water for environmental flows will be sourced principally from verified water savings. Lastly, water for environmental flows in the Snowy and Murray cannot be consumed—they must flow through the river systems to the sea.
In summary this Bill asks the Parliament to approve the Murray-Darling Basin Amending Agreement, which will, in turn, amend the existing Murray-Darling Basin Agreement. These amendments to the Murray-Darling Basin Agreement are necessary in part because of the revocation of the Snowy Mountains Hydroelectric Power Act 1949 and to implement agreed outcomes from the corporatisation of the Snowy Scheme, which occurred on 28 June 2002. The amendments make arrangements for the sharing of water from the Snowy Scheme by New South Wales, Victoria and South Australia. They will protect Victoria’s and South Australia’s right to water from the Murray River if New South Wales fails to ensure necessary water releases from the Scheme. The amendments also set out arrangements for the transfer of verified water savings and water entitlements into environmental entitlements for the Snowy River and the River Murray.

The Amending Agreement sets out arrangements for the management of the 70 gigalitres of River Murray environmental entitlements. Before 1 May 2004, the Murray-Darling Basin Ministerial Council will be required to develop environmental objectives and a strategy for retaining and releasing the environmental entitlements. The environmental objectives for the environmental entitlements must be integrated with other environmental initiatives on the River Murray. The amendments will also require the Murray-Darling Basin Commission to release and manage the environmental entitlements in accordance with the strategy developed by the Ministerial Council. The governments will be required to inform the Commission of proposals to achieve water savings or to purchase water entitlements for environmental entitlements to enable the Commission to assess the possible effects of the proposals on the flow, use, control or quality of water.

The Murray-Darling Basin Amending Agreement has been agreed by the Commonwealth Government and the governments of New South Wales, Victoria and South Australia. The Amending Agreement will also require the approval of the Parliaments of New South Wales, Victoria and South Australia before it can be implemented.

NATIONAL HANDGUN BUYBACK BILL 2003

The National Handgun Buyback Bill 2003 appropriates Commonwealth funds for the purposes of the national handgun buyback which is to commence on 1 July.

The bill fulfils the Commonwealth’s commitment to the implementation of the Council of Australian Governments’ handgun reforms. The reforms will remove from the community those handguns that are not used in genuine sports shooting. Under the buyback, sporting shooters and dealers who surrender prohibited handguns, parts and related accessories will receive fair compensation.

The Government’s commitment to the handgun reforms is based on the considered view that such reforms are necessary to improve public safety, whilst taking into account the interests of legitimate sporting shooters.

The handgun buyback forms a central element of the reforms and complements measures which will tighten licensing laws in Australia.

After the tragic Monash University shooting on 21 October 2002 the Howard Government acted swiftly and decisively to address the threat posed by the misuse of legally registered handguns in the community.

In November of 2002, State and Territory Police Ministers, along with the Commonwealth, agreed to a range of measures to restrict the availability and use of handguns and to tighten licensing laws.

The Prime Minister, Premiers and Chief Ministers endorsed those measures at the meeting of the Council of Australian Governments on 6 December 2002. COAG agreed to implement prohibitions on the import, possession and use, by sporting shooters, of small concealable handguns, those handguns above .38” calibre, and those with a magazine capacity exceeding 10 rounds.

On 20 December 2002 the Government amended the Customs (Prohibited Imports) Regulations 1956 to give effect to the prohibitions at the border. By 1 July 2003 the States and Territories will have legislation in place to give effect to the reforms.
At the 6 December meeting of COAG, the Commonwealth committed to funding the cost of the handgun buyback firstly from $15 million remaining from the 1996 firearms buyback and then shared on a two-thirds one-third basis between the Commonwealth and the States and Territories. The bill gives effect to this commitment.

An Intergovernmental Agreement, setting out the administrative and accountability procedures for the buyback, will be entered into by the Commonwealth, States and Territories prior to the commencement of the buyback.

In developing the handgun reforms, the Commonwealth has extensively consulted with national representatives of the sports shooting community, as well as dealers and historical collectors. I am confident that the reforms represent an appropriate balance between public safety and the pursuit of legitimate interests by genuine sporting shooters and collectors.

INTELLECTUAL PROPERTY LAWS AMENDMENT BILL 2002

This bill makes a series of technical amendments to several intellectual property Acts.

The bill amends the Patents Act 1990, the Trade Marks Act 1995 and the Designs Act 1906 to clarify that errors and omissions by people providing services to IP Australia, such as independent contractors and consultants, are encompassed by the existing extension of time provisions. Currently, these Acts provide that a person must be granted an extension of time if a relevant time period was not complied with because of an error or omission by the Commissioner of Patents, the Registrar of Trade Marks, the Registrar of Designs or an employee of the relevant office.

However, IP Australia often uses the services of independent contractors and consultants during the processing of applications, such as the use of a courier service to transport documents from a sub-office to the central office in Canberra, or a private company for maintenance of information systems or storage of data. These amendments will make it clear that the extension of time provisions encompass errors and omissions by these parties.

These amendments will therefore ensure that any person who is legitimately entitled to an extension of time will be granted one.

This bill also amends subsection 45(3) and section 101D of the Patents Act, which deal with the disclosure of information to the Commissioner of Patents that is relevant to the patentability of an invention.

These provisions were previously amended by the Patents Amendment Act 2001. Those amendments were intended to ensure that the Commissioner had access to as much relevant information as possible when determining whether an invention is patentable. However, based on initial experience with the new system, it has recently become apparent that those amendments will not achieve the Government’s policy objectives because they lack certainty and impose an undue burden on applicants and patentees.

In order to maintain Australia’s strong patent system, the Government has decided to take swift action to rectify this situation. The amendments in this bill narrow the scope of the information covered by these provisions to provide an effective disclosure regime that reduces the burden on applicants and patentees while still ensuring that relevant information is disclosed.

These amendments will replace the disclosure obligations that have applied since the commencement of the Patents Amendment Act 2001. That is, they will apply to any standard patent application that had not been accepted before 1 April 2002 and any innovation patent for which examination had not begun before 1 April 2002.

This will mean that the new disclosure arrangements will completely replace the current provisions and any applicant or patentee who has not complied with those provisions will no longer be obliged to. If they have complied with the current provisions then, for the purposes of the Patents Act, the information they have provided would only need to meet the requirements of the new provisions.

So, although the amendments will not commence retrospectively, they will have a retrospective effect.

This should not disadvantage any applicants or patentees because these amendments will be in-
Introducing an improved disclosure regime that imposes a significantly reduced burden on them. In addition, the bill provides that any information provided under the current provisions is taken to have been provided under the new provisions and therefore will not need to be re-submitted.

These arrangements will ensure that people are not adversely affected by the operation of these amendments.

I would like to take this opportunity to acknowledge the valuable contribution of representatives from the Institute of Patent and Trade Mark Attorneys of Australia and the Australian Federation of Intellectual Property Attorneys in the development of this bill. Their input is very much appreciated.

MARITIME LEGISLATION AMENDMENT (PREVENTION OF POLLUTION FROM SHIPS) BILL 2003

The Maritime Legislation Amendment (Prevention of Pollution from Ships) Bill 2003 will amend two Commonwealth Acts, the Protection of the Sea (Prevention of Pollution from Ships) Act 1983 and the Navigation Act 1912. The bill’s primary purpose is to ensure that changes to the International Convention for the Prevention of Pollution from Ships, known as MARPOL 73/78, are reflected in Australian legislation.

A key issue to be addressed by the bill is the protection of the marine environment by ensuring that the level of environmental protection from marine sewage in Australia is consistent with internationally adopted standards. This is particularly important for sensitive marine areas, such as the Great Barrier Reef, which are vulnerable to pollution by sewage from ships.

In 1999-2000, 3,254 international trading ships visited Australian ports. The amount of sewage discharged from a vessel varies depending on the number of persons carried and the duration of the trip. The increase in the size and number of cruise ships visiting Australian ports, and regions such as the Great Barrier Reef, in recent years has resulted in a renewed focus on the issue of protecting the marine environment. Today’s cruise ships, the largest of which can carry more than 5,000 passengers and crew, generate significant volumes of waste. For example, an average sized cruise liner discharges approximately 100,000 litres of sewage per day, while an average sized bulk carrier with a crew of 25 discharges approximately 300 litres per day.

The bill includes amendments setting out the condition in which a ship is to be maintained to ensure that it remains fit to proceed to sea without presenting an unreasonable threat to the marine environment. Other amendments include provisions prohibiting the discharge of mixed sewage into the sea and amendment of a condition specifying the distance from the nearest land that treated sewage can be released.

The bill contains some technical amendments reflecting the renumbering of regulations contained in Annex IV of MARPOL 73/78; Regulations for the Prevention of Pollution by Sewage from Ships, a change to the name of the International Sewage Pollution Prevention Certificate 1973 and provision of a new power for survey authorities to issue such certificates.

Other amendments are being proposed to ensure that purely technical and routine operational matters are removed from primary legislation and included in subordinate legislation. In the case of this bill, subordinate legislation will be in the form of Marine Orders.

Australia is a signatory to MARPOL 73/78 and has implemented annexes of the Convention dealing with the prevention of pollution by the discharge of oil, chemicals, harmful packaged substances and garbage from ships.

In 1985, Australia agreed to the adoption of Annex IV of MARPOL 73/78: Regulations for the Prevention of Pollution by Sewage from Ships. Following this agreement, the Commonwealth Protection of the Sea Legislation Amendment Act 1986 was passed to give effect to Annex IV along with a range of other amendments to MARPOL 73/78. However, the provisions relating to Annex IV have not been proclaimed to commence due to delays in the treaty gaining international acceptance.

In 2000, the International Maritime Organisation adopted a number of amendments to Annex IV that addressed several outstanding issues which had delayed its international acceptance. Annex
IV will now enter into force internationally on 27 September 2003.

HEALTH CARE (APPROPRIATION) AMENDMENT BILL 2003

This bill delivers on the Government’s strong commitment to the principle of universality under Medicare. As promised by the Prime Minister a maximum contribution to public hospital funding over the 2003-08 period of $42 billion will be provided under this bill. This is $10 billion more than the funding provided under the last Australian Health Care agreements. Nationally, this represents a 17 per cent real increase in the Commonwealth’s commitment.

We are introducing this bill to provide certainty for the people of Australia, who can rest assured that Commonwealth funding for their public hospital services will continue and that they will have free access to the services they require.

The Australian people deserve an accountable health system. Over the life of the current agreements, the Commonwealth’s commitment to Australians needing health care has been transparent and unprecedented. The States’ contribution is far less apparent.

Until now the Commonwealth’s contribution to public hospital funding has been growing faster than the States. According to the latest Australian Institute of Health and Welfare data, the Commonwealth currently provides 48 per cent of public hospital funding compared with the States 43 per cent. Under the new agreements States will be required to match the Commonwealth’s rate of growth in funding, so the onus on growth is shared. States will also be required to recommit to the Medicare principles enshrined in this Bill, and agree to a new performance reporting framework providing greater transparency of the shared arrangements.

Over the past five years, the Commonwealth has also introduced major private health insurance reforms, including the 30 per cent Rebate and Lifetime Health Cover, that have contributed towards a better balance between the public and private hospital systems. This has reduced pressure on public hospitals. Nonetheless the federal government demonstrated our commitment to public hospitals by choosing not to reduce state and territory funding under the last agreements, as we were entitled to do, because of the increase in the number of people with private health insurance.

This decision by the federal government meant that state and territory governments are around $2.5 billion better off over the last three years of those agreements. It also means that the new Australian health care agreements start from a much higher base than they otherwise would have been had we exercised our right to recover those funds.

Included in the Commonwealth contribution to public hospital services is a new ‘Pathways Home’ program. This is a one-off contribution of $253 million nationally to increase efforts in the provision of rehabilitation and step-down services. This program will help people, particularly older people, to make a smooth transition back to their homes in the community following hospital treatment and, in doing so, optimise their potential to remain independent.

This bill also provides for minor legislative changes to enable the Minister for Health and Ageing to delegate powers with respect to certain limited matters to the Department of Health and Ageing and alters the definition of “eligible person” to reflect the current definition of the Health Insurance Act 1975. The delegation powers do not extend to grants to the States and Territories for provision of public hospital services, but are limited to grants for related projects and programs and are estimated to be 0.9% of total payments under the Act.

Once again I confirm the Government’s strong commitment to the principle of universality under Medicare. This bill extends the period of operation of the Act for a second five year period commencing on 1 July 2003. This will enable the Commonwealth to enter into new Australian Health Care Agreements and maintain funding to the States and Territories pending settlement of Agreements.

CUSTOMS AMENDMENT BILL (No. 1) 2003

The Customs Amendment Bill (No. 1) 2003 contains amendments to the Customs Act 1901. Those amendments provide the rules for deter-
mining whether goods originate in Least Developed Countries, in East Timor or in Singapore.

The amendments in Schedule 1 to this bill relate to the Government’s decision to grant duty-free entry, from 1 July 2003, to goods that originate in a Least Developed Country or in East Timor. The Prime Minister announced this decision on 25 October 2002 during the APEC Leaders CEO Summit in Los Cabos.

This decision demonstrates Australia’s commitment to the objectives of the Doha round of World Trade Organization negotiations to provide meaningful market access to the poorest countries, to help them trade their way out of poverty and to integrate into the world economy.

Goods will be considered to originate in a Least Developed Country or in East Timor if they are its unmanufactured raw products or if they are manufactured in a Least Developed Country or in East Timor.

To be ‘manufactured’ in a Least Developed Country or in East Timor, the last process of manufacture of the goods must be performed in that country, and the goods must have a local content of 50 per cent.

Inputs from Least Developed Countries, East Timor, Forum Island Countries, other developing countries and Australia will count towards local content.

To ensure the benefits of the Government’s initiative flow to Least Developed Countries and to East Timor, rather than to other developing countries, inputs from the other developing countries may be included in the calculation of local content, but only up to a maximum of 25 per cent of the total factory cost.

The amendments in Schedule 2 to this bill will give effect to Australia’s obligations under Chapter 3 of the Singapore-Australia Free Trade Agreement. Chapter 3 provides the rules for determining whether goods originate in Australia or Singapore for the purposes of preferential, duty-free admission under the Agreement.

The Singapore-Australia Free Trade Agreement is expected to enter into force later this year.

The Free Trade Agreement is a comprehensive and wide-ranging agreement that provides Singapore and Australia with more liberal access to each other’s goods, services and investments markets. The agreement re-affirms the close relationship between Australia and Singapore, and will contribute to greater growth, prosperity and security in the region. It is also consistent with our APEC commitments to broader trade and economic reform, and is a positive initiative to advance the Bogor goals of free and open trade and investment.

Goods will be considered to originate in Singapore for the purposes of duty-free entry if they are wholly obtained or manufactured in Singapore or if they are partly manufactured in that country.

For most goods that are partly manufactured in Singapore, a local content of 50 per cent will apply. For a limited range of electrical and electronic goods, as well as for goods subject to Australian Tariff Concession Orders (that is, goods not manufactured in Australia), a local content of 30 per cent will apply.

The rules of origin for Singapore include accumulation provisions for manufactured goods in recognition of Singapore’s special offshore processing arrangements.

The accumulation provisions will allow the value added in Singapore and in Australia before and after overseas processing to be included in the calculation of local content. These provisions will not apply to textiles, clothing or footwear, to passenger motor vehicle products, or to jewellery.

The rules of origin for Singapore also include special consignment and origin certification provisions. Those provisions are aimed at ensuring that goods transported through Singapore cannot be claimed to originate in that country.

The amendments also include some additional obligations on exporters of Australian goods to Singapore so that preferential duty-free entry into that country can be secured for those goods. These amendments will apply only to a limited range of exporters, as the only Australian goods that are currently dutiable on entry into Singapore are beer and stout.

This bill is cognate with the Customs Tariff Amendment Bill (No. 1) 2003.

I commend the Bill.
Customs Tariff Amendment Bill (No. 1) 2003 contains amendments to the Customs Tariff Act 1995.

First, the bill will add East Timor to the List of Developing Countries in Schedule 1 of the Tariff. This will enable exports from that country to receive preferential duty treatment under the Australian System of Tariff Preferences for Developing Countries which will allow goods originating in East Timor to benefit from a five percentage point reduction on the general tariff rate.

Secondly, the bill amends the Tariff to implement the Government’s decision to give duty-free access to goods originating in Least Developed Countries, as designated by the United Nations, and in East Timor. This decision was announced by the Prime Minister at the APEC CEO Summit in Los Cabos, on 26 October 2002. It demonstrates Australia’s strong commitment to opening markets to the world’s poorest countries and is consistent with Australia’s obligation under the Doha Declaration. The amendments to the Tariff will take effect from 1 July 2003.

The bill also amends the Tariff to allow goods originating in Singapore duty free access to Australia. These amendments will give effect to the recently signed Singapore Australia Free Trade Agreement, which reaffirms the close relationship between Australia and Singapore, and will contribute to building a stronger bilateral partnership. These amendments will come into effect when the Agreement enters into force.

The above amendments are complementary to, and cognate with, amendments contained in Customs Amendment Bill (No. 1) 2003.

The bill contains a number of other amendments to Schedule 1 of the Tariff, which contains lists of countries and places to which preferential rates of duty apply under the Australian System of Tariff Preferences.

To reflect its status as an independent state, Palau is to be removed from the list of “Places Treated as Developing Countries” in Schedule 1 and to be added to the list of Developing Countries in that Schedule. Papua New Guinea is to be added to the list of Forum Island Countries, which also appears in Schedule 1 of the Tariff. The changes to the listings of Palau and Papua New Guinea in Schedule 1 do not alter the treatment of imports from those countries to Australia, but improve the accuracy of the Tariff.

The country codes for each country listed in Schedule 1 and elsewhere in the Tariff are to be changed from the current four alpha codes to the two alpha codes used by the International Standards Organization. This brings Australia into line with international practice and will reduce administrative and financial burdens for Australian importers and exporters.

A number of minor and related Tariff amendments are also contained in this bill. I commend the bill.

Debate (on motion by Senator Buckland) adjourned.

Ordered that the Customs Amendment Bill (No. 1) 2003 and the Customs Tariff Amendment Bill (No. 1) 2003 be listed on the Notice Paper as one order of the day, and the remaining bills be listed as separate orders of the day.

TAXATION LAWS AMENDMENT (PERSONAL INCOME TAX REDUCTION) BILL 2003

First Reading

Bill received from the House of Representatives.

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.54 p.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.54 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The measures contained in this bill will cut personal income tax for 9 million Australians.

The tax reductions will amount to $2.4 billion in 2003-2004 and total $10.7 billion over the next four years.

The income tax reductions will be achieved in two ways.

Firstly, from 1 July 2003 the low income tax offset will be increased from $150 to $235 for low-income taxpayers. The phase-out threshold for the low income tax offset will also be increased from 1 July 2003 to $21,600.

As a result of these changes, a more generous low income tax offset will be available to more taxpayers. The maximum amount of the low income tax offset of $235 will be available to taxpayers on incomes up to $21,600, with some tax offset able to be claimed by taxpayers with annual incomes of up to $27,475. Taxpayers will also be able to have an annual income of up to $7,382 without paying tax, up from the current $6,882.

Secondly, for all other taxpayers, from 1 July 2003 the income tax thresholds will be lifted. The upper income limit for the 17 per cent rate will be raised from $20,000 to $21,600, the upper income limit of the 30 per cent rate will be raised from $50,000 to $52,000, and the upper income limit of the 42 per cent rate will be raised from $60,000 to $62,500.

By providing tax cuts through changes to the thresholds and through a more generous low income tax offset, the largest proportional reductions in income tax are provided to low income earners. A taxpayer with an annual income of $10,000 will pay 16 per cent less tax. Some taxpayers with annual incomes between $20,000 and $27,475 will have their tax cut by $329 per year, or 10.7 per cent. This is a much higher percentage reduction in tax than that provided to higher income earners. For example, those with annual incomes of $85,000 will have a 2.0 per cent reduction in their tax.

Senior Australians will also benefit from this proposal. The increase in the low income tax offset will mean that recipients of the senior Australians tax offset will be able to earn up to an additional $500 annual income before they have an income tax liability. This means that these senior Australians will pay no tax on annual incomes up to $20,500 for singles compared with $20,000 currently and up to $33,612 for couples compared with $32,612 currently. The Medicare levy thresholds for senior Australians will also be increased to ensure that they do not pay the Medicare levy until they begin to incur an income tax liability.

These changes mean that Australian taxpayers can keep a higher proportion of the earnings they receive after tax, providing improved incentives to pursue work, advancement and higher skills.

The tax cuts in the 2003-2004 Budget provide a responsible balance between the Government’s key goals. The Government is meeting the higher costs of defence and security and is financing other priority programs such as education and health. The budget remains in surplus allowing for debt levels to be further reduced. After providing for the Government’s legitimate spending proposals, this government is able to return the benefits of good economic management and growth as tax cuts for all Australian taxpayers.

Full details of the measures in this bill are contained in the explanatory memorandum.

I commend the bill.

Debate (on motion by Senator Buckland) adjourned.

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

HEALTH LEGISLATION AMENDMENT (PRIVATE HEALTH INSURANCE REFORM) BILL 2003

Report of Community Affairs Legislation Committee

Senator FERRIS (South Australia) (5.55 p.m.)—On behalf of the Chair of the Community Affairs Legislation Committee, Senator Knowles, I present the report of the committee on the Health Legislation
Amendment (Private Health Insurance Reform) Bill 2003, together with the Hansard record of proceedings and submissions received by the committee.

Ordered that the report be printed.

CRIMINAL CODE AMENDMENT
(TERRORIST ORGANISATIONS) BILL 2003
CRIMINAL CODE AMENDMENT
(HIZBALLAH) BILL 2003
Second Reading

Debate resumed.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.56 p.m.)—Mr Acting Deputy President, you will recall that, a little earlier today, I was indicating to the Senate that the listing of al-Qaeda, three months after the government was given the power to do it, was in fact done only after the Attorney-General was asked by the Labor opposition why al-Qaeda had not been listed as a terrorist organisation in Australia. If the opposition had not fronted the Attorney-General on the listing of al-Qaeda, who knows how long we would have waited to see al-Qaeda banned in Australia. The pattern of this government is clear: strike fear into the hearts of Australians and tell them there is a problem, but address it only when it suits it or if the government remembers. Labor is prepared to address this issue. That is why we have proposed the Criminal Code Amendment (Hizballah External Terrorist Organisation) Bill 2003. That is why we will be proposing today a better, safer and more balanced way to handle the proscription of organisations. The threat of terrorism has brought home the realisation that distance from the front line is no guarantee of safety. In fact, there is no front line in the fight against terrorism.

Today the Criminal Code Amendment (Terrorist Organisations) Bill 2003 proposes to take our liberties from us in exchange for vague promises of security. Labor will not trade those values and principles that make us a free and democratic nation. It is a fact well known to political parties that the wages of fear are electoral success. I do not forget that during the last election campaign this government ensured that asylum seekers were not ‘humanised’, to use its word, by banning the media from covering Operation Relex. I do not forget that Peter Reith claimed that there were terrorists on those boats. I do not forget the deceits and lies of the ‘children overboard’ scandal. That is how low this government can go. The Australian Labor Party stands implacably opposed to those who want Australians living in a cage of fear. Governments have a responsibility to make sure that the community is safe and secure. They also have a responsibility not to twist these issues to political advantage. This government argues that a regime of executive proscription can keep Australia safe. The Attorney-General has argued that we can be safe only if we give up our freedoms. How cynical is that!

I say that we cannot be safe unless we are free. Our liberties and rights as citizens are fundamental to our system of government and our rule of law. Freedom is not incompatible with safety; it is essential to it. The government’s proposals to erode our freedoms and our rights will ultimately erode our security as well. For this reason, we do not accept and will not accept the government’s executive proscription bill. We will not accept a regime of secret proscriptions, of decisions in closed rooms, of such significant and potentially destructive power in the hands of one person and one person alone. To have that kind of power exercised by one person in secret, particularly a member of a government executive—and, worse still, a member of the Howard government executive—is not acceptable in a democratic soci-
The decision to black-list an organisation, to make it a crime to belong to that organisation, should be made on the basis of hard evidence. That is why Labor proposes to refer these questions to the courts, where the facts can be heard, debated and considered and where decisions are made by those who have nothing to fear from poll results or the withdrawal of prime ministerial patronage. If evidence is available to properly satisfy an attorney-general on a reasonable basis that an organisation is a terrorist organisation, this evidence can be used to satisfy a court. Court procedures can be adopted and adapted to provide around-the-clock access to quick and efficient hearings that, where necessary, can be held in closed session. Further, by ensuring the matter is determined by a court and not by the Attorney-General, the process would be focused on evidence and be taken away from politics and the perception that a decision to ban an organisation was done for political purposes.

Therefore, we propose to amend the government’s Criminal Code Amendment (Terrorist Organisations) Bill 2003 to remove secret proscription by the executive and replace it with a process by which the Attorney-General may apply to the courts for a judicial declaration in relation to that organisation. Our amendment, to provide for the application to a court for a ruling on whether or not an organisation is an international terrorist organisation, adds another mechanism to combat terrorist organisations. The processes will be (1) United Nations Security Council listing, (2) a court ruling arising from a prosecution for terrorist acts, (3) a court declaration after an application by the Attorney-General and (4), and only as a last resort, a specific amendment to the Crimes Act listing an organisation by name, as we are doing in the case of the Hezbollah external terrorist security organisation.

If the government accepts Labor’s amendments to the terrorist organisations bill, an expeditious court based process will eliminate the need to rely on the parliament each time concerns arise about the terrorist activities of an international organisation. These four mechanisms would provide a balanced, flexible and safe regime to protect Australia. It will equip our courts, our police and our security organisations with the legal tools to attack terrorism. At the same time, it will protect Australia from the arbitrary and unaccountable abuse of executive power by ensuring that an objective assessment of all available evidence will be the basis of any decision made to ban an organisation. I commend the opposition’s approach to the Senate.

Senator GREIG (Western Australia) (6.04 p.m.)—Last year this chamber debated a package of antiterrorism legislation introduced by the government in the wake of the terrorist attacks in the United States on 11 September. The suite of bills was subject to widespread community debate and a subsequent inquiry by the Senate’s Legal and Constitutional Legislation Committee, which received more than 400 public submissions. There was no doubt that Australia, like the rest of the world, had entered a new era in which traditional threats to national security concerns had been overtaken by the more diffuse and unpredictable threat posed by fanatical terrorists.

It is not surprising, though, that the emergence of this threat created a sense of insecurity within the Australian community. Unfortunately, the government, through its rhetoric, actions and legislative agenda, effectively fuelled this sense of insecurity rather than reassuring the community; yet, even in this context of insecurity, Australians made it
clear that they intended to hold firmly to their fundamental rights and freedoms. The extraordinary community backlash to the government’s original antiterrorism proposals demonstrated the community’s understandable concern at the radical departure from well-established rights, freedoms and legal principles.

The bills, in their original form, would have significantly increased the powers of the executive and would have made freedom and liberty of individual Australians contingent upon the goodwill of the government of the day. History has demonstrated time and time again that excessive executive powers, even when introduced for good reasons, are sometimes liable to abuse with the passage of time. Another fundamental concern was that, once new powers were introduced, they could be gradually increased or restrictions that had deliberately been placed upon them could be removed, and this was very much a key concern for we Democrats at the time and just one of the reasons why we opposed four out of the five bills that constituted that suite. Yet here we are again, just one year down the track, watching the very realisation of those initial concerns. Here we are again debating the government’s proposal to remove an important limitation on the proscription power, not to mention the fact that the government has already removed another restriction on this power following the passage of the Criminal Code Amendment (Terrorist Organisations) Act 2002 late last year.

One of the consistent criticisms of the original bill was that it established this very substantial proscription power with virtually no opportunity to review its exercise by the Attorney-General. In an attempt to address this concern, the bill was amended to require the listing of terrorist organisations to occur by way of regulation made by the Governor-General in Council. Regulations were disallowable and a particular organisation did not become a terrorist organisation until the period within which the regulations could be disallowed had expired.

But this arrangement had already changed by the end of the year, with the passage of amendments providing that the listing of a terrorist organisation would not be postponed until the end of the disallowance period. In fact, the short history of the proscription power since its introduction last year could well influence one’s assessment of the government’s eleventh hour compromises on the ASIO bill, with which we have yet to deal. While the Democrats welcome those very substantial compromises, it is easy to view them with a degree of cynicism when you look at how readily the government has sought to remove the restrictions it agreed to in order to secure the passage of the proscription power.

We Democrats oppose the Criminal Code Amendment (Terrorist Organisations) Bill 2003. The bill seeks to remove the requirement for an organisation to be identified by the United Nations Security Council in a decision relating to terrorism before it can be listed as a terrorist organisation here in Australia. We Democrats are opposed to the very concept of proscription, and we voted against the introduction of the proscription regime even with the requirement that proscription be founded on a prior listing by the UN.

We Democrats are firmly committed to securing the safety of the Australian community and we will always give careful consideration to any proposal that is genuinely designed to achieve that objective. But the proscription regime does not enhance Australia’s security. What it does is deviate radically from the way in which our community has traditionally defined criminal behaviour, when there are already mechanisms within the criminal law to prevent and punish terrorist activity.
As a community we should seek to punish criminal behaviour, not thought or association. Obviously, we want those who plan terrorist attacks and those who commit them to face the full force of the criminal law. But what we do not want is a regime that criminalises membership of an organisation, particularly when the penalties are so high and particularly when the government wants the sole power to decide what constitutes a terrorist organisation and what does not. Senator George Brandis in an opinion piece in the Courier-Mail on 21 May 2002 said:

There are two simple reasons why the proscription of organisations provision is a bad idea: First, it is wrong in principle and second, because it would be useless.

It is not the role of the criminal law to ban organisations but to prevent crime. Organisations do not commit crimes; criminals do. That elementary proposition applies just as much to terrorism as it does to any other grave crime.

I agree, and these are the reasons why the Democrats opposed the introduction of the proscription power and why we will now vote against the government’s attempts to increase this power. The more arbitrary the proscription power, the more liable it will be to abuse. Whilst there may be some who are prepared to trust the government in its exercise of this power, we must remember at all times that this power is likely to remain long after the present government.

Having restated our ongoing opposition to the proscription regime, we Democrats acknowledge that we must work within the framework that now exists following the establishment of the regime last year. Within that framework, the Democrats are prepared to support the Criminal Code Amendment (Hizballah) Bill 2003; however, we will be seeking to remove the retrospective provisions of this bill.

The government tells us that Hezbollah presents a serious threat to Australian security. Unfortunately, it is all but impossible for the Democrats to properly assess whether this claim is true, because we do not have access to the government’s intelligence and, unlike the opposition, we have not been provided with any briefing regarding the threat posed by the organisation. We are therefore compelled to rely on information in the public domain regarding Hezbollah and, apart from that information, we have little choice but to trust in the government.

What we do know is that Hezbollah is an Iranian-sponsored Lebanese organisation that is committed to the establishment of a Shiite Muslim state in Lebanon and the destruction of Israel. While the organisation has a political wing that holds seats in the Lebanese parliament, as well as a military wing, there is little doubt that Hezbollah has also employed terrorism in the pursuit of its objectives. It has been held responsible—and, in some cases, has claimed responsibility—for attacks in Africa, Sweden, Denmark, Thailand, Argentina and the UK. It was also responsible for the bombing of a US Marine Corps barracks in Beirut in 1983, resulting in some 300 casualties.

I note that during the second reading debate in the House of Representatives some members appeared to be suffering from a case of what you might call George W. Bush syndrome, in that they only referred to the number of American deaths in that bombing. In fact, 56 French soldiers were killed in addition to the 241 US personnel who lost their lives.

The Democrats accept that the Hezbollah External Security Organisation is a terrorist organisation. It has clearly used terrorism to pursue its political and religious objectives. However, we must rely upon the government’s assessment that this organisation poses a threat to Australians. We note that the Governor-General can make regulations to
list Hezbollah as a terrorist organisation only if the Attorney-General is satisfied that it is ‘directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act’.

One point I would like to highlight is that it is very difficult for this parliament to undertake a proper assessment of whether regulations to list any terrorist organisation should be disallowed when we are not provided with access to the government’s intelligence regarding the threat posed by such organisations. I think it is fair to claim that there is no good reason why confidential security briefings should be limited to the Leader of the Opposition. Such briefings should also be extended to the leaders of all parliamentary parties, including the Leader of the Australian Democrats.

If the Democrats were approached and asked to disallow regulations to proscribe a particular organisation, we would expect the government to demonstrate to us exactly why the organisation in question needs to be listed and, therefore, why we should not disallow the regulations. Whilst the Democrats are prepared to rely on the government’s assessment of the threat posed by Hezbollah in this instance, we are fundamentally concerned by the government’s proposal for Hezbollah to be listed retrospectively as a terrorist organisation. The retrospective provisions in this bill are not limited to the retrospective commencement of the Act but specifically enable the retrospective proscription of Hezbollah.

Whilst the Democrats have traditionally had a strong antipathy towards retrospective legislation of any nature, we have, from time to time, been prepared to support limited retrospective provisions where there is clear justification for such provisions and where they do not substantially affect the rights and liberties of individuals. That is not the case with the bill before us. The government has not adequately explained why there is a need for this listing to be made retrospectively. More importantly, however, the retrospective listing of Hezbollah could significantly affect the legal status of individuals and render them liable to penalty for behaviour which was not criminal at the time they engaged in it. This is particularly concerning, given that very substantial penalties attach to the criminal offences associated with proscribed organisations.

For these reasons I indicate that we Democrats will be moving amendments to remove the retrospective provisions from this bill. They represent a fundamental departure from the well-established principle against retrospectivity. This principle is founded on the belief that individuals should be able to make decisions about their actions, based on an understanding of what constitutes legal behaviour and what constitutes illegal behaviour. As early as 1830, in volume 1 of his published *Commentaries*, Blackstone stated:

"... after an action ... is committed, the legislator then for the first time declares it to have been a crime, and inflicts a punishment upon the person who has committed it. Here it is impossible that the party could foresee that an action, innocent when it was done, should be afterwards converted to guilt by a subsequent law; he had therefore no cause to abstain from it; and all punishment for not abstaining must of consequence be cruel and unjust. All laws should be therefore made to commence *in futuro*, and be notified before their commencement ..."

This is one of the foundation principles of our legal system, and I urge senators to support this Democrat amendment to remove the retrospective aspect of this legislation.

**Senator FORSHAW** (New South Wales) (6.17 p.m.)—I wish to make some brief comments about the two bills before the Senate. Firstly, the ALP, as indicated by the Leader of the Opposition in the Senate, sup-
ports passage of the Criminal Code Amendment (Hizballah) Bill 2003. I think it is worth repeating what has already been put in the other place: this legislation comes about because of the position taken by the Australian Labor Party, and particularly the private member’s bill initiated by the Leader of the Opposition, Mr Simon Crean.

It should be recalled that the government endeavoured to put through legislation to give the Attorney-General a very wide-ranging power to proscribe as a terrorist organisation any organisation that he sees fit. That is the subject matter of the second bill before us, the Criminal Code Amendment (Terrorist Organisations) Bill 2003. This is a position that the government has been seeking to promote as a necessary legislative power to combat terrorism. It has been specifically argued that giving such a power to the Attorney-General to make these decisions of his own volition to proscribe any organisation as a terrorist organisation is necessary to deal with events that may occur quickly, without notice, so as to be able to combat terrorism or potential terrorist threats.

All that might sound okay to some, except that what we have seen, particularly since September 11 and the tragic events that occurred as a result of those terrorist attacks, is a monumental failure by the government to act decisively and appropriately in dealing with these issues. It has dragged its feet on legislation such as those bills dealing with ASIO, those bills dealing with border security and, indeed, this legislation dealing with the proscription of terrorist organisations. The government argues on the one hand that there is a necessity to have the power to act expeditiously; on the other hand, it has failed, despite the length of time it has had, to bring before this parliament the appropriate legislation and have it debated and passed.

The opposition have said all along that we are prepared, and always have been prepared, to cooperate with the government to put in any necessary legislation to ensure that Australians are protected from terrorist attacks or potential terrorist attacks. We have always been prepared to cooperate. But we will not sign away people’s rights and give a blank cheque to a government or to a minister to have that power solely. So it was that the response to the government’s proposition from the Leader of the Opposition was to put forward a private member’s bill that proposed this very solution—that is, by legislation through this parliament, Hezbollah could be proscribed as a terrorist organisation. Now we find that the government has accepted the opposition’s proposal and is putting it through the parliament, and we support it.

This legislation is necessary because the United Nations has not listed Hezbollah as a terrorist organisation and so there is a gap, if you like, which needs to be filled. I am glad to see that the government has picked up our proposal and brought in this piece of legislation. I do not think I need to go through the history of Hezbollah, chapter and verse; it is well known to members of this parliament and has been commented upon in the debate in the other place and widely in the media and elsewhere. Whether people want to talk about its political wing or its external security organisation, which is the particular subject of this legislation, it is a terrorist organisation that has been responsible for some of the most outrageous terrorist attacks that have occurred over the last 20-odd years. Commencing in the 1980s and continuing in more recent years, it has been responsible for vicious terrorist attacks, particularly against Jewish and US interests, throughout the world, whether in South America, Europe, Africa or indeed in the Middle East, particularly in places such as Beirut. It is given
sanctuary in Lebanon primarily because of the protection of Syria and its armed forces in that country.

There is no doubt that Hezbollah is an organisation that clearly needs to be proscribed. I also point out to those that might argue that Hezbollah is a resistance organisation that this is an organisation that even after the withdrawal of Israeli troops from Lebanon in May 2000 continued to attack Israeli villages and citizens in Israel itself. It continued to fire rockets over the border into northern Israel. Why? Because its aim is the destruction of the state of Israel—nothing more and nothing less. I took the opportunity today to log on to the Hezbollah web site. It is interesting to do that, because the first image you see on the web site is a diagram of the country of Lebanon and, next to that, an upstretched hand with fist clenched holding what to me looks like a Kalashnikov rifle or some other similar weapon. Its objective is not one of peace and not one of legitimate political resistance; its objective is one of promoting its view of the world and its view of the Middle East through terrorism. That takes care of the position with respect to the first bill that I referred to, which deals with Hezbollah.

The second bill which is before us is the broader bill, the Criminal Code Amendment (Terrorist Organisations) Bill 2003. The opposition is not prepared to support this bill, and the reasons for that have already been clearly enunciated by the Leader of the Opposition and, of course, are clear from my remarks just a moment ago. That is because this bill goes well beyond what is required to deal with the threat of terrorism to this country. This bill would give the Attorney-General unfettered power to proscribe as a terrorist organisation any organisation as he sees fit. There would be no opportunity for parliamentary scrutiny, no opportunity for proper judicial review; it would simply be on the say-so of the Attorney-General. This is not a criticism of the current Attorney-General, who I believe is a decent man, a well-qualified lawyer and someone, one would hope, who would never use such a power capriciously or in a way in which it was never intended to be used. But the point is that democracies are about ensuring proper parliamentary and judicial scrutiny, particularly when you are exercising a power to proscribe organisations—to prevent people from either belonging to or supporting an organisation. It is a fundamental tenet of a democracy.

Indeed, that is what we are fighting for when we combat terrorism. We are fighting for the maintenance and the continuation of democratic principles, where people have the right to protest and express their point of view and do it through democratic and peaceful means. History has shown ever since democracies came into being—particularly through the last century—that when you give the executive unfettered power that power eventually runs amok and it is the very principles of democracy that suffer. So we cannot support the government’s legislation in its current form. Indeed, I understand that we will be proposing amendments, which we hope the government will consider, that would ensure that parliamentary and/or judicial scrutiny would be available.

It is clear that, as we have always said, the opposition has a firm commitment to ensuring that those who perpetrate terrorism around the world and threaten the lives of all people simply in the pursuit of their extremist ends need to be opposed vigorously. We will support legislation that does that, in the traditions of our great democracy. We will not sign a blank cheque, but we will pursue adherence to those principles because, at the end of the day, that is what we are fighting for.
Tonight we are debating the Criminal Code Amendment (Terrorist Organisations) Bill 2003 and the Criminal Code Amendment (Hizballah) Bill 2003. Whilst these are two distinct bills, they both relate to the government’s reaction to the terrorist threat that Australia faces. I will address my remarks to what has been raised during the debate so far.

Senator Faulkner claimed that the government’s proposal to remove the link to the United Nations was a bid to introduce sweeping new powers for the Attorney-General. This is in fact not so. Under the current listing provisions, the Attorney-General already has the power to list organisations that meet strict legislative criteria. The criteria are set out in the legislation as a prerequisite to the making of a regulation. The only aspect of the current listing provisions that the government is proposing to amend is that which requires a UN listing before any regulation can be made listing the organisation as a terrorist organisation. The other strict safeguards in the listing process will rightly remain.

In relation to the Hezbollah specific bill, Senator Faulkner has criticised the government for not pressing the United Nations Security Council to identify the terrorist wing of Hezbollah as a terrorist organisation. It seems from the debate in the Senate on this matter that no-one would dispute that Hezbollah has been involved in terrorist activities and could be listed appropriately as a terrorist organisation. But any request to the Security Council would be completely futile. The Security Council has made a conscious decision not to have a mechanism to identify terrorist entities and individuals other than the consolidated list of Taliban and al-Qaeda related individuals and entities—that is, if you do not have a relationship with the Taliban or al-Qaeda or you are not part of either organisation, then you cannot be listed. Our intelligence agencies have confirmed that there is no evidence of a strategic link between Hezbollah, al-Qaeda or the Taliban, which therefore makes listing via the Security Council impossible. As the government demonstrated in the case of Jemaah Islamiah, where that link can be proved we will press the Security Council to list a particular organisation—and we did so. No amount of pressure on the Security Council would result in the terrorist wing of Hezbollah being listed as a terrorist organisation by the Security Council because, as I have said, under the UN’s current procedures it is not open to the Security Council to do so for the purposes of the relevant resolutions.

In criticising the government over its apparent lack of action, the opposition has in fact confirmed our justification for both bills.
In tying our listing process to the UN listing processes, we are effectively tying ourselves to an imperfect process that does not meet our particular security needs—and this is demonstrated by Hezbollah. We need a process that is not dependent on the United Nations but suited to Australia’s security requirements. For an effective counter-terrorism regime, it is vital that our laws target not only terrorist acts but also the organisations that plan them, finance them and carry them out. As part of our comprehensive approach to the new security environment, the government developed a package of strong counter-terrorism legislation, the bulk of which was passed by the parliament in July last year. Included in that legislation were amendments to the Criminal Code, allowing the listing of terrorist organisations subject to certain strict conditions, including the requirement that the terrorist organisation be identified as such by the United Nations Security Council.

The requirement that Australia wait for the UN Security Council to agree with our own assessment of what constitutes a threat to Australians and Australian interests before we can act was an amendment insisted upon by the opposition. The government argued at the time that this would potentially create problems where Australia identified threats by terrorist organisations that did not interest members of the United Nations Security Council. As I have said, United Nations lists are limited to organisations with links to al-Qaeda and the Taliban. Australia is currently in the unsatisfactory of position of being unable to act independently of the United Nations to list a terrorist organisation that poses a threat to Australia and Australian interests. Other countries can decide for themselves which terrorist organisations pose a threat to their citizens and to their interests and act accordingly. In fact, we know of no other country whose power to list terrorist organisations is linked to the United Nations. Thanks to the opposition, Australia cannot act independently of the United Nations Security Council for the reasons I have outlined.

The government has introduced a package of bills that together create a legislative framework that deals with the immediate issue of the security threat represented by the terrorist wing of Hezbollah and the longer term issue of how Australia can act independently of the United Nations Security Council in relation to our domestic criminal laws. The Criminal Code Amendment (Terrorist Organisations) Bill 2003 will amend part 5.3 of the Criminal Code to remove the requirement for there to be a relevant United Nations Security Council decision in place before we can list organisations as terrorist organisations for the purposes of our domestic law.

The second bill in this package, the Criminal Code Amendment (Hizballah) Bill 2003, will allow the terrorist wing of Hezbollah to be listed in regulations provided the statutory criteria for listing are met. This bill aims to rectify the intolerable situation that we cannot act independently of the United Nations in determining which organisations should be listed under Australian law. This bill makes specific exception for the listing of the terrorist wing of Hezbollah. As a result of this bill, the Hezbollah terrorist wing will be listed as a terrorist organisation for the purpose of the Criminal Code. The Attorney-General has already stated that he is satisfied that the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not the terrorist act has occurred or will occur. Passage of this bill will give legislative effect to that announcement.

The reference of constitutional powers from the states to the Commonwealth, which
was completed with the passage of the Commonwealth terrorism act last month, requires that a majority of states and territories agree to the amendments before they are made. We have been advised by the requisite number of states and territories that they agree to the amendments proposed in this bill. There is therefore no impediment to the changes being made. I welcome the support of the states and territories and applaud them for their practical, cooperative approach to this matter of significant security concern.

Of course, this amendment would not be necessary if the opposition could just put politics aside to support the first bill in this package, which removes the need for a UN listing before Australia can take action. The opposition has acknowledged that our inability to list Hezbollah represents a significant security concern and that our inability to list Hezbollah is a direct result of the constraints insisted upon by opposition when the listing provisions were debated last year. Given that this bill achieves what the opposition purports to want, I still encourage the opposition to put politics aside and support this bill in the interest of the security of Australia.

As I mentioned earlier, whilst these two bills are quite distinct, they are very much related to what is best for Australia’s interests. We have, in one case, the listing of Hezbollah itself and, in the other case, the longer term amendment that affords us a situation which is more in Australia’s interests where we can act upon what is in our best interest without having to rely on any listing by the United Nations. I commend both bills to the Senate.

**Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (7.40 p.m.)—**I have requested that the motions for the second reading of the Criminal Code Amendment (Terrorist Organisations) Bill 2003 and the Criminal Code Amendment (Hizballah) Bill 2003 be put separately. I think the government has agreed that the motion for the second reading of the Criminal Code Amendment (Terrorist Organisations) Bill 2003 will not be put this evening.

**Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.41 p.m.)—**I move:

That the debate on the Criminal Code Amendment (Terrorist Organisations) Bill 2003 be adjourned.

Question agreed to.

**The ACTING DEPUTY PRESIDENT (Senator Bolkus)—**The question now is that the Criminal Code Amendment (Hizballah) Bill 2003 be read a second time.

Question agreed to.

Bill read a second time.

**CRIMINAL CODE AMENDMENT (HIZBALLAH) BILL 2003**

In Committee

Bill—by leave—taken as a whole.

**Senator GREIG (Western Australia) (7.41 p.m.)—**by leave—I move:

(1) Clause 2, page 1 (line 8) to page 2 (line 6), omit the clause, substitute:

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

(2) Schedule 1, item 3, page 4 (line 22) to page 5 (line 6), omit subsections (11) and (12).

These amendments, as I indicated in my speech in the second reading debate and as I will now discuss in a little more detail, refer to the aspect of retrospectivity—that is, the retrospectivity that is a part of the legislation before us and that the Australian Democrats oppose. The amendments we have moved here seek to delete that with the aim of ensuring that the legislation will not have retrospective application.
Not only does this bill seek to commence retrospectively; it also allows for the retrospective listing of Hezbollah from the time of the announcement made by the Attorney-General. As I said in my speech in the second reading debate earlier this evening, the government has not given any indication to the parliament as to why the retrospective listing of Hezbollah is necessary. There is a sense of urgency from the government to secure the retrospective passage of this bill as quickly as possible, yet I think the government has failed to provide any evidence in support of this apparent urgency. It is reminiscent of the sense of urgency which the government implied when the proscription regime was established just under a year ago, yet it is interesting to note that the government has not initiated one single prosecution for proscription offences since those offences were introduced. When retrospective provisions carry with them heavy penalties—and in this case we are talking about up to 25 years imprisonment—the government has a very strong burden, a duty, to demonstrate just why these provisions should commence retrospectively.

It is hard to imagine any circumstances which would satisfy the retrospective creation of criminal offences with such severe penalties. It is offensive to the very foundations of our legal system to penalise people for conduct which was legal at the time that they engaged in that conduct. This point was made by Justice Deane in Polyukhovich v. the Commonwealth in 1991, 172 CLR 501. At that time, Justice Deane said that any statute that renders a person guilty of a crime against the Commonwealth for a past act which, when committed, was not a crime would be ‘inconsistent with the proper understanding of the principles of law’. In fact, this principle has been universally recognised as a fundamental human right. Article 11(2) of the Universal Declaration of Human Rights states:

No-one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed.

In other words, the Criminal Code Amendment (Hizballah) Bill 2003, if passed in its current form, would breach a fundamental human right, we would argue. This makes it very difficult for the government or, for that matter, the Labor opposition to argue that retrospectivity is justified in these circumstances because those likely to be charged with offences would have been aware at the time that their conduct was wrong. In fact, it is highly likely that those who might be caught by the relevant provisions of the Criminal Code would not have realised that their conduct was wrong. This is particularly so given the ambiguous links between the Hezbollah external security organisation and its political wing. For example, Hezbollah is said to provide a range of welfare services in Lebanon, so it is conceivable that an individual might provide training to the organisation to assist it in the provision of these services. Such a person might believe that they have acted entirely within the scope of the law when in fact they could be held guilty of an offence under the Criminal Code.

This is a clear example of why we Democrats are strongly and fundamentally opposed to the concept of proscription as a basis for criminal guilt. It is also an example of why it would be, in the words of Blackstone, ‘cruel and unjust’ for this parliament to allow Hezbollah to be listed retrospectively. The Democrat amendments seek to address this serious flaw in the bill, as we see it. As such, I commend these amendments to the Senate.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.43 p.m.)—The government opposes these
amendments. The proposal by the government would allow the provisions to operate retrospectively from the time of public announcement by the minister. The Attorney-General announced on 5 June 2003 that he intended to list the terrorist wing of Hezbollah as a terrorist organisation as soon as it was open for him to do so. The regulations, which would be made within 60 days of the day on which the Criminal Code Amendment (Hezbollah) Bill 2003 received royal assent in order for it to operate retrospectively from the date of the announcement, would put that into effect. The situation where we have had legislation acting retrospectively from the time of a ministerial announcement is accepted by convention, as long as the retrospectivity does not go back more than six months. In this case, it is for a short period of time, one which is acceptable in the normal convention of formulating legislation where there has been a public announcement. People have been placed on notice by virtue of the Attorney-General’s announcement.

What is more, it is patently in the interests of Australia to have this retrospective action. We have seen today in the debate that there is a sense of urgency in having this legislation in place in order to protect Australia’s interests. We need to have this legislation relate back to the point at which the Attorney-General made the announcement. The retrospective operation of the regulation in no way pre-empts or diminishes the decision making process of the Attorney-General, who still needs to be satisfied on reasonable grounds that the organisation is a terrorist organisation as defined in the act. We have provided express provision in the legislation to ensure that the public is kept fully informed, particularly where a listing will operate retrospectively. The ministerial announcement that I mentioned put people on notice as to what the government intended and these amendments will be circulated widely following that announcement by the Attorney-General. There is no transgression in relation to what the government is proposing here. It is simply relating things back to the time of the ministerial announcement on 5 June 2003.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (7.45 p.m.)—The opposition does not support the Democrat amendments. We do, on this occasion, support backdating this legislation to the time of the government’s announcement. My recollection is—and I stand to be corrected—that the government proposed to pursue this legislative course of action on 29 May this year. Is that wrong, Minister?

Senator Ellison—It was on 5 June 2003.

Senator Faulkner—On 5 June this year. The announcement that was made was very public. I do not think anyone could seriously mount an argument here that we are criminalising activity that might be seen as legal on this occasion. I take seriously amendments in relation to retrospectivity, particularly retrospectivity relating to criminal offences, but there are times when one has to bring an appropriate assessment to these issues. There are times when such an approach is warranted. On this occasion, I believe that the Democrat amendments to remove retrospectivity are not warranted and they will not be supported by the opposition.

Question put:

That the amendments (Senator Greig’s) be agreed to.

The Senate divided. [7.57 p.m.]

(The Chairman—Senator J.J. Hogg)

Ayes............. 8
Noes............. 35
Majority........ 27
AYES

Allison, L.F.*  Bartlett, A.J.J.
Brown, B.J.  Cherry, J.C.
Greig, B.  Lees, M.H.
Nettle, K.  Ridgeway, A.D.

NOES

Barnett, G.  Buckland, G.
Campbell, G.  Colbeck, R.
Cook, P.F.S.  Crossin, P.M.
Denman, K.J.  Eggleston, A.
Ellison, C.M.  Evans, C.V.
Ferris, J.M.  Harradine, B.
Hogg, J.J.  Humphries, G.
Hutchins, S.P.  Johnston, D.
Kirk, L.  Knowles, S.C.
Ludwig, J.W.  Lundy, K.A.
Mackay, S.M.  Marshall, G.
Mason, B.J.  McGauran, J.J.J.*
McLucas, J.E.  Minchin, N.H.
Moore, C.  Patterson, K.C.
Scullion, N.G.  Sherry, N.J.
Stephens, U.  Tchen, T.
Troeth, J.M.  Watson, J.O.W.
Webber, R.

* denotes teller

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.01 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

TAXATION LAWS AMENDMENT (PERSONAL INCOME TAX REDUCTION) BILL 2003

Second Reading

Debate resumed.

(Quorum formed)

Senator LUDWIG (Queensland) (8.03 p.m.)—The Taxation Laws Amendment (Personal Income Tax Reduction) Bill 2003 demonstrates this government’s unbelievable ability to take tax and destroy it. If you look at the taxation laws that this government have introduced, starting with when they looked at the GST, all they have managed to do is to contribute to a tax act that is growing out of all proportion. At last count, well over nine kilograms worth of tax amendments have been passed by this chamber. It is an extraordinary position for the government to be in. They talk about the reform of tax laws in Queensland and all the other states. The government in fact are letting the taxpayers down. They are not contributing significantly to a reform of the tax act. They are ensuring that average Australians are losing out. They are splitting the population up into three parts: the haves in the system and the middle in the system, and the government are abandoning the third group. They are ensuring that taxes are geared to benefit the well-off in this society. Their distribution of tax income in Australia is not equitable. They have failed to ensure that the tax system is equitable and fair and that the people of Australia are not burdened unnecessarily by taxes.

It is amazing to consider that this government came in on a program that covered issues such as ensuring that people would not be burdened by tax and that significant red tape would not be introduced into the system. Far be it for this government to take that course. They have ensured that the red tape burden in Australia has increased. Mr Howard said he would decrease it. We find that the government are bereft of an ability to reform the tax system in an equitable and fair manner. Instead, we find Senator Amanda Vanstone talking about buying a sandwich and a milkshake for $4. That is the point we have come to. This government consider that a fair and equitable distribution of the tax system amounts to a miserable $4. They have failed to equitably distribute tax sharing with
Australian citizens. They should be held accountable, and I know Senator Sherry is going to ensure that they are.

Senator SHERRY (Tasmania) (8.06 p.m.)—I want to thank my colleague. He deserves to speak on the Taxation Laws Amendment (Personal Income Tax Reduction) Bill 2003. I was under the impression that we were going on to something else, and I left the chamber as a consequence. I could not have put it better than my colleague Senator Ludwig. We could best describe this particular piece of legislation as the ‘sandwich and milkshake’ tax reduction bill. It was so appropriately described not by anyone on this side but by Senator Amanda Vanstone in one of her more honest moments. I have to say she is one of the more refreshingly honest and accurate of the Liberal ministers on the other side of the chamber.

The essence of the bill that we are considering tonight was appropriately and memorably described by the Daily Telegraph as a ‘piddling tax cut’ that for middle Australia amounted to the grand sum of $4 a week. That is the size of the tax cut for those earning between $30,000 and $50,000 a year—$4 week. It is a miserably small effort. For low earners the tax cuts are even smaller: a wage earner on $20,000 a year gets a tax cut—get this—of $1.63 a week. High earners do a little better: a person earning $65,000 a year gets a tax cut of $11 a week.

This is a bill by which, as we pointed out on budget night, the biggest taxing government in Australia’s history gives the smallest tax cuts in our history. The tax cut for ordinary working Australians is so small that, for a worker on average earnings, the tax cut will disappear; it will be swallowed up within 12 months. It gives $4 and it disappears within one year. On the budget’s prediction of an average four per cent wage increase, a worker earning $40,000 today will after 12 months pay $480 more in tax on their income. Yet, they will be rewarded with only a $208 tax cut. The Liberal government is returning much less in tax cuts than it is taking.

Let me give you a little more detail about what the bill does. Its main purpose is to implement the personal income tax cuts announced by the government in the budget five weeks ago. The proposed tax changes have three parts. First, the low-income tax offset will be increased from $150 to $235 per year. In addition, the income threshold at which the tax offset begins to phase out will be increased from $20,700 to $21,600. Second, the personal income tax thresholds will be increased. The lowest threshold, which imposes a tax of 17 per cent, now begins at $21,600; previously it began at $20,000. The 30 per cent threshold has increased from $50,000 to $52,000, the 42 per cent threshold has increased from $60,000 to $62,500 and the 47 per cent threshold has increased from $60,001 to $62,501. The third change in the bill is to increase the Medicare levy threshold that applies to taxpayers who are eligible for the senior Australians tax offset from $20,000 to $20,500.

The long overdue tax cuts in this budget do nothing to take away the Liberal government’s record as having the highest taxing Treasurer in Australian history. More tax; less service—that is this government’s seven-year record. On the government’s own figures, tax revenue will still surge from $159.8 billion in 2002-03 to $166.5 billion in 2003-04. More than three-quarters of this extra revenue grab will be from extra tax on individuals and, I have to reiterate, this is before considering the GST, which the Treasurer, Mr Costello, still continues to pretend does not exist. Apparently, the GST that the Liberal government—Mr Costello and Mr Howard, the Prime Minister—
introduced, with Meg Lees, ex-Democrat, and which they are so proud of, does not exist; it is not a federal tax. They exclude it from their own budget figures. Once the GST is added back in—$32.1 billion in 2003-04—the real tax take is $198.6 billion.

It is not just Labor that thinks the GST should be counted as a Commonwealth tax; it is also the view of the government’s two financial watchdogs: the Auditor-General and the Australian Bureau of Statistics. They are independent of government—whichever government of the day—and they will not knuckle under to the threats and the blandishments from this government about trying to have the GST reclassified from a Commonwealth tax to a state tax. The Liberal government has also rejected the unanimous recommendation—and I stress this—of the Joint Committee of Public Accounts and Audit that the final budget outcome, the FBO, should be audited by the Australian National Audit Office. The government’s excuse is that, if the FBO were audited, it might not be published until after the 30 September charter of budget honesty deadline—three months after the financial year—and it is pathetic. The consolidated financial statements released in November are audited, but they are prepared under the AAS31 accounting standards and are not the figures the Treasurer quotes on budget night. It is another way of disguising unpleasant truths.

One of these unpleasant truths is that, under this Liberal government, Commonwealth tax as a proportion of national output has achieved record levels. The budget forward estimates also reveal that this high taxing will continue. Mr Costello still stands tall as Australia’s greatest taxer—more tax; less service. Mr Costello remains the only Treasurer in Australian history to collect on average more than 17 per cent of national income in income tax. Even with this tax cut, income tax revenue will surge from $127.9 billion in 2002-03 to $134.2 billion in 2003-04. There has never been an Australian government for whom income tax represents as high a proportion of its total tax take as it does for this one. This is despite the fact that Mr Howard promised the GST would take pressure off income tax.

In this budget, the Howard government remains addicted to introducing new hidden taxes. The budget proposes increased excise on petrol and diesel and proposes a new excise on liquid petroleum gas. These tax burdens fall well short of compensating taxpayers for the burden imposed on them in other areas by the budget. Each of the government’s hits—to Medicare, education and family tax benefits—will, on its own, far outweigh the tax cuts. As I said earlier, more tax; less service. The cost of services is more and more being pushed onto low- and middle-income Australians. The $4 a week tax cut will be swallowed over a year by just five visits to a doctor who does not bulk-bill. These are the same families Mr Howard wants to slug an extra $5.50 each and every time they buy essential medicines. These are the same families who will, on average, get $400 less in family tax benefits than the government promised this financial year due to the government’s benefit clawback. These are the same families that the Prime Minister, Mr Howard, expects to pay more for higher education contributions or to take out loans to pay for their education and their children’s education. These families face up to $32 a week in increased higher education contributions debt and up to $125 a week in education loan repayments.

Although the tax cuts are puny, Labour will support this bill. The first reason we will vote for this bill is that if we do not support the tax cuts taxpayers will not get anything. The second reason we will vote for this bill is that we agree with its proposal to increase the low-income tax threshold. The third rea-
son we will vote for this bill is that it is important to adjust the tax scales on a regular basis to make sure taxpayers who moved into higher tax brackets as their incomes increase get at least some relief from higher tax rates. However, we do think it is important that governments retain some discretion in this process. Simply to lock in automatic indexing of tax thresholds would be to lock in what is, in any case, an unsatisfactory structure. That said, the increase of the tax thresholds that is part of this bill is overdue. So we support the bill, although we are critical of the mismanagement and misguided priorities that mean the tax cuts are so small. Given the tax cuts are so small, it is no surprise that the big political hit the government seems to have expected from the budget has not come to pass. The voters have seen through the Liberal government’s deceptions and reached their own conclusions.

I want to address one of the deceptions in particular: the Treasurer’s claim in parliament last month that these were not the smallest tax cuts in history because, according to him, Labor’s tax cuts of 1993, the so-called l-a-w law tax cuts, were not delivered. This is a line that has been run in the Senate by Senator Hill, the Leader of the Government, and Senator Minchin, amongst others. This claim is simply not true. What was passed and delivered to taxpayers under the l-a-w law tax cuts was twice the size of the tax cut delivered by this bill—100 per cent bigger. The first half of those 1993 tax cuts constituted 5.1 per cent of personal income tax at that time, compared with the tax cuts in this bill of 2.5 per cent. Not only that, the first half of the l-a-w law tax cuts were delivered earlier than promised. The second instalment of tax cuts Labor pledged to deliver as superannuation contributions for working Australians. That was good policy; unfortunately, it was cancelled. Who cancelled it? None other than the Treasurer, Mr Costello. He is so excited about the puny tax cuts delivered by this bill. The second instalment of the l-a-w law tax cuts, which was supposed to be delivered in the form of superannuation—higher savings for long-term retirement incomes, so vital to the future of this nation—was cancelled by the Howard government in 1997. I make the point that that was cancelled in 1997, not 1996. That was one year after Mr Costello’s first budget. This is typical of the regular pattern of distortions and deceptions practised by the Treasurer.

While I am on this issue of superannuation, it should be noted that in this year’s budget the most rapidly increasing area of taxation is not the GST, not income tax but actually tax on superannuation. When the Liberal government took office in 1996, tax collected from superannuation contributions and fund earnings tax amounted to about $1.6 billion. This financial year it will be approximately $5 billion. That is $5 billion in tax being ripped out of the future retirement income earnings of Australians. We will hear more of this next week from the minister opposite, Senator Coonan, but the government is proposing a tax cut on superannuation. Who is going to get it? High-income earners. It will be an exclusive tax cut for those earning more than $90,500 surchargeable tax income. We will say more on that next week.

Another of the deceptions is the argument that Labor cannot simultaneously promise tax cuts and new spending measures whilst retaining a budget surplus. The government likes to think it has painted the Labor opposition into a corner by delivering such tiny surpluses that there is little money left for new initiatives, but that belief rests on a false assumption: that every dollar the government spends is money well spent. Of course that is not the case and Labor will not be afraid to find savings by reallocating some of the gov-
government’s wasteful spending for better purposes. On the assumption that the Liberal government’s economic projections hold true, Labor will maintain budget surpluses in coming years, but we will also find the money to set better priorities in critical areas such as Medicare and education. We have provided full costings for all of our promises.

The opposition leader, Mr. Crean, in his budget reply speech outlined in detail the savings we would make to pay for the rescue of Medicare. All the numbers used are the government’s numbers, straight out of the budget papers. Over the four years to 2006-07 we have isolated $909 million in savings from redirecting specified parts of the government’s Medicare package, $700 million from opposing the reduction in the superannuation surcharge, $780 million from not proceeding with the government’s expensive changes to public sector superannuation and $495 million for not proceeding at this stage with the proposed changes to business tax. That is a total of $2.884 billion—almost $3 billion of savings. We will achieve further savings by getting rid of the baby bonus, which the government has said will ultimately cost more than $500 million a year but which is a demonstrated failure.

It is not as difficult as you might think to find savings to pay for Labor priorities. If it were not for this Liberal government’s mismanagement, there would be more money to pay for other priorities and the tax cuts would be greater. Labor welcomes the tax cuts provided by this bill. We condemn the government for the misguided priorities indicated by the small size of the tax cuts and for the other signs of waste, mismanagement and mistaken priorities that are revealed in the budget. As I said earlier, this bill could best be summarised with two themes. The first is that it is a ‘sandwich and milkshake’ tax cut. I have to acknowledge the kind assistance of Liberal Minister Vanstone for exposing the true benefit of this ‘sandwich and milkshake’ tax cut.

Senator Hogg—Where can you get a sandwich and a milkshake for that price?

Senator SHERRY—I don’t know. Perhaps she was wrong—maybe it will only buy a sandwich.

Senator Hogg—Where?

Senator SHERRY—I don’t know. The other theme, which I want to close on, is that this is the highest taxing government in Australian history. What is even more significant is that this highest taxing government is lowering the quality of services, education and health, with more and more being forced onto the individual to pay.

I want to make a couple of remarks about the second reading amendment circulated by Senator Murray. Labor will not be supporting the second reading amendment. Our primary concern is subclause (d), which says that future tax cuts should be directed at significant relief for low-income Australians. Whilst we do not disagree with a priority of tax cuts for low-income Australians, it is not just low-income Australians who are hurting under this government. It is also middle-income Australians. I do not know how Senator Murray defines low-income Australians—perhaps those on less than $30,000 a year—but I think that average earnings are now approximately $46,000, which is getting up to middle-income territory. It is low- and middle-income earners who need relief in a variety of forms. Therefore, we do not agree that tax cuts in the next budget should be directed solely to low-income earners.

To be perfectly frank, if an average income is $46,000, I do not know how a person on a middle income with a non-working spouse and a couple of children can cope, particularly when you look at the cost of housing, the extra medical and education responsibilities that this government is trans-
ferring to them and the additional pressures that are continually being added to their budget expenditure by this Liberal-National Party government. I will conclude my remarks there.

Senator Murray (Western Australia) (8.25 p.m.)—I rise to speak on the Taxation Laws Amendment (Personal Income Tax Reduction) Bill 2003. The tax reductions that this bill envisages will amount to $2.4 billion in 2003-04 and $10.7 billion over the next four years. The income tax reductions will be achieved in two ways: by addressing the low income tax offset and by addressing the tax rate levels.

Well prior to the May budget, the Prime Minister and Treasurer were publicly musing about the need for tax cuts. In February and March this year, the Democrats party room discussed a possible Democrats approach to a budget tax cut, knowing that, whatever the case, Labor would be at odds-on to accept any tax cut, given its own rhetoric at the time. The starting point for the Democrats is that Commonwealth revenue and expenditure are still insufficient to meet the pressing and legitimate expectations and needs of Australians for health, education and the environment, amongst other things. What we have consistently said is that we do not so much need increased taxes as increased revenue. We have isolated attacks on tax expenditure and tax wastage as the means of assisting the growth in revenue which is delivered through normal economic growth.

Prior to the May budget, two matters had been the subject of public debate: bracket creep, which had considerable media and middle- and higher income community interest, and the tax cuts for middle- to higher-income earners, which was apparently then the coalition objective. Bracket creep is the impact of inflation related salary increases on the static progressive marginal tax rates.

Indexing tax rates to resolve the bracket creep problem would result in a cost to the revenue by 2005-06 of an estimated $3.5 billion per annum, so it is always dismissed as too costly. Also, because bracket creep is a way for the government to increase revenue without increasing tax rates, it seems highly unlikely that that will ever seriously be proposed by either the Labor Party or the Liberal Party.

The question for the Democrats is whether indexation should ever be seriously proposed by us as a long-term policy objective, recognising that it is considered unaffordable at present. Leaving that aside for the moment, there is then the question of periodic tax cuts as opposed to the regular annual relief, or even six-monthly relief, that indexation could deliver. The question is: should there be any tax cuts at all? A recent ANU survey found that the proportion of Australians wanting tax cuts had fallen and those preferring the money spent on services had increased. However, a preference for tax cuts still rated well ahead of spending on services by 42 per cent to 30 per cent, with 28 per cent undecided and ‘it depends’. Knowing human nature, I would suspect that the larger the tax cut offered, the more likely it would be that the rate of those who want it would rise.

I am not aware that the Leader of the Opposition, Simon Crean, has made other than vague comments about being committed to tax cuts for families and solving the bracket creep problem. Perhaps this is a policy area we will see some attention given to. From the Democrats’ perspective, our first priority is the provision of essential government services and our second priority is addressing the needs of low and middle income earners. To answer Senator Sherry’s earlier question, if you have to have a priority out of those two, low comes before middle, and middle comes before high. That can be done by ad-
dressing the tax and welfare intersection, by adjusting tax rates or by raising the tax-free threshold. The most important distributive mechanism for improving the lot of low-income Australians is to improve their disposable income. Because low-income earners spend and do not save—in economic language, are dissavers—that has an immediate effect on the economy.

From the employer’s perspective, if the disposable income of low-wage earners increases but the gross cost to the employer stays low, everyone will be happy—and, plainly, paying attention to disposable income in that manner may take some of the stress and some of the tension off the low-wage case which has to be mounted annually.

Let us be fanciful for a moment. Imagine if the government had the ticker for a real tax cut. Imagine if it raised the tax-free threshold from $6,000 to $20,000. ACOSS, in their ‘Info 347’ June 2003 paper, say that the average tax rate on all income for someone earning $20,000 a year is presently 12 per cent, or $2,400. So, if the tax-free threshold were raised to $20,000, that low-income wage earner would have $2,400 more per annum, or $46.15 more per week, disposable income in their pocket, and no additional cost to the employer.

Raising the tax-free threshold would of course flow right up through every income level and would cost a massive nearly $18 billion a year. That would have to be paid for by massively reducing corporate welfare, welfare for the wealthy and various tax lurks. Even the hidden gold of those tax expenditures, wonderfully detailed in the Parliamentary Library paper by Julie Smith recently, would not prove a rich enough mine for such a dream. But that would be a tax cut.

Back to reality: tax cuts are emotive and big attention-getters because they represent real money in the pockets of Australians. It is always a bit sad when people disparage tax cuts of $4 a week, because we forget that, accumulated over the year, that is a fair amount of money to somebody who is very poor.

The Democrats’ position has been consistent throughout. The government’s first priority should be the provision of services—health, education and the environment—and if there are to be tax cuts they should be fair. The best way to provide tax cuts to all Australians is simply to increase the tax-free threshold. This means that more can be earned before any tax is paid, and it goes a small way to improving the high effective tax rates for someone moving from welfare to work, reducing poverty traps and putting some fairness back into our society.

The Democrats’ position was outlined before the budget. We showed the government how it could save almost $5 billion. There are too many tax concessions that advantage only the well-off and allow tax planning that effectively and legally results in tax avoidance. The tax burden then falls on salary and wage earners, who quite understandably feel they are being overtaxed. For instance, the ACOSS paper I referred to earlier says that for people earning $100,000 their tax rate on all income is 34 per cent, way lower than the 47 per cent effective marginal rate normally quoted.

The FBT concession encourages the use of cars and detracts from the use of public transport. The Australian Democrats believe the FBT concession for company cars should be removed. Treasury’s tax expenditure summary calculates this as delivering $900 million. A small portion of this amount could be used to fund back an FBT exemption for employees to use public transport. If we reintroduce the indexation of excise on petroleum, there is an estimated revenue of $300
It is legitimate to use taxes to discourage socially damaging behaviour, and the decision to stop indexing the excise on petrol due to temporary price increases was a mistake. It is in the long-term interests of Australia to discourage the use of petrol and to seek environmentally friendly alternatives.

We could limit the deductibility of negative gearing. That could deliver an estimated revenue of between $1.2 billion and $2 billion. Negative gearing has fuelled the massive increase in the property market and resulted in Australia’s high personal debt levels, according to the head of the Reserve Bank, Ian Macfarlane. As a result, many low- to moderate-income earners are increasingly being priced out of the property markets in our major cities. Tax deductions for negative gearing property cost around $1.2 billion in 2001, and the evidence is that this is growing. Instead of encouraging investment in unsustainable apartment developments, the government should be diverting lost revenue into schemes to encourage investment into affordable rental housing for low- to moderate-income earners.

There is the government’s squibbing on taxing trusts as companies. The government has lost there an estimated revenue of $450 million. That measure, if effectively implemented, would have simplified the tax world and limited the use of trusts as tax avoidance vehicles. It was recommended by the Ralph Review of Business Taxation, it was supported by the Labor Party and the Democrats, but was not implemented, predominantly due to pressure by the farming lobby.

We could remove the capital gains tax discount for individuals, which could deliver a further revenue gain of $250 million. Those capital gains tax reforms introduced in 2000 provided substantial discounts to those fortunate, relatively wealthy Australians who are able to invest in capital. This initiative benefits only those who are able to accumulate assets and further increases the wealth of the wealthy without benefiting those on low to moderate incomes. The Australian Democrats would wish to remove that discount and tax capital gains at the full amount.

We could impose income taxes on the major commercial activities of clubs and charities which operate businesses and abuse the mutuality system. That would deliver an estimated revenue hit of $200 million. Some large sporting clubs and charities conduct major profitable businesses that are currently exempt from income tax. For a range of equity and transparency reasons, these commercial operations should pay income tax.

We could redirect the first home owner grant to social and affordable housing. That would produce an estimated revenue of $340 million. The first home owner grant is not means tested and is currently directed to all first home owners. A better use of these funds would be to provide housing assistance to low- and moderate-income earners who are priced out of home ownership. The support that the FHOG provides to the construction industry could be assured by directing the funds towards the construction of new dwellings for low- to moderate-income earners. The funds could be used to support social public housing or innovative, affordable rental housing for moderate-income earners.

We could means test the private health insurance rebate, which would give us an estimated revenue of between $1.2 billion and $2 billion. The federal government should means test that billion dollar private health rebate to reduce the taxpayer subsidy of private health insurance for top-income earners. That is a huge cost to the budget. It will start to reach towards $3 billion a year over the next few years. Even the minister has agreed that this has not reduced pressure on hospital
That rebate should have been means tested in the first instance.

What are we about here? We are about trying to attack tax expenditures so that you reduce the amount of indirect tax concessions and you reduce the advantages given via corporate welfare and welfare for the wealthy and you are then able to release money either for other expenditure and services or to put back into people’s pockets.

The list we have outlined comprises some $5 billion in additional revenue. ACOSS argue there is at least $7 billion that could be stripped out of the $30 billion worth of tax expenditures. The government could then decide whether to use it to save Medicare or to stop university students from being slugged excessively or even to start spending more on the environment, in areas such as the Murray basin—in which I do not have an investment, unfortunately! They could also provide real tax cuts for those Australians that are struggling at the moment. We are sympathetic to the view that tax cuts are a lower priority if Medicare and bulk-billing need funding and if university funding is under serious threat. One is an immediate need and the other caters for our future.

But it must be recognised that, in this bill, these tax cuts only provide a portion of the additional amounts of revenue that the government is already collecting from bracket creep and wage inflation. If this bill is passed, which it will be, the government will still collect $5 billion more from individuals in 2003-04 than it will this year, despite the $2.4 billion worth of tax cuts. Understandably, in regard to income tax cuts many members of the public will undoubtedly welcome some tax relief. It is a strange person that does not value a dollar in their pocket. In that respect, I disagree with those who see a small tax cut as not being meaningful to many people. But those individual savings that people will get will clearly be swamped by the forecast or intended costs in education, health or housing. It is in that respect that the modelling we are provided with as parliamentarians is very deficient. There is no means by which we are able to assess or measure out what is happening on the overall tax scene for individual cameos of individual demographic classes.

We think the tax measures will increase the gap between high and low earners. The Democrats’ preference, as we have said before, is for an equal tax cut for all Australians. We outlined those alternative tax options in the week prior to the budget. For example, the option we gave of increasing the tax-free threshold from $6,000 to $7,500 would have given a $255 tax saving to all taxpayers equally, from the top to the bottom. This would have cost the same as the tax cuts proposed in the current bill. Our proposal would have given a low-income earner on $10,000 a year a 3.4 per cent increase in disposable income. The current bill provides a less than one per cent increase. In contrast, the government is giving someone earning $70,000 an over one per cent increase in disposable income, whereas we would have given them half a per cent. It is a matter of balance and a view that you take.

Another option could have been to maintain the increased low-income tax offset, which is a good feature of this bill. This provides added assistance for those earning under $30,000 a year. Under the government’s plan, those on $20,000 or less receive just $85 a year in tax cuts, while those on $62,500 receive $573 in tax cuts. Under the Democrats’ proposal, we would have attempted to make sure everyone would receive at least $240, with slightly more for those earning under $30,000. We think those are fairer tax cuts, and they would not just benefit those at the upper end.
One of the advantages of our proposal is that it is more likely that the additional money given to lower income earners would be spent and reinvested directly into the Australian economy. We should also remember that the well-off have already had their tax cuts. Capital gains tax cuts were such that the CGT was halved just a few years ago, with Labor support, despite the Democrats’ opposition and despite the fact that it clearly mainly benefited those wealthy Australians with investment portfolios and share portfolios. Of course, the 30 per cent rebate on private health insurance, costing the taxpayer over $2 billion a year, favours higher income earners as well. The government has also decided against acting on the advice of its own Ralph review of taxation to crack down on trust tax avoidance, and there are those areas that I mentioned earlier.

All the talk of the disability support pension changes and the Pharmaceutical Benefits Scheme changes being absolutely necessary for the budget bottom line last year simply was not true. As we know, the government has been able to deliver a much higher rate of return in its surplus and it is still able to afford a tax cut arising out of the moneys it has generated in the last year. This government, regrettably, is starting to develop a reputation for being a little loose with the truth, and the silly statements about last year’s budget in the Senate are just another example of that.

In summary, when we talk about tax cuts we need to do two things: we need to focus, firstly, on the services that have to be delivered and paid for and, secondly, on where the tax cuts are most needed. The tax system does need to be made a lot fairer. We are not a highly taxed country, relatively speaking. We are the sixth lowest taxed country in the OECD. I was delighted to hear the minister make that remark the other day on the television. It confirmed a view that the Democrats have consistently put. We think the Labor line of arguing that we are an excessively taxed country is dangerous. We believe it encourages a view that we should not generate additional revenue and that we should underinvest in education, health and the environment.

You simply cannot have it both ways: you cannot have a very low tax system and at the same time demand high expenditure on services and simultaneously low debt levels. I have consistently agreed with the Treasurer’s remarks on that basis, and I wish Labor would get off that. We are the sixth lowest taxed country in the OECD. We and ACOSS are of the view that we need to lift our revenue, but we recognise that low-income people still pay too much and high-income people pay too little. The Democrats will support the bill. It does raise the tax threshold and does increase the low-income tax offset, and it has some virtues. I move the Democrats second reading amendment, on sheet 2951, which has been previously circulated:

At the end of the motion, add:

“but the Senate:

(a) recognises that very large numbers of Australians believe that greater spending on health, education and the environment is a greater priority than tax cuts;

(b) believes that the tax cuts in this bill could have been much better targeted to low- and middle- income earners;

(c) notes that the National Centre for Social and Economic Modelling indicates that 14 per cent of families will get 41 per cent of the benefit; and

(d) believes that if the Government is considering future tax cuts in the next budget, they should first be directed at significant relief for low income Australians”.

Senator SANTORO (Queensland) (8.45 p.m.)—It is very refreshing to see that at
least one senator who sits on the other side of
the chamber recognises and appreciates that
a tax cut is a good thing and that this particu-
lar tax cut is of great benefit not only to all
income earners, particularly low-income
earners, but also to the economy. It is also
good that Senator Murray recognises that we
are one of the lowest taxed economies in the
world; as he said, that is something that those
senators sitting opposite me and close to him
should also recognise.

The defeat of the Keating government
brought to an end over a decade of boom and
bust and incompetence and unprincipled
conduct in respect of economic management.
The Howard-Costello government has been
about principle, about having values and the
courage to live and apply them. The Howard-
Costello government has been about making
the tough but fair decisions, in the national
interest, to secure long-term economic cer-
tainty and growth.

The Prime Minister and Treasurer have
pursued this course because they understand
that economic growth is the most important
financial and social policy goal a govern-
ment can have. Before I turn to the reasons
why I am supporting the government’s tax
cuts, it is important to reflect on how far we
have come since 1996. Since coming to of-
cifice, this government has implemented eco-
nomic policies providing for strong and sus-
tainable growth. By the end of this financial
year, on June 30, we will have reduced La-
bor’s net debt by about $63 billion. Interest
rates are at around their lowest levels in 30
years. Unemployment is around its lowest
rate in 10 years. More than one million jobs
have been created since March 1996, with
most of them within the private sector—the
real engine of our economy.

In short, under the responsible financial
management of the Howard-Costello gov-
ernment, Australia has gone forward. Under
Labor, up to 1996, Australia went back-
wards. The progress Australia has made un-
der the Howard-Costello government is not
just in terms of paying back Labor debt and
creating jobs. In August 1998, the govern-
ment produced a bold plan for wholesale tax
reform. It was a framework designed to
achieve stronger sustainable growth, higher
productivity, more jobs and raised living
standards. The government said that tax re-
form is not an end in itself; it is an indispen-
sable part of a broader coordinated policy
approach that has as its goals greater incen-
tive, security, consistency and simplicity. It
also provides for fairer outcomes, greater
choice and greater opportunity.

As part of that broader coordinated policy
approach, tax reform is essential if Australia
is to achieve its full potential as a nation in
the 21st century. The tax reform that is nec-
essary for Australia, and to which the coali-
tion government is committed, is not reform
narrowly focused on establishing a new tax
but reform which delivers a new tax system,
a system that is built on a lower tax burden
and which is fairer, more internationally
competitive, more effective and less com-
plex. It is a new tax system that has as its
central priorities not only the efficiency and
effectiveness of our national economic pol-
icy framework but also the sense of equity
and fairness that has always been a part of
the Australian way.

Before it implemented the program, the
government went to the people to seek their
support. Having clearly won that support at
the 1998 election, the government, together
with the goodwill and enormous efforts of
the community, especially the small business
community, implemented the reforms, with
considerable success. It delivered massive
reductions in personal income tax and in-
creased tax relief for families and self-
funded retirees. I was also very pleased to
note that, to protect small business and farm-
ers, the government rejected the Labor Party notion of taxing family trusts as companies.

The Treasurer’s eighth budget, brought down last month, delivered a larger than expected $3.9 billion underlying budget surplus—a stark contrast, may I add, to the abysmal record in the area of surpluses of all state and territory Labor governments throughout our nation. This government has consistently run budget surpluses since 1997-98. The economy is predicted to remain robust against the backdrop of an uncertain global economic outlook. This is reflected in forecast economic growth of 3.35 per cent. This outcome will retain Australia’s place at or near the top of global developed country growth. Next year, we will pay a further $2.6 billion of the debt Labor left behind, taking further pressure off inflation and interest rates. Having reformed the fundamentals of the tax system and having secured a strong economy through responsible economic management, the coalition government is proposing to deliver further reductions in personal income tax in this bill today.

In my first speech in this place I put on the public record my support for lower taxes. I put on record my view that Australia must always benchmark itself against the rest of the world in this important area so that we are not left behind. Today I am proud to support this bill to reduce personal income tax for every Australian. This tax cut is the result of good economic management, but it is more than that. This tax cut is about principle. It says that when the government has paid back Labor’s debt, when it has met its responsibilities in core public services, it returns to the people as much of their money as possible.

Allowing the people, and not anyone else, to determine how they spend their money is a core principle that I, as a Liberal, hold dear. A reduction in income tax levels increases the rewards to additional labour earnings. In response, workers may increase overtime hours, increase work intensity, add to the human capital to boost earnings or be more likely to enter the labour force or delay retirement. Some groups, including married women, have been found to be quite responsive to changes in after-tax wages.

Personal saving provides individuals with financial security and allows the levelling out of consumption over a lifetime. The nation’s savings are put to use by businesses to increase their capital stock and to generate long-term economic growth. Lower personal tax increases the attractiveness of saving. The income tax system has a wide-ranging impact on how small businesses are structured and operated. Personal income tax levels have a direct effect on small business profits, hiring, investment and growth, particularly for the self-employed and tradespeople. Three of the many reasons to cut taxes may be summarised as reward for effort, encouragement to save and support for entrepreneurial activity—all good solid Liberal underpinnings and Liberal philosophical planks.

The Prime Minister and the Treasurer have flagged further reductions in personal income taxes through responsible economic management. I want to again place on record my support for that position. I congratulate the Prime Minister and the Treasurer for sticking to their values and delivering this tax cut for all Australians. It is true that the income tax cuts announced in the budget are modest, as Senator Murray has just outlined. That is because they are responsible in the current economic climate, because they are genuinely affordable and because they meet the classic test of Liberal philosophy—they return to the taxpayer money that can be used better by the taxpayer than by the government. This is not a concept that those opposite understand, and the record shows this.
Labor’s philosophy is that it knows best—the classic socialist position—and Labor’s record is that non-discretionary tax becomes a heavier burden on people when Labor is in power. In his budget reply speech in the other place, the opposition leader said:

The highest taxing government in our history has given you the smallest tax cut in our history.

That is not true. Tax is not something Labor or its leader should talk about in the context of meeting their obligations or keeping their promises. It was Labor—or rather that collector of antique French clocks, Paul Keating—who introduced the l-a-w tax cuts that turned out not to be tax cuts at all, because after the election the Labor government cancelled them; it reneged on them. Labor is supporting this year’s sensible and appropriate tax cut measure, and that is good. The fact that this modest advance in the personal wealth of Australians would not survive the return of a high-taxing Labor government is, for the moment, an academic question. Labor is again demonstrating its feet of clay on fiscal policy.

Labor had to be dragged screaming into the tent—or partially into the tent—on the biggest tax reform measure in our history: the introduction of the GST, which Labor and others would like people to forget was also the mechanism by which the states secured a genuine growth tax for the first time in 60 years. I should add again that Labor states secured that windfall without suffering any political pain—there was a rush to the Prime Minister’s table by all the Labor states to sign the GST agreement. The Commonwealth collects GST and the states and territories benefit. The Commonwealth collects the revenue and takes the pain; the states and territories reap the gain and they still complain.

All the revenue from GST goes to the states and territories. They are the units of government that run hospitals and schools and equip and fund essential services such as the police, fire service and ambulance—except, as honourable senators know, the ambulance service in my home state of Queensland, which is now to be funded by people who pay electricity bills. That is the face of modern Labor: let costs blow out of control then slug the consumer; do not make good use of the windfall tax revenue that is flowing through to Labor Party state government coffers, just slug the consumer.

The Howard government, in contrast, believes in value for money. The Howard government believes in sensible budgeting. Australia is all but alone among the significant players in the global economy in running a surplus, paying back debt and delivering a tax cut. The measure in this bill increasing the low-income tax offset increases personal income tax thresholds and increases the Medicare levy threshold for older Australians. The tax measure has received much positive comment from people who are fair minded and reasonable and who, unlike those opposite, have recognised the real benefits. One commentator homed in on an area that the Labor Party in particular has been very shoddy about and said:

While critics are making fun of the federal government’s mini tax cut, there are some people to whom it could make quite a difference. For self-funded retirees in a position to utilise a superannuation income stream like an allocated pension, Budget 2003 has boosted their capacity to earn tax-free income by between 3 and 4 per cent.

Where is the good grace from members opposite in recognising that very real achievement for self-funded retirees? We do not hear them get up and make speeches that recognise an essentially fair and desirable aspect of that tax cut for self-funded retirees. The Age newspaper said:
In themselves, the cuts are modest: PAYG taxpayers earning $35,000 a year can expect to find an extra $4 a week in their pay packets and those on $55,000 can expect $8.60. But the cuts, like the Medicare changes, are tightly targeted and intended to give the most benefit to low and middle-income earners.

Mr Acting Deputy President, you can understand why I am so excited about this particular bill tonight. You can see why I wanted to talk about it here tonight. The truth needs to be placed on the record as often as possible in this place, because those opposite are certainly not willing to do so in this place. This is a sensible budget measure that is affordable in terms of both the present budget and the downstream effect on future budgets and yet gives a $2.4 billion boost to the consumer economy this year and over $10 billion over the next four years. It is a good bill and a good measure, and once again it sees the Howard-Costello government delivering for the battlers that the Labor Party often talks about but does not in reality look after.

Senator NETTLE (New South Wales) (8.58 p.m.)—On budget night in May 2003 the Treasurer announced an income tax cut of around $4 per week for the average income earner. This tax cut will reduce the projected budget surplus by around $2.4 billion in the coming year and much more in future years. This government claims that as a badge of honour. Never mind that the tax cut for the highest income earners is nearly three times that of average income earners and never mind that for some on lower incomes the cash benefit is negligible—the government is happy because they believe tax cuts are always good, no matter what. Yet again this government’s policy flies in the face of public opinion. Another in a long line of polls, published in the Sydney Morning Herald shortly after the Treasurer announced these tax cuts, confirmed what is becoming a political truism, obvious to all except the most ingrained of economic rationalists: people are happy to forgo tax cuts in order to pay for better services.

The Greens are part of a political movement that has been aware of this public mood for many years. The Greens are also aware of the support for more thorough tax reform that would deliver a more genuinely progressive taxation system, based on ability to pay and focused on the needs of the community. The Treasurer is not interested in this kind of reform, happy instead to continue with the ragbag of fiscal policy which on the one hand dishes out billions in corporate welfare and rewards tax dodgers through private trust loopholes and on the other hand simultaneously straightjackets the Commonwealth’s ability to make the social investments in education and health that the community is crying out for. Even when unchecked bracket creep regressively increases the tax take, this government chooses to avoid investment in public services—that is, to the social good—in favour of the $4 a week insult.

Our university system is one of the most investigated, analysed, reviewed, poked and prodded public sector services in Australia. All of these reviews and inquiries have been unanimous in their judgment that the sector is desperately in need of significant government investment if it is to serve the needs of our society and compete on the world stage. And what is the government’s response to this dire state of affairs—a state that they themselves have been largely responsible for? Their answer is reforms to the funding of our higher education system that would see student fees rise by up to 30 per cent, see interest charged on postgraduate student loans and limit undergraduates to five years of government subsidised study. But that is okay, according to this government, because you will have an extra $4 in your pocket!
You cannot go out and buy a top class regional university for $4. You cannot purchase 100 new GPs for Western Sydney with $4. And you cannot buy many lecture theatres with $4. As individuals we cannot go out and buy these public services. It is the responsibility of government to redirect the individual tax cuts into genuine investment in our essential services. This is what the Treasurer simply does not get. This is why these tax cuts have been the laughing-stock of the Australian public and why the Greens are seeking to amend the motion for the second reading of the Taxation Laws Amendment (Personal Income Tax Reduction) Bill 2003—to show the Treasurer what he could have and should have done with this money.

The Greens call on the government to take the money earmarked to fund the $4 a week tax cut and the $270 million going to the multinational corporate tax rate and invest that money in upgrading Australia’s education system, returning to a free, universal, high-quality public education system that sets world’s best practice for higher education excellence and participation. For this to become a reality, funding per student and in total must increase. The Greens endorse the call from the Australian Vice-Chancellors Committee for education funding to increase to at least two per cent of GDP by the year 2020, but we recognise that it would best serve the interests of the sector and the country if the majority of this funding were sourced from the government.

The Greens’ vision for higher education in this country represents a firm step in that direction. The key financial elements of the Greens’ package and vision for higher education is, firstly, for $1.7 billion amassed from the $4 tax cut to be redirected into abolishing HECS, forgiving the current HECS debts and allowing strong growth—that is, for $1.7 billion of the $2.4 billion tax cut proposed in this legislation, we could return to free tertiary education in this country by abolishing HECS and forgiving the current HECS debts that students are shouldering. It is a choice of priorities that this government has made. Rather than investing in the future higher education needs of the ‘knowledge nation’ or the clever country that we live in, this government is choosing to put an extra $4 in people’s pockets. That will not buy them a quality higher education system. That will not buy them a belief and a faith in the future of this country through the educational opportunities provided to young people in this country.

The Greens would also take the remaining $0.7 billion amassed from the $4 tax cut in this legislation and through that fund an additional 50,000 university places, going some way towards gradually addressing the current unmet demand for places in the higher education sector. If you added to this the $270 million over four years from the tax cuts for multinational corporations that were announced in this year’s budget, you could increase funding for student support measures to address the low Indigenous participation rates, the sharp increase in work to study ratios and student poverty. These are the options; this is what we could be doing with the proposal put forward by the government in this piece of legislation. This is about the vision the Greens would bring to investing in the future of this country—rather than putting $4 in the pockets of Australians who cannot use it to invest in and build these essential public services and a public education system that we value—

Senator Ferris—How do you know that?

Senator NETTLE—and that provides us with such a foundation in our country.

Senator Ferris—How would you know that?

Senator NETTLE—Four dollars does not buy you a quality education system.
Senator Ferris—it might be very valuable to them.

Senator Nettle—When we put that together—

Senator Ferris interjecting—

Senator Nettle—Senator Ferris, if I took the $4 given to me by this federal government out of my pocket—

The Acting Deputy President (Senator Ferguson)—Senator Nettle, please address your comments through the chair.

Senator Brown—Mr Acting Deputy President, I rise on a point of order. Senator Nettle will not need to address Senator Ferris if she stops interjecting, which is disorderly.

The Acting Deputy President—Senator Brown, there is no point of order.

Senator Brown—Mr Acting Deputy President, I raise a new point of order: interjections are disorderly. I stand by that. There is a point of order there.

The Acting Deputy President—Would you please resume your seat, Senator Brown.

Senator Brown—There is a point of order there.

The Acting Deputy President—Would you please resume your seat. Thank you.

Senator Brown—Mr Acting Deputy President, I rise on a point of order. It is disorderly to interject—

The Acting Deputy President—Would you please resume your seat, Senator Brown.

Senator Brown—and I note that you take note of that.

The Acting Deputy President—Would you please resume your seat.

Senator Nettle—I was in the process of pointing out to senators opposite what I would do with the $4 given to me by the Howard government if I had the choice. I think Senator Ferris was asking how I could say that that would not buy you a quality higher education system.

Senator Ferris—Mr Acting Deputy President, I rise on a point of order. I actually said—

Senator Forshaw—that is not a point of order.

The Acting Deputy President—Senator Forshaw, I will decide if it is a point of order.

Senator Ferris—The point I actually made was that Senator Nettle would not know. I did not say that she did not know.

The Acting Deputy President—There is no point of order.

Senator Nettle—I think Senator Ferris is making a suggestion that with the $4 received through this bill from the Howard government one could make the choice to buy a free, publicly funded quality higher education system in this country. Senator Ferris, I think that might cost a little bit more than $4 and, as an individual, I am not sure that with my $4 I am going to be able to do that. So what I am suggesting and what the Greens foreshadow proposing in an amendment to the motion for the second reading of this bill is to take—and I will just say it once more for Senator Ferris—the $1.7 billion out of this bill and use it to return this entire country, not just me as an individual, to a situation where we have free tertiary public education. That is the proposal the Greens will put up in an amendment that I foreshadow moving in this second reading debate.

I do not stop just there. The Greens are proposing to use the $2.4 billion in this legislation not just to abolish HECS but also to fund an additional 50,000 university places...
to start to gradually address the unmet demand that exists in the higher education sector. These proposals and the one that I just previously mentioned—the $270 million over four years for addressing low Indigenous participation rates and student poverty levels—sit with previous commitments that the Greens have made with regard to federal government spending in the area of higher education.

At the last election we talked about the $1.3 billion needed for higher education that could come from reversing the cuts to domestic company tax rates. That $1.3 billion would provide us with a 20 per cent increase per EFTSU funding to block funding. There can be no increase in student numbers without significant investment to address staff and infrastructure pressures, so this $1.3 billion includes a $618 million injection into ARC research funding over three years and $4 million per annum for initiating teacher training programs.

Australia chronically underspends its tax dollars on higher education and has done so over the past seven years, with cuts to forward estimates in 1996 stripping the sector of over $1 billion—and that is just in the first four years of the Howard government. At the same time, private funding for universities as a percentage of total expenditure has climbed rapidly. Australia was the fourth highest spender of private money on universities in the OECD at the last count. This private money is coming largely from students and their parents but also from corporate interests and entrepreneurial activity. In 1999, Australia spent 0.8 per cent of GDP in public funding on tertiary education and 0.7 per cent in private funding on tertiary education, coming a low 21 out of 28 in OECD ranking of public investors in tertiary education.

The government will tell us that the budget measures relating to higher education are turning this around, but their claims are predictably misleading. Leaving aside the billions lost from the sector since this government came to power, the Greens question the priorities of a government which delivers, as Ross Gittins noted in the *Sydney Morning Herald* today:

... this measly cut nonetheless had a four-year cost to revenue of $10.7 billion, which was seven times the $1.5 billion four-year cost of the Government’s increased spending on universities.

What Gittins means is that this government has failed us twice by giving us something nearly worthless at the cost of something priceless—the future of higher education in this country, the opportunities for young people and the access to improvement in employment opportunity provided to young people through our higher education system. The Greens condemn this lack of leadership and call on our fellow opposition parties to join the Greens in opposing the coming cost shifting from government to students by supporting a significant investment in public university education and to demonstrate this commitment by supporting our foreshadowed amendment to the motion for the second reading of this short-sighted and cynical bill.

**Senator LEES (South Australia)** (9.13 p.m.)—Despite myths and rumours, Australia is not overtaxed; Australians are not overtaxed. If you look at it as a percentage of our gross domestic product, you will see that we are one of the lowest taxed countries in the OECD. I refer specifically to a recent ACOSS report. The figures in the report are not in any doubt and they are not debated. This report talks, firstly, about the comparison between Australians and Americans. It shows that we in fact pay less income tax—not something that is generally recognised. We in Australia pay around 23 per cent and Americans pay around 24.5 per cent of their incomes in direct income tax. That is not
something I was aware of, but it further highlights the fact that Australia is quite a low-taxed country. I will quote a couple of paragraphs from a media release that ACOSS put out on Tuesday, 10 June. It says:

Our report on Australia and international taxation shows conclusively that:

Australia is the 6th lowest taxing OECD country, with only Mexico, Ireland, Korea, Japan, and the United States—

we are talking about all taxes collected—collecting less tax in proportion to GDP.

They make the second very important point:

The people paying the highest tax rates are not high income-earners. They are unemployed people and mothers in low-income families, who often lose more than 70% of their extra earnings as a result of ‘poverty traps’ in social security and tax rules.

As we look at this very substantial amount of money—$2.4 billion, which is what is involved in 2003-04—that the government has now decided to spend, through this piece of legislation, by giving people a few dollars a week, we should ask ourselves what else we could have done with it. I would like to start with the people ACOSS has identified—people on social security benefits or some sort of pension who are trying by finding part-time work, perhaps getting some contract work to get out of poverty, to do the best they can—who find themselves facing effective tax rates of some 70 per cent. There is a raft of ways in which government can support families struggling with poverty, struggling to make ends meet and put a roof over their heads. Indeed, as we look to the charities around Australia, we see that they are facing more and more requests—for food vouchers, blankets, help paying essential bills such as for electricity and gas and help meeting the costs one now faces if children are in the public education system. Surely it would be better to target these dollars into some of those areas of need—towards public schools, to reduce some of their costs and in turn reduce some of the compulsory fees that parents find themselves unable to afford.

Perhaps a substantial amount of the money could be put towards improving the supply of public housing. In this country, we have a housing crisis for people on low incomes. Despite the benefits that the government has provided towards rent support, families on low incomes are struggling to find the rent they are often required to pay in the private rental market. There are also issues of insecurity and constantly needing to look again to find somewhere to live. Perhaps the money could best have been directed to the charities themselves, those that are left picking up the pieces—St Vincent de Paul, Anglicare, Lifeline, the Salvation Army. I am sure all of us could think of a long list of charities that could put this money to much wiser use.

To move away from that area, perhaps we could look at the environment. Imagine what we could do in the Murray-Darling Basin with $2.4 billion a year and rising year after year. We could be upgrading irrigation schemes—not on-selling the water to pay for the schemes but upgrading irrigation schemes and leaving the water in the rivers, going towards the environmental flows that we so desperately need. We could be buying salinised, degraded land and the water licences that go with it and leave the water that is purchased with the land in the rivers. We could assist towns and cities right across the basin not just to use their River Murray water more wisely but to recycle stormwater and greywater and to install rainwater tanks. There is a raft of suggestions in report after report. Indeed, report after report on the basin have myriad suggestions for where spending is needed on the river itself, upgrading the locks and weirs, rehabilitating wetlands and revegetating—a long list of where this money could have been very
wisely and well spent. There is a raft of other environmental priorities which I will not go into tonight, but all of us could make suggestions about our home states. In Queensland, land clearing would have to be at the top of the list. We could all think of areas in our own state that desperately need this sort of funding.

Then there is Minister Alston’s favourite organisation, the ABC. It could have easily coped with some extra funding—not by any means all of this money but a substantial part of it, just a fraction. Indeed, 10 or 20 per cent of this money could have seen the ABC in a position of not having to cut services—in particular, not getting rid of Fly TV and the youth channel, which is so popular.

I wish to raise one more priority area before I finish because I am going to speak only briefly on this tonight—that is, a survey relating to Medicare which I am in the process of organising in South Australia. We have already sent out several thousand questionnaires and in total we will survey over 100,000 South Australians about their attitude to Medicare. There has been a fabulous response and I thank all those people who have bothered to fill in the survey and return it.

As we process what has been returned so far—and these are only up to date as of this afternoon—we had some 15 per cent of respondents favouring tax cuts, 72 per cent would have preferred to have had no tax cut and for the money to be put into Medicare, and 13 per cent either did not answer the question, did not mind or wrote back at considerable length and discussed the issue. Of all the returns we received, for 72 per cent to have decided—in rural and regional Australia as well as in Adelaide, in a variety of different metropolitan postcodes—that they would prefer the money to go to Medicare is a very clear message to this government that not only are these measures very poorly targeted but they are not wanted. People would much prefer to see this money spent on services. In this questionnaire which was about Medicare, I gave them only one option. I could imagine what the response would have been if we had given them a list of things, including education. Australia has always prided itself on encouraging a fair go, on encouraging people to look after each other and to look after their mates, as the saying goes. If we are going to do that, we have to have higher priorities than tax cuts that basically give the average wage earner a cup of coffee and maybe something towards a sandwich each week. When you look at the bigger picture and what the investment in Australia could have been, that would have helped all of us. I say again that this is not the road that I believe Australia should be going down.

To restate those survey results, if you discount those who debated the issue or who did not really mind one way or the other and look just at those who answered the question, only 18 per cent want tax cuts and 82 per cent want the money the government has planned for tax cuts put into health care. I conclude by reiterating that tax cuts are not a popular or fair measure. I argue that they are
not a responsible measure, and I do not support them.

Senator HOGG (Queensland) (9.23 p.m.)—As I indicated earlier, I did not really want to speak on the Taxation Laws Amendment (Personal Income Tax Reduction) Bill 2003 but, having listened to a number of people in the chamber, I thought it worth while to get up and say a number of words. In particular, I want to make reference to those people who are in family situations. I cast my mind back to my first speech in this place. It was focused on low-income and single-income families—the people at the end of the economic spectrum in this country. And they do suffer—there is no doubt about that. I have heard a few ‘M’ words used here tonight to describe the tax cuts that the government are putting forward in this legislation, and I think they are pretty right. Senator Nettle, I think, referred to them as ‘meagre’. I think they could also be described as minuscule, miserly, miserable and even mingy.

Some interjection—Senator HOGG—And mean also. We have cast the net around for a few words, and one that is not an ‘M’ word is ‘tricky’. It is an illusion for people in those low-income and single-income families. For the average family, $4 a week is going to pan out at somewhere between $1 and $1.33 per head in that family. If the government believes that that is going to improve the situation of those families in any way, then it is not in touch with the real world. It is not the sort of injection that is needed to assist those low-income and single-income families. Instead of people receiving tax cuts in the order of $11 at the higher level—and I understand that we are going to be among those people—it would have been far better had the tax cuts been directed to the low-income group and the bottom end of the middle-income group, so that people got something realistic out of it to improve their lifestyle.

The people at the top end of town have already benefited through the GST legislation. There is no doubt in my mind that the GST legislation saw a redistribution of wealth from the poor to the rich; it shifted the tax burden from the rich to the poor. That was the net effect of the GST. Of course, after having introduced the GST, the government, now trying to redress the issue of bracket creep in some small way, give tax cuts in the order of $11 to people on substantial salaries in the order of $100,000, while those on very basic salaries are receiving no more than $4. There is no equity, no justice, in that at all—absolutely none. It is the families of Australia—those low-income and single-income families—that are suffering.

I can speak with some degree of certainty on this because I am still an active person in my trade union, which I have stated in this place on many previous occasions. I am an active person out there in the field, listening to the needs of people. Whilst I am not there on a day-to-day basis, I do know where they hurt. They have expectations that governments, if they are going to give something, do not give a miserly handout such as the one that has been given on this occasion. It is just an insult to people. That is the only way you could describe it—an insult. Four dollars a week! What is it going to do? Absolutely nothing. As has been discussed in this debate, according to Senator Vanstone it is not even going to buy a hamburger and a milkshake. I do not know where you go to get a hamburger and a milkshake for $4. It is certainly not going to assist the cafe latte set or the chardonnay set. It is not going to help those who like their meat pies and it is certainly not going to help those who have a taste for fast food. It is not going to buy even the basic commodities in terms of the needs of the family, whether that be milk, bread,
margarine or fruit and vegetables. The $4 that these people are going to receive by way of these tax cuts, which the government are making out to be so generous, is just not going to go anywhere. The government have put out there in the general public a totally miserable and much misrepresented tax cut to make people believe that there is something there for them.

I have always believed that those with the greatest capacity to pay tax should pay the most. In this case, those people should be the high-income earners. That is reasonable and fair, and is what natural justice and equity would dictate. Instead, what we see is that they are receiving $11 a week and the average worker is going to receive a miserable $4. As I say, it is a complete slap in the face. It would be remiss of me to let this opportunity go by without pointing out that the government should not be patting themselves on the back. They should be going back to the drawing board and seeing what real policies they can put in place that are going to assist those families that are struggling to educate their children and to give them the basics in terms of clothing, footwear, natural health treatments, medicines and so on.

This government should not be favouring the people at the top end of town. They should be looking to those people who are suffering the most out there in the community. They should not be handing out insults to them left right and centre by offering them a miserable and mean $4. At the end of the day, it goes no way at all to resolving the economic woes that these people are confronted with. Whilst we will be supporting the bill, I believe that the government have well and truly missed the mark in delivering a proper family tax cut that would assist those people who find themselves at the bottom end of the economic scale in our community.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (9.30 p.m.)—It has been diverting, to say the least, to listen to this debate and to the variable wish lists of the senators opposite. The tax cuts contained in the Taxation Laws Amendment (Personal Income Tax Reduction) Bill 2003 provide a responsible balance of some key goals of the government that have also been identified this evening. The government is meeting the higher costs of defence and security and is financing other priority programs such as education and health. The budget is in surplus, allowing for further reductions in government net debt. As a result, the government is able to return the benefits of good economic management and growth as tax cuts for all Australian taxpayers.

The measures in the bill will cut personal income tax for nine million Australians. The tax deductions will amount to $2.4 billion in 2003-04 and a total of $10.7 billion over the next four years. These changes mean that Australian taxpayers can keep a higher proportion of the earnings they receive after tax, providing improved incentives to pursue work advancement and higher skills. From 1 July this year, the low-income tax offset will be increased from $150 to $235 for low-income taxpayers. The phase-out threshold for the low-income tax offset will also be increased from 1 July 2003 to $21,600. As a result, the low-income tax offset will be available to more taxpayers. The maximum amount of the low-income tax offset of $235 will be available to taxpayers on incomes of up to $21,600, with some tax offset able to be claimed by taxpayers with annual incomes of up to $27,475. Taxpayers will also be able to have an annual income of up to $7,382 without paying tax, up from the current $6,882.

For other taxpayers, from 1 July 2003 the income tax thresholds will be lifted. The up-
per income limit for the 17 per cent rate will be raised from $20,000 to $21,600. The upper income limit for the 30 per cent rate will be raised from $50,000 to $52,000. The upper income limit for the 42 per cent rate will be raised from $60,000 to $62,500. Providing tax cuts through changes to the thresholds and through a more generous low-income tax offset in fact means that the largest proportional reductions in income tax are provided to low-income earners. A taxpayer with an annual income of $10,000 will pay 16 per cent less tax. Some taxpayers with annual incomes of between $20,000 and $27,475 will have their tax cut by $329 per year or 10.7 per cent. This is a much higher percentage reduction in tax than that provided to higher income earners. For example, those with annual incomes of $85,000 will have a two per cent reduction in their tax. The increase in the low-income tax offset will also mean that recipients of the senior Australians tax offset will be able to earn up to an additional $500 annual income before they have an income tax liability. This means that senior Australians will pay no tax on annual incomes of up to $20,500, up from $20,000, and up to $33,612 for couples, up from $32,612. This bill also increases the Medicare levy thresholds for senior Australians to ensure that they do not pay the Medicare levy until they begin to incur an income tax liability.

These tax cuts strike a balance between the government’s goals of maintaining a sound budget position, meeting the higher costs of defence, education, health and other priority programs and the desire to provide lower rates for individual taxpayers. This government is of the firm view that revenue should be returned to taxpayers once the necessary public services have been funded. It is in a context of sound fiscal management that the government has been able to deliver these tax cuts while providing a level of services that the Australian community rightly demands and deserves.

I note that the bill will basically be supported. Nevertheless, I should place on record a couple of comments in relation to some of the assertions that have been made this evening. The first of these relates to the second reading amendment moved by Senator Murray on behalf of the Australian Democrats. The first clause of Senator Murray’s motion refers to recognising that very large numbers of Australians want tax cuts to be spent on health, education and environment as a greater priority. The point about this is that the government has been able to deliver tax cuts while in fact spending on priority programs such as health and education and meeting the needs of Australia’s defence and security. It has been able to deliver tax cuts at the same time as maintaining a sound budget position. The tax cuts have been delivered alongside a budget surplus of $2.2 billion and further reductions in government net debt. The tax cuts provide targeted assistance to low-income earners by increasing the low-income tax offset, as I have said. There are around 1.4 million taxpayers with annual incomes in the range of $20,000 to $27,475 who will benefit from both the increase in the 30 per cent income tax threshold and changes to the low-income tax offset. Seventy per cent of those taxpayers are part-time or full-time salary earners. This group will receive greater reductions in percentage terms than those on higher incomes, as I mentioned.

Finally, the Democrats’ amendment to the second reading motion asked whether or not the government would target low-income Australians in any future tax cuts. Of course, these tax cuts do provide targeted assistance to low-income earners, as I have mentioned. The tax cuts will mean that low-income earners can keep a higher proportion of the earnings they receive after tax, providing
improved incentives to pursue work advancement or, indeed, other skills.

I now want to turn very briefly to the fore- shadowed amendment of Senator Nettle, who, if I understood her correctly, was suggesting that financing those who do not have the capacity to pay is as much a priority as targeting benefits for those on low incomes and benefits for those who otherwise do not study. It is worth putting on the record the correct figures. The Commonwealth is currently providing $6.7 billion to higher education. Total university revenue, including non-government revenue, stands at $11.3 billion—$2.67 billion more than in 1995. There have been 27,500 more fully funded undergraduate places provided by the Commonwealth since 1995. There is an additional $1.5 billion provided in the budget over the next four years under the higher education package—and I urge all of those opposite to support it—and a total of $10 billion over 10 years in new support. Those provisions strengthen Australia’s higher education system, and the government sees as a high priority strengthening the system’s role in the community. Australia does need a diverse range of higher education institutions serving a wide range of needs. In fact, the major reforms are directed to doing just that.

It has also been suggested during this debate that the tax burden under this government is at record levels. It is important, quite frankly, that all governments remain mindful of the tax burden on Australians and that they do minimise taxation to a level consistent with the reasonable demand for services that the community expects. But I do not think it could be seriously contended—and there could not be any room for doubt—that this government is not committed to tax cuts and tax reform. The Commonwealth’s tax share has decreased under this government. Commonwealth general government sector cash tax revenue as a proportion of GDP has declined from 23.7 per cent in 1996-97 to an estimated 20.7 per cent in 2003-04. This compares favourably with the record 24.6 per cent tax of GDP in 1986-87. In 2001-02 the Commonwealth’s tax share as a proportion of GDP was below the levels of the past seven years, and it will remain so in the forward years. Total individual and other withholding tax is estimated to be 11.9 per cent of GDP in 2003-04 compared with 12.7 per cent in 1996-97 and a peak of 14.2 per cent in 1986-87.

The reduction in the Commonwealth’s tax share reflects the impact of the new tax system introduced on 1 July 2000. The reforms to the Commonwealth-state financial relations introduced under the new tax system deliver every dollar of GST to the states, giving them a more secure revenue base and enabling them to abolish inefficient state taxes. After just three years, most states are better off than they would have been had the government not implemented any tax reform. We had the courage to go on with that. Australia’s overall tax burden measured by total tax revenues as a share of GDP is low compared with most other OECD countries, as I think Senator Lees and Senator Murray frankly conceded this evening. Australia’s top marginal tax rate is also comparable to other OECD countries when you take into account all relevant items in the tax base such as social security taxes.

The government has so far delivered almost $35 billion worth of tax cuts as a result of the introduction of the new tax system. In 2003-04 alone, the new tax system is expected to reduce the tax burden on wages and salary earners by over $13 billion, with similar tax cuts in the forward years. These tax cuts have meant that average wage earners are paying less tax than if the government, when we took office, had indexed the scales applying to consumer index price movements. A person on average weekly
earnings now pays $500 less tax on the current tax rates than they would have paid if the 1996 tax scales had been indexed. Under the new tax system, more than three-quarters of taxpayers now face a marginal tax rate of no more than 30c in the dollar. Senators on this side of the chamber would remember that, as part of the introduction of the new tax system, the 34 per cent and 43 per cent marginal tax rates were both reduced to 30 per cent. That is a very big tax cut indeed. There is nothing mean about that.

With the new tax system the coalition was not able to deliver all the income tax reductions that we had planned to. As senators would be aware, the government had intended to increase the threshold for the top marginal tax rate from $50,000 to $75,000, but as part of the negotiations that took place in this chamber the government had to reduce that threshold to $60,000. There can be no doubt about this government’s commitment to tax cuts. Moreover, the government has continued to keep inflation low, to reduce the impact of bracket creep, to maintain the economic conditions that have created more than a million jobs since this government was elected in 1996 and to place the Commonwealth public finances on a sustainable basis by predominantly running budget surpluses.

The coalition actually want workers to be better paid. We are actually in favour of productivity improvements that will improve their real wages. Over the last five years, real wages in this country have grown by 10.9 per cent under this government. There can be no doubt about this government’s commitment to tax cuts—and further tax cuts as they can be afforded. It is interesting, and I will conclude on this note, that whilst those opposite have suggested that these tax cuts are very small—and I concede that they are modest and reasonable in the circumstances—the $4 in relation to the PBS seems to be a huge amount to them. In fact, $4 is an unaffordable amount for those on the other side in their resistance to the budget measure reforming the PBS. It is a completely contradictory position taken by the opposition, by the Democrats and by the Greens. It is about time they got their lines straight on whether $4 is too much or too little. It simply underscores the fact that this government undertakes responsible steps and responsible tax cuts when they can be afforded.

The PRESIDENT—Order! I remind honourable senators that, under a sessional order agreed to on 20 June 2002, after the second reading I shall call the minister to move the third reading unless any other senator requires that the bill be considered in the Committee of the Whole.

Question put:
That the amendment (Senator Murray’s) be agreed to.

The Senate divided. [9.50 p.m.]
(The President—Senator the Hon. Paul Calvert)

Ayes
Allison, L.F. *
Brown, B.J.
Greig, B.
Murray, A.J.M.
Ridgeway, A.D.
Bartlett, A.J.J.
Cherry, J.C.
Lees, M.H.
Nettle, K.

Noes
Abetz, E.
Barnett, G.
Boswell, R.L.D.
Campbell, G.
Calvert, P.H.
Coonan, H.L.
Colbeck, R.
Dennman, K.J.
Crossin, P.M.
Ferguson, A.B.
Eggleston, A.
Forshaw, M.G.
Ferris, J.M.*
Humphries, G.
Hogg, J.J.
Hutchins, S.P.
Kemp, C.R.

Majority
29

AYES

NOES

(f) bringing total government spending on higher education up to $8 billion up from the current level of $4.3 billion nearly 1.2 per cent GDP”.

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

The Senate divided. [9.55 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes………… 2
Noes………… 44

Majority……… 42

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

NOES
Abetz, E. Allison, L.F.
Barnett, G. Bartlett, A.J.J.
Boswell, R.L.D. Buckland, G.
Calvert, P.H. Campbell, G.
Cherry, J.C. Colbeck, R.
Coonan, H.L. Crossin, P.M.
Denman, K.J. Eggleston, A.
Ferguson, A.B. Ferris, J.M. *
Forshaw, M.G. Greig, B.
Hogg, J.J. Humphries, G.
Hutchins, S.P. Johnston, D.
Kemp, C.R. Kirk, L.
Ludwig, J.W. Lundy, K.A.
Macdonald, J.A.L. Mackay, S.M.
Marshall, G. Mason, B.J.
McGauran, J.J.J. McLucas, J.E.
O’Brien, K.W.K. Ridgeway, A.D.
Scullion, N.G. Sherry, N.J.
Stephens, U. Tchen, T.
Tierney, J.W. Troeth, J.M.
Watson, J.O.W. Webber, R.

* denotes teller

Question negatived.

Original question put:
That this bill be now read a second time.

The Senate divided. [9.59 p.m.]
(The President—Senator the Hon. Paul Calvert)

Ayes………… 44
Noes………… 2
Majority……… 42

AYES
Abetz, E.  Allison, L.F.
Barnett, G.  Bartlett, A.J.J.
Boswell, R.L.D.  Backland, G.
Calvert, P.H.  Campbell, G.
Cherry, J.C.  Colbeck, R.
Cooman, H.L.  Crossin, P.M.
Denman, K.J.  Eggleston, A.
Ferguson, A.B.  Ferris, J.M. *
Forshaw, M.G.  Greig, B.
Hogg, J.J.  Humphries, G.
Hutchins, S.P.  Johnston, D.
Kemp, C.R.  Kirk, L.
Ludwig, J.W.  Lundy, K.A.
Macdonald, J.A.L.  Mackay, S.M.
Marshall, G.  McGauran, J.J.J.
McLucas, J.E.  Moore, C.
Murray, A.J.M.  O’Brien, K.W.K.
Ridgeway, A.D.  Santoro, S.
Scullion, N.G.  Sherry, N.J.
Stephens, U.  Tchen, T.
Tierney, J.W.  Troeth, J.M.
Watson, J.O.W.  Webber, R.

NOES
Brown, B.J. *  Nettle, K.
* denotes teller

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

ADJOURNMENT

The PRESIDENT—Order! It being 10.04 p.m., I propose the question:

That the Senate do now adjourn.

Employment and Education: Programs

Senator SANTORO (Queensland) (10.04 p.m.)—Last month it was my privilege to launch the BITES program in Brisbane and the south-east Queensland region on behalf of my friend and colleague the Minister for Education, Science and Training, the Hon. Dr Brendan Nelson. The minister is committed to a policy of making education a truly lifelong experience. He is a practical man and his policy is to make lifelong education relevant to life experience and work related demands. So it is no surprise that he thinks BITES is a great program. Absolutely everyone can benefit from the acquisition of basic IT enabling skills, or BITES, and of course for older workers it is fundamental to their own continued relevance in the modern workplace. The launch on 23 May was also the occasion on which the BITES broker for Brisbane and south-east Queensland, Mission Australia, was opening its new training building. It was also my privilege to officiate at that part of the function.

It would be useful at this point to put on record some key facts about BITES. The Basic IT Enabling Skills—that is where BITES comes in—for Older Workers program was announced in the 2002-03 budget under the title of ‘IT skills for older workers’ as part of the Howard government’s commitment to lifelong learning. It means older workers and those looking for work can gain nationally recognised IT training. The program is intended to reach approximately 11,500 people each year for four years—that is 46,000 people—at a cost of $23 million. Those with basic maths skills will instantly see that this is $500 per person—money that is extraordinarily well invested in pursuit of basic new skills for older people already in the working population.

The Howard government recognises that, with huge advances in technology, we all have to continually upgrade our skills in a variety of areas just to keep up. This is particularly so in the use of computers. While even the smallest businesses now use computers for a variety of tasks, there is a whole
generation of people who have gone through their working lives to this point without ever touching a computer. BITES is available to people aged 45 and over who are receiving income support, are in the labour force — either employed or looking for work — and have no post-school IT qualifications. The training is based on three units from the certificate level 1 (ICA 10101) qualification under the information technology training package (ICA99). It teaches students to operate a personal computer, operate a word-processing application and send and retrieve information over the Internet using browsers and email. The BITES program covers the nation, with training available in more than 350 places. Already, participants have included people who had retired before they really wanted to — the oldest participant so far is an 88-year-old gentleman who still wants to work — and farmers and other small business people whose incomes have reduced. There has even been one lady who, after being told by doctors she had six months to live, took the course because she wanted to acquire computer skills so she could help others in hospital. What a wonderful story that is.

Mission Australia runs a highly effective operation that deserves to be given public recognition. As well as its offices and training centre at Stones Corner in Brisbane, it offers training through a network of mobile providers. At Stones Corner, Mission Australia is running two courses each fortnight. That is its only static site. It is running six courses at Ipswich, seven each at Coolangatta, Southport and Woodridge, three each at Nerang and Redcliffe, seven at Caboolture, three each at Maroochydore and Nundah, two at Oxley, one each at Chermside and Strathpine, and five at Beaudesert. Three mobile training teams visit these sites equipped with 15 laptops and the equipment required for the training, including equipment to allow Internet access. As well as this effort, Mission Australia mobile BITES trainers are also operating at non-Mission sites at Woombye, Boonah, Noosa, Caloundra, Maleny and Strathpine.

Running mobile teams adds to the complexity of organisation, since the teams often have to set up and vacate training sites on a daily basis, and it is not always a simple matter to arrange Internet access. However, it also means training can reach more people. Mission Australia is the broker for the BITES program in Brisbane and south-east Queensland and also in Western Australia. In Queensland it is providing a total of 1,560 commencements in the BITES program in 2003-04. These commencements are at the Sunshine Coast, Redcliffe and Caboolture, where there are 452 commencements; south-west Brisbane, south-east Brisbane and north Brisbane, where there are 515 commencements; and Ipswich, Logan and Gold Coast, where there are 593 commencements.

I believe special mention should be made of Mission Australia’s state manager for Queensland and the Northern Territory, Aaron Henricksen. He clearly is a man with a mission. Providing training at these sorts of levels and in these environments is all part of the value-adding practicality that government policy permits.

There is another aspect of 21st century literacy that I want to say something about tonight. Workplace literacy is something the government is seeking to address with the same level of practicality that this government applies to all policy questions. It is a complex area. At its heart, it concerns the ability of people in the workplace to communicate effectively in written form. The essence of effective communication is: to be understood by those with whom one is communicating. That sounds very simple, but it is not. It is particularly a problem in the
workplace, where changing technologies and different ways of doing jobs can so easily leave existing workers behind.

In April, I attended the launch in Brisbane of the new WELL kits for ITABs, produced under the auspices of the Queensland Industry Training Council. The kits were launched by the former chief executive of Queensland Rail, Vince O’Rourke, who is now a member of the Australian National Training Authority board. As QR chief, he managed one of Australia’s largest workplace literacy programs. QR workplace literacy programs at that time were under the wing of Elaine Roberts, who from 2001 to 2003 researched the WELL ITAB Liaison Project in Queensland. She says that in most workplaces there are people with workplace literacy problems who are not enjoying their work, are working less than effectively and are unnoticed. She says that those who need the most specialised help are unable to access it, for a range of reasons, and she notes that the type of literacy help available is often restricted, unsuitable or not effectively introduced.

These are elements of the workplace literacy effort that we as a community need to examine. The new workplace literacy kits are designed to help meet the real language, literacy and numeracy needs of the workplace. They are funded through the Department of Education, Science and Training’s Workplace English Language and Literacy program. As Elaine Roberts also points out, workplace literacy programs need to focus on outcomes, not classrooms, and on flexible workplace-delivered training that is directly relevant to the people taking the course. It is important also to recognise that workplace literacy is about self-help. That is a great Australian tradition. So is lending a hand from the public purse towards self-help. But in implementing practical policy it is often less a question of how many dollars are to be spent than one of what you will actually do with them.

Training now has a very high profile. The latest ABS figures show Australian employers are committing to training across the board in record numbers. Eighty-one per cent of employers provide training. ABS statistics support Australian Chamber of Commerce and Industry research findings that spending by employers on structured training has risen by 52 per cent since 1996, to a net $3.2 billion in 2001-02. Record funding of $2.1 billion in the 2003-04 budget will continue to support the Howard government’s policy of reinvigorating vocational education and training. This outlay is $200 million above the budget outlay for 2002-03.

These are the practical administrative building blocks around which workplace literacy programs can be built. The government is spending $57.1 million over four years on Workplace English Language and Literacy. Plainly, it is very serious about making workplace literacy a plus for business rather than a potential pitfall. There is room for some new thinking. Research conducted by Elaine Roberts indicated that the way TAFE is funded means it is unable to meet the needs of those with workplace literacy concerns unless there are 10 people available at the same time to make an economically viable class. Clearly there is a need for TAFE to be funded and run in a different way if, because of constraints now present, it is unable to meet the needs of those it would wish to serve in the workplace literacy area.

Feedback during the research program for the new WELL kits also showed that managers, trainers and workplace supervisors felt that the supervisors’ role and responsibilities had grown so much more complex and demanding over the past five years that the level of literacy required—and apparently
their stress levels too—had risen consider-ably. There is no doubt that the workplace is becoming more and more complex as a management environment and also for workers on the shop floor.

Workplace literacy goes beyond the matter of efficient work practices. In many environments, being able to fully understand complex safety requirements is, or should be, a primary focus of all concerned. At the April launch of the WELL kits, Vince O’Rourke made the point that all parties must bring their skills and resources together to work on a long-term solution. That is just plain old-fashioned commonsense. The world, and the workplace, could use more of it. It is true that there will be not just one way but many ways to fix the problem. It will not happen overnight.

With a mutual obligation model—and mutual obligation is the only way to go forward on workplace literacy and a lot else—there are clear steps that can be taken. They include: how to recognise the signs of poor workplace literacy, how to anticipate the issues, how to give immediate support and where to get expert help. There is a view too that teaching methods need to change, to take account of the fact that businesses need their workers on the shop floor, not in a classroom. There are some issues there for the formal workplace education system, issues that may not necessarily be easy to fix. It is certainly true to say—and I can reinforce this from my own experience in the risk management business—that workplace literacy needs to have a high profile in any management plan and the resources to back it.

International Justice for Cleaners Day

Senator MACKAY (Tasmania) (10.14 p.m.)—I rise today to speak about International Justice for Cleaners Day, a day that is commemorated around the world on 15 June. The origins of this commemoration began in the United States, where it is known as Justice for Janitors Day. The day was established after janitors in Los Angeles were beaten by police during a peaceful demonstration against the cleaning contractor ISS on 15 June 1990. The public outrage generated by this incident resulted in ISS agreeing to recognise Los Angeles janitors in a union. In remembrance of that day, Service Employees International Union janitors and supporters take action every 15 June in cities across America and in countries around the world.

Here in Australia it is the Liquor, Hospitality and Miscellaneous Workers Union whose members and supporters commemorate this day. The cleaners of our nation are often the forgotten, invisible workers. They often carry out their work unobserved and at times when our offices, shopping centres, banks and hotels are closed. We see the product of their labour but rarely see them performing it. If we were to watch them at work, I am sure that many of us would be chastened by what we would see. We would see people with insufficient paid hours to do a job that they can feel proud of. We would see people who are working without adequate tools and cleaning products to do the job properly. We would see people who do not have access to long service leave, despite having worked at the same location for 15 years or more. What we would see is workers holding down poverty jobs, based on low wages and insecure working conditions, workers who are increasingly part of a globalised services sector.

I note that amongst the many GATS requests Australia has received from WTO members are specific requests for Australia to make full commitments on market access and national treatment under all modes of supply for ‘grounds, maintenance and washing and cleaning services’. I would love to be
in a position to discuss this further and to be able to inform my fellow senators and the wider community about the potential implications of these requests but, unfortunately, I cannot. I cannot because the Howard government is conducting all the GATS negotiations in secret, behind closed doors. The elected representatives of the Australian people, the parliament, and the workers who may ultimately be affected will just have to wait patiently until Minister Vail decides to tell us what he has negotiated.

In the meantime, like other senators, I have been following with interest and concern the public hearings of the Senate Community Affairs Committee inquiry into poverty and financial hardship. I note that some members of the LHMU gave evidence at the Adelaide hearing on 29 April. One of those members was Lynette Lapthorne, a 56-year-old cleaner, who has worked at the South Australian Submarine Corporation for around 14 years. She works approximately 16 hours a week for $12.38 per hour—the minimum rate. In her evidence to the inquiry Lyn said:

Just before Christmas last year, I received the minimum wage pay rise and the boss responded by reducing the hours of work by up to an hour a day—no less work, but less hours. This makes the pay rise meaningless ... The general lack of hours for cleaners means that single people have to do more than one job to make ends meet. This is particularly bad for single mothers ... The cleaning contract system renegotiated every 12 months means constant uncertainty, unable to plan for financial future.

Another person who gave evidence to the inquiry was Mr Russell Spencer, a 54-year-old cleaner, who until recently worked at the Myer Centre. He told the inquiry:

I had worked there for 10 years, through three different employers as the contracts kept on changing. About six weeks ago I was made redundant. I was one of 15 people who were retrenched when the contract changed. Twelve of us were over 40. We were cleaners with lots of experience. As a result of losing the job and of having three different employers over the 10 years that I worked on the one site, I have no long service leave, because each employer has committed it, but the long service leave is not portable. It makes life really difficult.

My last three pay rises were followed by loss of hours and still the expectation to do the same amount of work, and it just gets harder and harder ... The major worry I have is that I cannot see myself being able to retire at all. I am going to have to be working until I cannot work any more.

When you are doing physical work, the older you get the harder it gets. My body hurts now. God knows what it is going to be like in 20 years time.

In my home state of Tasmania the cleaning work force is predominantly made up of women in their mid-30s to mid-50s, and 85 per cent of work is part time. Yet again it is women who are overrepresented in low-paid insecure employment with little if any access to maternity leave, long service leave or superannuation. These are the women whom John Howard refuses to support and from whom, through his attempts to dismantle our industrial relations system, he wants to remove what little protection they have left. These are the women who will be forced to rely on the age pension in their later years, and they will be the real women behind the statistics that point to a continuing inequity between the economic status of men and women.

I acknowledge that there are many men who make up the cleaning work force of this nation. I recognise that these issues apply to them equally but, yet again, it is women who are overrepresented, unlike in this chamber, among those being dunned by this government, a government that has shown no interest in the needs of those struggling on low incomes, as evidenced only too clearly by Mr Costello’s recent budget. These workers will be among the thousands of Australians who will lose the ability to access a bulk-
billing doctor and who had better start saving now if they want their children to have the opportunity to attend university.

One of the current pressing issues for cleaners in my home state is that of gaining access to portable long service leave. Only in the ACT have cleaners been successful in winning portability. I am very pleased that, as a result of a motion passed at the last Tasmanian ALP conference, the Tasmanian government is currently undertaking a review of this issue and how it may be addressed. I await the outcome of the review with great interest. While awaiting this decision, I should congratulate the Tasmanian Labor government on being the only state government to show an unwavering commitment to directly employed school attendants. These workers, who contribute so directly to safer, cleaner and more secure schools, have had the protection of a five-year job security clause, which is in the process of being negotiated for another five years. I congratulate the Tasmanian government and David O’Byrne and the LHMU on being able to achieve such a good outcome for these workers.

Today, 16 June, LHMU members have been protesting outside major Westfield shopping centres in solidarity with SEIU members in the United States to urge Westfield to respect workers’ rights. The cleaners at Westfield centres, and at most shopping centres and office blocks around the country, are employed by contractors. In an effort to ever reduce their tender price, contractors are squeezing their workers by reducing their hours to the point where jobs cannot be done safely or thoroughly. Workers are left in unsafe conditions or work additional hours without pay—half an hour here and half an hour there—to ensure the job gets done. Workers take pride in their work and, sometimes despite the best efforts of the unions, are reluctant to leave the job half done, even if that means undertaking unpaid work. Furthermore, workers sometimes wait weeks for their pay as contractors make excuses for why the money is not there. A recent dispute at Westfield’s Parramatta centre saw workers walk off the job on 2 May, after again not being paid on time. A number of workers reported that they regularly do not see their fortnightly pay packet for six weeks or more. This is not good enough. Whilst it may be the contractor who is at fault, the management of the company that employs the contractor have an obligation to ensure that the contractor fulfils their basic obligation to their workers.

Whilst the LHMU battles to obtain basic rights for these people, who number amongst the most disadvantaged in our society, John Howard does nothing to curb the excesses of the big end of town. The LHMU pointed to this in their submission to the poverty and financial hardship inquiry, a key recommendation of their submission being an accountability process for the impact of spiralling CEO salaries on increasing levels of inequality in Australia. Jeff Lawrence, the LHMU national secretary, said:

If low-waged workers are forced to go through an annual minimum wage case to justify their pay increases, we don’t see why the government should not introduce a second inquiry into how the wages at the top should be restrained. Rather than restraining the wages of the people at the bottom we should look to ways of restraining the over paid executives.

I wish the LHMU every success with their campaign to gain justice for their members and with their broader campaign for fair wages and decent work for low-paid workers. I also thank those workers who labour, usually thanklessly, to keep our workplaces and community spaces clean.
McGarvie, Hon. Richard
Cherry, Dr Neil

Senator ALLISON (Victoria) (10.23 p.m.)—I wish to pay tribute to the Hon. Richard McGarvie, who died on 24 May. The son of a dairy farmer from the Western District, Dick McGarvie was a lawyer, Queen’s Counsel, a former Chairman of the Victorian Bar Council, a Victorian Supreme Court judge from 1976 and Chancellor of La Trobe University from 1981 to 1992. Joan Kirner wisely appointed him Governor of Victoria in 1992. He was a passionate participant in the constitutional debates on the republic, particularly the role of governors. He was a delegate to the Constitutional Convention. He was a prolific writer, even in his retirement. His web site has on it 39 articles by him on law, judicial independence, modern Australian governorship and education in civics and citizenship. He wrote a book entitled Democracy: Choosing Australia’s Republic, which was published in 1999, describing how the constitutional responsibilities of the Governor-General and governors are performed. It examines and assesses the competing models for a republican head of state and shows how the republic issue could be resolved quickly and safely for our democracy and federation. He predicted that the 1999 referendum would fail.

It is typical of Richard McGarvie that the whole book is on his web site. He was vitally interested in contributing to the debate and sharing his vision and his enthusiasm for democracy, and I am sure he would have happily given away the book to anyone who would read it. His contribution on being an Australian citizen for Discovering Democracy, the Commonwealth’s civics and citizenship curriculum program, was:

Australians have produced one of the world’s best democracies. Because democracy belongs to the people we are all responsible for making it work well and keeping it strong for future generations. No one stands over us and makes us do that. Good citizens themselves choose to act in that way.

Democracy needs fair elections so that voters can get rid of a government that treats people badly. People must be protected by the law, enforced fairly and without favouritism by the courts. Citizens’ attitudes and actions are just as important in a democracy. Citizens must carry out their responsibilities to others and look after other people beside themselves. Citizens must know how our democratic system works and how they can influence the decisions it makes.

Dick McGarvie lived those words and more. He was a campaigner for human rights and had a lifelong quest for justice and fairness. In 1975 he went to Indonesia on an Amnesty International mission to plead for the release of political prisoners there. I first met him when, as Governor, he invited me and other Victorian senators to a dinner at Government House to discuss the republic and the question of the head of state. Only weeks ago I met with him again at the RACV club in Melbourne and he talked about the Corowa People’s Conference, which of course he had a hand in organising, and its aim for an early resolution of the head of state issue. We talked about politics and about political parties. I am proud to have known Richard McGarvie, even if it was for a relatively short time, and I offer my condolences to his widow Lesley and his four children. His service to Victoria and Australia is acknowledged and appreciated.

I also wish to pay tribute to a New Zealand scientist, environmentalist and regional councillor, Dr Neil Cherry, who also died on 24 May this year. Dr Cherry was an Associate Professor of Environmental Health at Lincoln University and had a professional scientific background in physics, biophysics, meteorology, agricultural and human biome-
was involved in a wide variety of scientific and community projects. He developed international expertise in human biometeorology, air quality and the effects of natural and artificial electromagnetic radiation on people’s health. He was frequently called upon to present his findings overseas. He cared passionately for the environment, for science and for public health. Fellow councillors described Dr Cherry as a visionary—a man of tremendous intelligence and courage, including the courage to speak his views even when they were unpopular.

I met Dr Cherry when he visited Melbourne and Canberra—in fact, when he came to the parliament. He spoke publicly on the potentially damaging effects on human health of low-level microwave radiation from mobile phones and mobile phone antennas. His recent work was the review of thousands of papers on cell biology, biophysics, medicine and electromagnetic radiation. He concluded that the published scientific data showed that electromagnetic radiation, or EMR, was capable of causing cell damage and neurological problems.

In 2001 I chaired the Senate inquiry into this area, to which Dr Cherry made a submission, and he appeared before the committee via teleconference. It was an indication of Dr Cherry’s effectiveness that he was attacked by the government because he dared to challenge the industry and the government line that said there was no evidence that EMR is not safe. He was actually in the gallery at the time that he was attacked and I think he was taken aback somewhat at the remarks that were made, but he was also accustomed to his critics being short on scientific argument and long on rhetoric. Reading his work, one becomes aware of how little we really understand about electromagnetic radiation and how much further we need to go before the full ramifications of its impact on the human body and brain are understood.

I seek leave to incorporate the last few paragraphs of my speech on Dr Cherry.

Leave granted.

*The speech read as follows—*

One of Dr Cherry’s many findings was that exposure to electromagnetic radiation could result in Alzheimer’s disease, or dementia. A report for Alzheimer’s Australia by Access Economics last month says, and I quote: “The dementia epidemic has arrived and it should be made a national health priority”.

There are 162,000 people with dementia in Australia, almost 7000 of which are as young as 37. According to this report it is now more common than skin cancer.

Dr Cherry also showed that arthritis was a possible health outcome. The number of rheumatoid arthritis sufferers in Australia is now 500,000 with some of these being children.

Now it may or may not be the case that EMR is implicated in all or even some of these but the findings of Dr Cherry should not be ignored just because they are unpalatable to the telecommunications sector.

Dr Cherry’s standing and credibility was confirmed on 1 January 2002 by the award of a Royal Honour of Officer of New Zealand Order of Merit (ONZM.). His award is for his services to Science, Education and Community, including his research and teaching work on Environmental Epidemiology and the health effects of electromagnetic radiation.

Neil was a man of strength, wisdom, compassion and humanity. One colleague describes him as “very straight—straight as a gun barrel.” I offer my sincere condolences to Neil’s wife Gae. People like Dr Cherry are rare. He will be sadly missed, both as a scientist and as a human being.

*Senator ALLISON—I also seek leave to table a report by Mr Alan Parkinson, which is a critique of the MARTAC report.*

Leave granted.

*Senate adjourned at 10.30 p.m.*
DOCUMENTS
Tabling

The following documents were tabled by the Clerk:

- Aged Care Act— Determination under section 44-19—ACA Ch. 3 No. 4/2003.
- Australian Meat and Live-stock Industry Act—
- Australian Prudential Regulation Authority Act—
  - Instrument under section 51—
    - Instrument fixing charges to be paid to APRA, dated 14 May 2003.
    - Revocation of instrument fixing charges to be paid to APRA, dated 14 May 2003.
- Australian Radiation Protection and Nuclear Safety Act—
  - Regulations—Statutory Rules 2003 No. 90.
- Authorised Deposit-taking Institutions Supervisory Levy Imposition Act—
- Authorised Non-operating Holding Companies Supervisory Levy Imposition Act—
  - Authorised Non-operating Holding Companies Supervisory Levy Imposition Determination 2003.
- Civil Aviation Act— Civil Aviation Regulations—
  - Airworthiness Directives—Part—
    - 105, dated 15, 16, 17, 22, 23, 24, 28 and 29 April; and 1 and 2 May 2003.
    - 107, dated 1 and 2 May 2003.
- Civil Aviation Amendment Order (No. 5) 2003.
- Civil Aviation Amendment Order (No. 6) 2003.
- Instruments Nos CASA 127/03, CASA 192/03, CASA 193/03, CASA 205/03 and CASA 214/03-CASA 217/03.
  - Statutory Rules 2003 No. 95.
- Class Ruling—
  - CR 2002/75 (Addendum).
- Customs Act—
  - Amendment to CEO Directions No. 1 of 2003.
  - Regulations—Statutory Rules 2003 Nos 88 and 89.
- Defence Act— Determination under section—
- Defence Force (Home Loans Assistance) Act— Determination of Warlike Service (Operation Falconer).
- Environment Protection and Biodiversity Conservation Act— Instrument amending list of—

CHAMBER
Exempt native specimens under section 303DB, dated 7 May 2003.
Threatened species under section 178, dated 24 April 2003 [2].
Export Control Act—Export Control (Orders) Regulations—
Grain, Plants and Plant Products Amendment Orders 2003 (No. 1).
Prescribed Goods (General) Amendment Orders 2003 (No. 1).
Export Market Development Grants Act—
Determination 1/2003—Determination of the Balance Distribution Date for grant year 2001-02.
Financial Management and Accountability Act—
Health Insurance Act—
Regulations—Statutory Rules 2003 Nos 87 and 98.
Higher Education Funding Act—
Determination under section—
Immigration (Education) Act—
Regulations—Statutory Rules 2003 No. 91.
Income Tax Assessment Act 1997—
Lands Acquisition Act—Statements describing property acquired by agreement under sections 40 and 125 of the Act for specified public purposes [2].
Medical Indemnity (Prudential Supervision and Product Standards) Act—
Guidelines under subsection 13(9)—
Certification of Funding Plans by Auditors and Actuaries.
Matters to be Included in a Funding Plan.
Qualifications and Independence of Auditors and Actuaries.
Migration Agents Registration Application Charge Act—Regulations—Statutory Rules 2003 No. 93.
National Environment Protection Council Act—Variation to the National Environment Protection (Ambient Air...
Quality) Measure for Particles as PM$_{2.5}$, accompanied by the impact statement, summary of submissions and the Council’s responses to submissions.

Natural Resources Management (Financial Assistance) Act—Agreement to deliver the Natural Heritage Trust Extension between the Commonwealth of Australia and—

Australian Capital Territory, dated 27 March 2003.

South Australia, dated 17 April 2003.

Victoria, dated 12 December 2002.

Western Australia, dated 17 December 2002.


Product Ruling

PR 2001/24 (Notice of Withdrawal) and PR 2001/96 (Notice of Withdrawal).


Remuneration Tribunal Act—

Determination—

2003/08: Remuneration and Allowances for Various Public Office Holders.


2003/10: Principal Executive Office (PEO) Classification Structure and Terms and Conditions.

2003/11: Remuneration and Allowances for Holders of Full-Time Public Office.

Regulations—Statutory Rules 2003 No. 103.


Superannuation Guarantee Determination SGD 2003/1.


Taxation Determination—

Notice of Withdrawal—

TD 92/157 and TD 92/197.

TD 93/11 and TD 93/244.

TD 94/48 and TD 94/73.


Taxation Ruling—

Notice of Withdrawal—

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CHAMBER
Old Series—IT 340, IT 2345, IT 2386 and IT 2438.
TR 96/17.
TR 97/12 (Notice of Partial Withdrawal).
TR 2003/2-TR 2003/5.
Veterans’ Entitlements Act—

Workplace Relations Act—
Regulations—Statutory Rules 2003 No. 102.
Rules—Statutory Rules 2003 No. 86.

PROCLAMATIONS

Proclamations by His Excellency the Administrator of the Commonwealth of Australia were tabled, notifying that he had proclaimed the following provisions of acts to come into operation on the date specified:

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Whistleblower Inquiry
(Question No. 108)

Senator Brown asked the Minister representing the Prime Minister, upon notice, on 18 February 2002:
With reference to whistleblower Alwyn Johnson, and the Minister’s commitment, on 12 August 2000, to undertake an inquiry to look at compensation for Mr Johnson, even if the Tasmanian Government refused to take part:

(1) Why has no inquiry been instituted.
(2) (a) When will the inquiry begin; and (b) who will arbitrate.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) and (2) An inquiry is currently being conducted by Mr Neil Brown, QC.

Fisheries Action Program
(Question No. 893)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 11 November 2002:

(1) What projects have been funded under the Fisheries Action Program.

(2) For each project, can the following information be provided: (a) grant date; (b) grant recipient; (c) registered address of grant recipient; and (d) full project description, including: (i) location, project commencement and conclusion dates, (ii) total funding, and (iii) evaluation results; and can any grants that were made despite the applications not meeting program application criteria be identified.

(3) What evaluation has been made of the effectiveness of the program.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) A list of projects funded under the Fisheries Action Program (FAP) is at Attachment A.

(2) (a) Projects were usually approved on an annual basis, including those projects that spanned two or more years. Attachment A lists the financial year and the respective approved funding amount for each project.

(b) The grant recipient for each project is at Attachment A.

(c) Although grants are usually made to organisations, the contact details for some of the grants, as held by the Commonwealth Department of Agriculture, Fisheries and Forestry (AFFA), are for individuals and are therefore regarded as personal information. Provision of that information may, therefore, be seen as a breach of the Privacy Act 1988.

(d) (i) A description of each project, including location, project commencement and due date for completion, and further information, can be found at the FAP website: http://www.affa.gov.au/content/output.cfm?ObjectID=D2C48F86-BA1A-11A1-A2200060B0A01288.

(ii) Total funding for each project is at Attachment A.
(iii) Evaluation results are not yet available for most projects. To my knowledge, no projects were approved that did not meet relevant funding criteria.

(3) A mid term review of the FAP was undertaken by Australian Water Technologies and Hassall and Associates. The report was published in November 1999.
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### QUESTIONS ON NOTICE

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Commonwealth Community Legal Services Program: Caxton Legal Centre  
(Question No. 907)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 12 November 2002:
With respect to the 2002-03 Commonwealth Community Legal Services Program, in particular the $70 000 allocated to, but not taken up by, the Financial Counselling Service (QLD):
(1) When will a decision be made on the reallocation of the funding.
(2) Can the money be made available to the Caxton Legal Centre Inc. to avoid the imminent closure of its innovative program for the provision of legal outreach services to older people; if not, why not.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:
(1) The Attorney-General has approved a reallocation of the funds.
(2) Caxton Legal Centre’s program for providing legal outreach services to older people was considered as one of many possible uses for the funds. However, after considering competing priorities which exist for community legal services in Queensland, the Attorney-General decided that funding should be provided for the provision of general outreach services in the Wide Bay Burnett area. The Attorney-General’s Department will advertise the tender in National, State and local newspapers in the near future.

Agriculture-Advancing Australia Roadshow  
(Question No. 944)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 18 November 2002:
(1) (a) What events and locations has the Agriculture – Advancing Australia Roadshow visited since June 2001; and (b) on what dates did those visits occur?
(2) (a) Did the Roadshow stage a visit to AgQuip in August 2002; and (b) did the Minister feature on a video-link at this event?
(3) What has been the cost of staging the Roadshow since June 2001?
(4) What events and locations will the Roadshow visit in the remainder of the 2002-03 financial year?

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
(1) (a & b) See Attachment 1
(2) (a) Yes
(b) The Minister did participate in a video-link with AgQuip but the video-link was not connected with the AFFA Roadshow.
(3) $121,541 (includes salaries for two staff, travel and accommodation, display and information material, event staging, etc).
From 1 July 2001 until 31 December 2001 the Roadshow was funded through the Agriculture–Advancing Australia (AAA) program as part of the AAA communication strategy. Since 1 July 2002 the Roadshow has been funded through the Commonwealth Department of Agriculture, Fisheries and Forestry’s (AFFA) Public Relations budget and promotes various portfolio programs, including AAA.
(4) See Attachment 2
### ATTACHMENT 1

**Roadshow visits since June 2001**

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<tr>
<th>Date</th>
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<tr>
<td>14-16 June</td>
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<td>BeefNet International Conference</td>
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<tr>
<td>19-21 June</td>
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<td>25-27 June</td>
<td>IAMA World Food and Agribusiness Symposium</td>
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<tr>
<td>6-7 July</td>
<td>Alice Springs Show</td>
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<td>13 July</td>
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<td>Sheepvention</td>
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<td>DNRE Regional Outlook</td>
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<tr>
<td>11-13 November</td>
<td>e-Government Week Internet Expo</td>
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### ATTACHMENT 2

**Confirmed Roadshow events November 02 – June 03**

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<td>Feb 5 –7 2003</td>
<td>International Food &amp; Wine Conference</td>
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<td>Feb 8 2003</td>
<td>Corowa Show</td>
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<td>Feb 13 –14 2003</td>
<td>Meat Profit Day and Beef, AgroForestry and Lamb Expo</td>
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<tr>
<td>February 26-28</td>
<td>Western Australia Pastoralists and Graziers Conference</td>
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<td>March 4-6</td>
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**QUESTIONS ON NOTICE**
Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 21 November 2002:

(1) On what date did the department first become aware that some Farm Management Deposit (FMD) products may not comply with legislation applicable to the Government’s FMD scheme.

(2) What was the source of this information; and (b) in what form was this information conveyed, for example, correspondence, e-mail, telephone conversation or direct conversation.

(3) What was the nature of the problem specifically identified in this information.

(4) On what date did the department inform the Minister, or his office, of this problem.

(5) Did the Minister, or his office, receive advice about this problem from a source other than the Minister’s department; if so: (a) on what date was this information first received; (b) what was the source of this information; (c) in what form was this information conveyed; and (d) what was the nature of the problem specifically identified in this information.

(6) (a) On what date, or dates, did the department take action in response to this identified problem; and (b) what action did the department take.

(7) (a) What departments, agencies, banks or non-bank financial institutions did the department communicate with in relation to this matter; (b) on what date, or dates, did that communication occur; and (c) what form did that communication take.

(8) (a) What responses, if any, has the department received in respect to those communications; (b) in what form have those responses been received; and (c) what was the content of those responses.

(9) What action has the department taken in response to communications from departments, agencies, banks or non-bank financial institutions.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The Commonwealth Department of Agriculture, Fisheries and Forestry – Australia (AFFA) received a request for clarification of the term for pricing of Farm Management Deposits (FMD) in July 2001.

(2) A financial institution raised the issue via email.

(3) The financial institution sought clarification of the term for pricing of FMD’s.

(4) The issue was included in advice to the Minister on 28 June 2002.

(5) Information received about short term pricing issues, other than that provided by AFFA, was through media reports on 20/21 November 2002.

(6) - (8) Issues of interpretation of taxation legislation are the responsibility of the Australian Taxation Office (ATO) and communication by AFFA on the issue was through email and telephone discussion with the ATO. AFFA referred the matter to the ATO in July 2001.
Following an email response from the ATO in August 2001 a teleconference was held between AFFA and the ATO to clarify the ATO’s initial interpretation of the term for pricing issue. In early November 2001 I am advised that the ATO provided its interpretation of the term for pricing sections of the legislation to the financial institution that raised the issue. The ATO advised AFFA by telephone that no further action would be taken, as the ATO was not aware of any other institution experiencing the same interpretive issue.

In early March 2002 AFFA commissioned a comprehensive evaluation of the FMD Scheme, which was completed in June 2002. The review noted that an ATO ruling on this issue was a matter of urgency and that such a ruling had been requested by AFFA. On 7 November 2002 the ATO advised AFFA that it was reviewing its previous interpretation and was preparing to issue a formal response.

On 27 November 2002 the Prime Minister issued a press release in relation to new drought measures, including changes to the FMD legislation. The Taxation Laws Amendment (Early Access to Farm Management Deposits) Act 2002, was given royal assent on 19 December 2002. The Act has addressed the issue.

Environment: Great Barrier Reef Marine Park
(Question No. 1001)

Senator Bartlett asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 10 December 2002:

1. What is the total quantity of untreated sewage discharged from vessels into the Great Barrier Reef Marine Park each year.
2. What is the amount of sewage treated to a standard less than tertiary treatment that is discharged into the marine park.
3. Are there any plans for eliminating the discharge of untreated waste into the marine park.
4. What is the status of the plan to require tertiary treatment for all sewerage treatment plants that discharge into the marine park.
5. Are there requirements for pump out facilities to be installed in marinas, harbours and/or ports along the Great Barrier Reef coast.
6. Is there a requirement that new facilities contain pump-out facilities.
7. With reference to page 34 of the Great Barrier Reef Marine Park Authority’s report 2001-02, which indicates both a reduction in the number of trawlers and an increased profitability of remaining trawlers: Are there any figures on: (a) the relative levels of catch; and (b) catch per unit effort in the 18 months since the trawl plan took effect.
8. When are the results of the seabed recovery work being done by the Commonwealth Scientific and Industrial Research Organisation expected to be available.
9. With reference to page 35 of the Great Barrier Reef Marine Park Authority’s report 2001-02, which notes that agreement has been reached with the Queensland Government regarding management of the take of pipefish and seahorses by trawlers, and given that the report also indicates that agreement was reached on measures that need to be introduced to monitor the impact of trawling on these species: What is the current level of: (a) pipefish; and (b) seahorse take by trawlers.
10. What are the current estimated population levels in the marine park of those species listed under the Environment Protection and Biodiversity Conservation Act 1999.
11. What are the agreed measures for monitoring pipefish and/or seahorse take.
12. What are potential measures to reduce the take of those threatened species.
(13) (a) Is it true that prohibitions on spawning aggregations are no longer in the Reef Line Fishing Plan; (b) was it in earlier drafts of the plan; (c) did the Great Barrier Reef Marine Park Authority support its earlier inclusion; and (d) does the authority support the targeting of spawning aggregations under this plan.

(14) Given that the Government has indicated it will reintroduce regulations relating to commercial netting in Princess Charlotte Bay, and given that approximately 16 fishers have a history of regularly using the bay: (a) how many of those 16 had other endorsements; and (b) what were the other endorsements.

(15) Of the total commercial netting effort in the bay, historically, how much of the effort occurred outside the conservation zone, including intertidal and estuarine netting.

(16) What is the total bill that the authority has submitted to the Queensland Government for monitoring and other work at Nelly Bay Harbour.

(17) (a) Has the authority inspected the ferry landing area; (b) is it the case that the concrete at the ferry landing is cracking; and (c) has the authority signed off on the landing facilities.

(18) Given that at the Environment, Communications, Information Technology and the Arts Legislation Committee estimate hearings on 20 November 2002, the authority indicated there were concerns with sediment at Nelly Bay: Can details be provided of the nature, status and proposed solutions to those concerns.

(19) Given that at the Environment, Communications, Information Technology and the Arts Legislation Committee estimate hearings on 20 November 2002, the authority indicated that there was an ‘excision’ issue in relation to Nelly Bay: Is it correct that this relates to the need for water to be permanently present between the breakwater and the mainland of Magnetic Island.

(20) Is it correct that the authority is recommending a re-profiling of areas inside the harbour in order to ensure that separation is maintained; if so, can a description of the authority requirements be provided.

(21) Is this issue the subject of any dispute with the state government.

(22) Based on current design, depths and sedimentation rates and the changes in beach profile requested by the authority, how frequently is dredging expected to be required inside Nelly Bay harbour or in the access channel.

(23) Has the authority had any discussions with the state, the contractor or others in relation to a proposed groyne at Nelly Bay; if so, can details be provided of: (a) the nature and status of the proposal; and (b) any discussions that have been held.

(24) With reference to the answer to question on notice No. 525 (Senate Hansard, 17 September 2002, p. 4323) in which the authority provided a summary of pending coastal development applications to the Senate: How many additional staged developments are there along the Queensland coast for which there are no current Commonwealth applications, but which have indicated an intent to move to a subsequent development stage.

(25) How many coastal development approvals issued by local or state governments are currently on the books that have not yet been acted upon but are still valid.

(26) With reference to page 30 of the Great Barrier Reef Marine Park Authority’s report 2001-02, which indicates that the authority acted as advisory agency on a number of occasions under the Integrated Planning Act: (a) How many advices were provided; and (b) for which development proposals.

(27) To what extent have the recommendations contained in advices been followed by the relevant state authority.
QUESTIONS ON NOTICE

(28) With reference to page 28 of the Great Barrier Reef Marine Park Authority’s report 2001-02 which lists one of the outputs of the authority as the ‘pollution status of Cleveland Bay’: Can an outline of the pollution issues relating to Cleveland Bay be provided.

(29) (a) Is the Queensland nickel outfall discharge pipe still operational; and (b) are there plans to cease discharge from that pipe.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) From information contained in the Queensland Transport 2001 Recreational Boating Survey and the Great Barrier Reef Marine Park Authority’s (GBRMPA) Environmental Management Charge data it is estimated that, recreational vessels over 6 metres in length would be expected to generate about 765 tonnes of sewage into the Great Barrier Reef Marine Park (GBRMP) per year (includes flush water). This roughly equates to 1.8 tonnes Nitrogen and 0.7 tonnes Phosphorus per year; and commercial tourist vessels take about 1,650,000 people into the GBRMP for 1 day per year, generating around 12,000 tonnes of sewage per year (includes flush water and assumes they all stayed for 12 hours). This roughly equates to 30 tonnes of Nitrogen and 11 tonnes of Phosphorus per year.

Therefore the estimated total volume of sewage discharged from such vessels into the GBRMP each year is approximately 12,765 tonnes. However, this is based on considerable assumptions regarding the number of passengers, how much sewage is generated and how often vessel owners visit the GBRMP.

(2) The Environmental Management Charge records held by the GBRMPA for permitted sewage discharges into the GBRMP in 2001-2002 indicate that the sewage discharged into the GBRMP met the Great Barrier Reef Marine Park Authorities tertiary treatment standard with the exception of a small number of minor exceedances. The estimated total volume of sewage discharged from vessels into the GBRMP each year that is not treated to tertiary standard is referred to in Question 1.

(3) Under the Great Barrier Reef Marine Park Act 1975 (the Act), waste includes oil, oil mixtures, noxious liquid substances, packaged harmful substances, sewage and garbage. It is an offence under the Act to intentionally or negligently discharge waste (other than sewage) in the GBRMP, unless the discharge is authorised by a permission from the GBRMPA.

With regard to sewage, the Act currently precludes vessels that contain a storage tank designed for the storage of sewage from discharging sewage within 500 metres of the seaward edge of the nearest reef. From 1 January 2004, the Great Barrier Reef Marine Park Regulations 1983 (the Regulations) will preclude vessels that are surveyed to carry more than 6 passengers from discharging sewage within 1000 metres of the mean low water mark of an island or the mainland, or within 1000 metres of the seaward edge of the nearest reef unless the sewage has been treated to tertiary standard.

(4) The GBRMPA’s policy for Sewage Discharges from marine outfalls into the GBRMP that required that all sewage discharges into the GBRMP be tertiary treated (to the standard defined in the Regulations) by 1 March 2002 has been implemented.

(5) The GBRMPA does not have any regulations to impose such requirements. However, the GBRMPA’s Environmental Guidelines for Marinas in the GBRMP published in 1994 for marinas within the Great Barrier Reef region, includes recommendations for the provision of sewage pump-out facilities in marina developments.

(6) See response to Question 5.

(7) The Senator is referred to the submission entitled Ecological Assessment of the Queensland East Coast Otter Trawl Fishery prepared by the Queensland Fisheries Service for Environment Australia.
for use in assessing the operation of the fishery under Parts 13 and 13A of the Environment Protection and Biodiversity Conservation Act 1999 in relation to the export of regulated native specimens. Table A6-1 in Appendix 6 of the submission contains figures for 2001 on the catch and days of fishing effort for the major species groups taken in the Queensland East Coast Otter Trawl Fishery. Figures for 2002 are not yet available. This report is available from the Queensland Fisheries Service, Queensland Department of Primary Industries.

(8) The Commonwealth Scientific and Industrial Research Organisation has provided advice to the effect that the final report of the research project on the recovery of seabed environment from the impact of prawn trawling in the Far Northern Section of the Great Barrier Reef Marine Park will be completed by December 2003.

(9) The latest figures on the take of syngnathids (pipefish and seahorses) in the Queensland East Coast Trawl Fishery are provided in a Statement of Management Arrangements for the Syngnathid Harvest from the Queensland East Coast Trawl Fishery prepared by the Queensland Fisheries Service in September 2001. According to fishers’ logbooks for the period March 2000 to July 2001, 102 trawlers reported retaining a total of 10,597 syngnathids, which (based on processor surveys) were thought to be predominantly the pallid pipehorse Solegnathus hardwickii and Duncker’s pipehorse Solegnathus dunckeri.

(10) The abundance and status of syngnathid populations in the Great Barrier Reef Marine Park are unknown.

(11) The pallid pipehorse Solegnathus hardwickii and Duncker’s pipehorse Solegnathus dunckeri are the only two syngnathid species allowed to be retained in the Queensland East Coast Trawl Fishery. The Senator is referred to the Environment Australia web site at: http://www.ea.gov.au/coasts/fisheries/assessment/qld/syngnathid/ministerial.html which contains details of the agreed measures for monitoring these pipefish and the requirements for the Queensland Fisheries Service to develop measures to minimise the interactions of the fishery with syngnathids in general.

(12) See response for Question 11.

(13) (a) In its Draft Coral Reef Fin Fish Fishery Management Plan, the Queensland Fisheries Service did not include management measures to protect fish spawning aggregations on the Great Barrier Reef; (b) In an earlier draft version of the Plan, it was proposed to protect fish spawning aggregations; (c) The GBRMPA supported the inclusion of three nine-day closures in October, November and December each year (the main spawning time for fish such as coral trout) as a suitable management strategy to protect fish spawning aggregations as part of a suite of management arrangements; and (d) The GBRMPA does not support the targeting of fish spawning aggregations.

(14) The Queensland Fisheries Service manages most fisheries in and adjacent to Queensland and maintains a confidential register of primary commercial fishing boat licence holders, including details of all endorsements. The Senator will need to contact the Queensland Fisheries Service directly to obtain the information he requires.

(15) The Queensland Fisheries Service requires that statistical records be kept and provided to the Chief Executive by primary commercial fishing boat licence holders. Historically, the statistical records related to half-degree squares (30 nautical mile X 30 nautical mile squares) and smaller 6-minute squares (about 6 nautical miles X 6 nautical mile squares). Consequently, the precise location of historical commercial netting effort in Princess Charlotte Bay with respect to estuarine and intertidal waters and waters in the Conservation Park Zone of Princess Charlotte Bay are unknown. Discussions between GBRMPA staff and commercial net fishers and GBRMPA’s knowledge of the manner in which the commercial net fishery operates in Princess Charlotte Bay indicate that a
significant amount of netting effort has occurred and continues to occur in intertidal waters
landward of the Conservation Park Zone.

(16) The total bill submitted by the GBRMP to the Queensland Government for monitoring and other
work at Nelly Bay Harbour as at 12 December 2002 is $3,869,688.65.

(17) In relation to the ferry landing facility, only the floating pontoon and associated piles are located
within the GBRMP. On this basis:

(a) It is not the GBRMP’s role to undertake structural inspections of these facilities. These
matters are considered to be adequately covered by other (State) legislation. The
Environmental Site Supervisor has inspected the site to ensure environmental issues were
considered during construction.

(b) Concrete areas associated with the ferry landing facility are not within the GBRMP. The
GBRMP has no specific knowledge of the condition of concrete areas outside the GBRMP.

(c) No ‘sign off’ is required from the GBRMP for the landing facilities. A decision in respect of
the operations of the facility has not yet been made.

(18) During construction, sediment levels in the harbour were in excess of limits imposed under
approvals for dredging methodology. Works were undertaken between 3 and 18 October 2002 to
remove excess silt. A meeting of the Technical Advisory Group on 7 November 2002 to evaluate
survey results following works to remove excess silt, concluded that there would be no net
environmental benefit in attempting to remove any remaining silt. On 20 November 2002, the
permittee was notified that sediment accumulations had been removed to the satisfaction of the
GBRMP.

(19) In order to ensure the area comprising the breakwater is not excised from the GBRMP it is
necessary that water flow under the bridge and around the breakwater on all sides at tide levels
equivalent to or higher than mean low water.

Water flow under the bridge was temporarily blocked off during construction and must now be
reinstated before the harbour works can be considered to be complete.

(20) The GBRMP is not recommending a re-profiling of areas inside the harbour. Works inside the
harbour are essentially complete with only minor works associated with landscaping of the main
breakwater remaining. The GBRMP is waiting on a proposed methodology and final design of
works from the State of Queensland for the ‘unblocking’ of the bridge and the reinstatement of
mean low water around the breakwater.

(21) There is currently no dispute between the GBRMP and the State on this issue. The State has been
informed that no decision in relation to the operation of the harbour will be made until such time as
the flow of water has been reinstated around the breakwater.

(22) The frequency of any maintenance dredging of Nelly Bay Harbour or the harbour channel, is not
known. A permit will be required from the GBRMP for any such dredging.

(23) A number of rock structures have been contemplated during the many years of design and
construction of Nelly Bay Harbour, the most “groyne like” of these are listed below:

(a) the 1995 concept design contemplated revetments associated with a car park for the public
boat ramp outside the harbour, however these structures are not contemplated at this time and
have not been constructed.

- No information is available on file to indicate if these revetments had erosion
management design criteria (so as to function as a groyne), other than for the protection
of the proposed car park.

(b) the finger breakwater was described in the Environment Australia/ Queensland Environmental
Protection Agency Environmental Assessment Report as the wave dissipater groyne. The
finger breakwater has been constructed adjacent to the harbour entrance channel, it has been
designed and constructed to reduce the impacts of current, wind and waves on operations
within the harbour. The finger breakwater is one component of the harbour to facilitate the
safe transfer of passengers at the ferry pontoons.
- No information is available on file to indicate if the finger breakwater had erosion
management design criteria (so as to function as a groyne), other than the protection of
the harbour from sea swell; and
(c) it is understood that the State proposes to seek approval to undertake works in the vicinity of
the breakwater bridge to ensure the flow of water around the main southern breakwater at the
Mean Low Water Mark. This work may include the placement of sand filled geo-fabric
“socks” parallel to the bridge to minimise the movement of sand and other beach material into
the harbour.
- A detailed design and construction methodology is yet to be received from the State.
(24) The GBRMPA does not receive details of all approvals given by either the local or state
governments, therefore the number of ‘additional staged developments along the Queensland coast
for which there are no current Commonwealth applications’ is unknown.
(25) The number of coastal development approvals issued by local and state governments but not yet
acted upon is unknown to the GBRMPA.
(26) The attached table outlines the 39 advices that were provided to state and local governments on
coastal development applications under the Integrated Planning Act 1997 and responses to requests
from proponents for advice in 2001-2002.
(27) For developments outside the jurisdiction of the GBRMPA (the advices referred to in Question 26),
the GBRMPA only acts as an informal advice agency under the Integrated Development
Assessment System process of the Integrated Planning Act 1997. Proponents are not legally bound
to follow this advice, however, the GBRMPA’s role has been successful in generally improving
development proposals with respect to minimisation of the potential downstream impacts on the
GBRMP.
(28) The issues are outlined in reports released on the World Wide Web in 2002,
(29) (a) The outfall pipe is still operational;
(b) The pipeline structure is now within the GBRMP, the Halifax Bay Section, due to the gazettal
of a number of new areas. The GBRMPA is currently processing a permit application for the
pipeline.
Requests for advice on proposals that have potential to impact on GBRMP: Queensland agencies, July
2001 – July 2002

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<td>Townsville Port Access Study</td>
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<td>Shute Harbour Sewerage Scheme</td>
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<td>Shute Harbour Ferry Terminal upgrade</td>
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<td>Proposed new public boat ramp - Shute Harbour</td>
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<td>Sea Swift Pty Ltd - expansion of fuel storage area on Thursday Island</td>
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<td>Hummock Hill Satellite Launch Facility</td>
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<td>Miriam/Vale</td>
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<td>Whitsunday Design and Drafting, Miran Khan Drive, Freshwater Point</td>
<td>Residential</td>
<td>Mackay</td>
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<tr>
<td>Porter Promenade &amp; Marine Parade, Mission Beach.</td>
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<tr>
<td>McDonald Close, Mount Brampton via Bowen</td>
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<td>Bowen</td>
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<tr>
<td>Material Change of use - Bruce Highway, Bramston Beach, Bowen</td>
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<td>Bowen</td>
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<tr>
<td>Lot 4 on SP133872,Mandalay Road, Jubilee Pocket</td>
<td>Residential</td>
<td>Whitsunday</td>
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<tr>
<td>Brampton Beach, Bowen</td>
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<td>Bowen</td>
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<tr>
<td>Gamburra Drive, Redlynch Valley Estate</td>
<td>Residential</td>
<td>Cairns</td>
</tr>
<tr>
<td><strong>Tourism (eg. Resort, caravan park)</strong></td>
<td></td>
<td></td>
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<tr>
<td>Castaway Bay Environmental Management Plan</td>
<td>Tourism</td>
<td>Whitsunday</td>
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<tr>
<td>Wongaling Beach Caravan Park, Bankfield Parade, Wongaling Beach</td>
<td>Tourism</td>
<td>Cairns</td>
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<td>Cayton Island Resort 63-93 Apjohn Street, Horseshoe Bay</td>
<td>Tourism</td>
<td>Townsville</td>
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<td>Redevelopment of Dunoon Resort, Picnic Bay</td>
<td>Tourism</td>
<td>Townsville</td>
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<td>Mitre Street, Port Douglas</td>
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<td>Renewal of Lease for parcel of land in Radical Bay - Magnetic Island</td>
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<td>Adventure Whitsunday Caravan Park</td>
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<td>Reconfiguration of Lots 96 and 31 - Port Douglas</td>
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<td>Arcadia Resort, Magnetic Island</td>
<td>Tourism</td>
<td>Townsville</td>
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<td>Golf Links Road - Lots 3, 20 &amp; 21, Bowen</td>
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<td>Conway Beach eco-resort</td>
<td>Tourism</td>
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<td>Loban Road, Thursday Island.</td>
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<td>Torres</td>
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<td>Charon Point Rd, Marlborough, Lot 98 CP881496</td>
<td>Tourism</td>
<td>Livingstone</td>
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<tr>
<td>Amendment to Term Lease 216551 over Lot 1 SP145558, Parish of Filmer, Thursday Island</td>
<td>Tourism</td>
<td>Torres</td>
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</tbody>
</table>
Senator Chris Evans asked the Minister for Defence, upon notice, on 11 December 2002:

(1) (a) How many of the 86 uniformed personnel engaged in health service provision in Victoria have been advised, to date, of their new postings as a result of the decision to award the health services contract to Mayne Health Services; and (b) of these personnel, how many have been posted to each hospital.

(2) When will all personnel be advised of their new postings.

(3) Why has this advice not been given to some personnel.

(4) What is the average period of notice given to those health personnel who have been notified, that is, what is the average time between notification and uplift to their new position.

(5) What is the minimum period of notice given to those health personnel who have been notified.

Senator Chris Evans asked the Minister for Defence, upon notice, on 11 December 2002:

(1) (a) Of the 16 Army personnel who are currently serving in Victoria, 6 have been posted. None of the Navy personnel have been formally advised of their postings at this stage. 5 Air Force personnel have been posted, some have been advised of their postings and other members are at various stages of negotiations.

(b) 3 of the Army personnel have been posted to the Albury Wodonga Health Centre and 3 to the Watsonia Health Services Unit.

(2) All of the Army personnel have been advised of their postings. It is expected that all Navy and Air Force personnel affected will be notified by July 2003.

(3) Decisions regarding the posting of Navy and Air Force personnel will be made once Mayne Health Services releases advice of their Staff Transition Plan. Navy and Air Force personnel are currently filling dual roles, that is, in the hospitals and as instructional staff in Service establishments in Victoria. It is not known whether Mayne Health Services will fulfil the instructional role. Once this is known, Navy and Air Force will decide on their posting obligations in the area.

(4) (a) The Army personnel affected have received 4 to 6 months notice of their postings.

(b) The Navy endeavours to provide 6 months notice of a posting where a change of location is involved; however, this may be less where the individual agrees to an earlier posting or where required by Service needs.

(c) An average of 6 months notice is provided for Air Force personnel, or as agreed between the member and the posting agency.

(5) (a) In early December 2002, a directive was issued by Army Headquarters to maintain a military presence in the Joint Health Support Agency units within Victoria. This was achieved without detriment to personnel who have already been issued with posting orders by using members currently in the area on compassionate postings, and offering those members who had requested discharge a further 12 months employment in the area. For these personnel one month notice was provided to move them from their local pool positions to vacated Health...
Services positions. In the case of personnel being posted in from other locations, 4 to 6 months notice was provided.

(b) Navy – not applicable, as no personnel have been notified.

(c) For Air Force, notification times vary between 1 and 6 months. All short notice postings have been agreed with the member.

Page Electorate: Program Funding
(Question No. 1089)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 17 January 2003:

(1) How many projects through the Dairy Regional Assistance Programme (DRAP) have been funded in the electorate of Page.

(2) When was each project application lodged with the Northern Rivers Area Consultative Committee.

(3) When was the application for funding lodged with the department and when was each application assessed and approved.

(4) Was the Member for Page or his electorate office informed by the Northern Rivers Area Consultative Committee of the details of the application.

(5) Did the Member for Page or his electorate office make representations in support of the application.

(6) Was the Member for Page or his electorate office consulted on the details of the application.

(7) Was the Department of Agriculture, Fisheries and Forestry, the Minister for Agriculture, Fisheries and Forestry and/or his office: (a) advised of the lodgement of the application and/or consulted on the details of the application; and (b) informed of the outcome of the assessment; if so, when was this information provided.

(8) Which individual or organisation lodged the application.

(9) What was the level of funding sought, and what level of funding was approved.

(10) What was the total cost of the proposed project.

(11) Did the applicant agree to meet 50 per cent of the cost of the project.

(12) Did the application contain proposed assessment criteria for evaluation; if so, what are the details of the assessment criteria.

(13) Has the project been evaluated; if so: (a) who conducted the evaluation; (b) when did it occur; and (c) what are its findings; if not, why not.

(14) Has the project failed to meet the milestones contained in its project plan; if so: (a) what is the nature of the failure; and (b) what action has been taken by the department to address the failure of the project to meet the terms of its project plan.

(15) If the application did not contain proposed assessment criteria, why not.

(16) Was the application varied between lodgement and approval; if so: (a) what was the nature of the variation; (b) was the variation required to ensure the proposal complied with the program guidelines; (c) who requested the variation; and (d) when was it requested.

(17) Has the project commenced; if so, when did it commence and did it commence on schedule; if not, why not.

(18) Has the project been completed; if so, when was it completed and was it completed on schedule; if not, why not.
(19) (a) If the project has been completed, has the proponent submitted a completed evaluation form including audited financial statements; if not, why not; and (b) what action has been taken by the department to ensure the proponent of the project complies with DRAP guidelines.

(20) How many direct and indirect jobs did the applicant estimate would be created by the project, and what was the anticipated duration of these jobs.

(21) Did the department evaluate the job creation forecast contained in the application; if so, what was the result of the evaluation; if not, why not.

(22) Has the project proponent provided monthly progress reports in accordance with section 1.17 of the DRAP application; if not: (a) has the project failed to comply with the requirement contained in section 1.17 of the DRAP application, and (b) what action has the department taken to address this failure.

(23) On how many occasions has the state office of the department inspected the project in accordance with section 1.18 of the DRAP application, and on what dates did those inspections occur.

(24) If a departmental officer has not visited the project in accordance with section 1.18 of the DRAP application; why not.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

Answers to the above questions have been provided to Senator O’Brien and copies are available from the Senate Tabling Office.

Tasmanian Regional Forest Agreement
(Question Nos 1122, 1123, 1124, 1125)

Senator Brown asked the Minister representing the Prime Minister, the Minister representing the Treasurer, the Minister representing the Minister for the Environment and Heritage and the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 21 January 2003:

(1) (a) What capital funding was provided to Tasmania under the Regional Forest Agreement (RFA) for the construction of forestry interpretation and/or visitor centres;
(b) how many centres were to be constructed;
(c) how many centres were constructed;
(d) where are they situated; and
(e) what was the cost of each centre.

(2) What conditions did the Commonwealth place on the use of the funding.

(3) Was it a condition of the grant that the centres could be sold and leased back to Forestry Tasmania; if so:
(a) what conditions applied to the sale proceeds; and
(b) how is the Commonwealth to recoup its funding; if not, can the Government confirm the sale by Forestry Tasmania of the Forestry Eco Centre constructed at Scottsdale, Tasmania.

(4) Was part of the sale contract the lease of the building to Forestry Tasmania.

(5) What are the terms and conditions of the lease.

(6) For how many years and at what rental is the building leased.

(7) What was the Commonwealth funding for the construction of the Scottsdale centre and what was the sale price.

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(8) For what purpose have the funds from the sale been used.

(9) Is it acceptable to the Commonwealth to provide recurrent funding to Forestry Tasmania through liquidation of Commonwealth-funded assets?

(10) Are there any other Commonwealth-funded Tasmanian Forestry capital projects which have been privatised and leased back to Forestry Tasmania.

(11) Did the Commonwealth recoup any funding from the sale.

(12) Are there any other RFA Commonwealth-funded Tasmanian Forestry capital projects which have been identified for sale and lease back, for example, Dismal Swamp.

(13) Is it Government policy to provide the states with capital funding and to permit the states to sell off the assets unconditionally.

Senator Ian Macdonald—The Minister for Fisheries, Forestry and Conservation has provided the following answer, on behalf of the ministers, to the honourable senator’s questions:

(1) (a) $3 million was provided by the Commonwealth, with $1 million provided by the State ($4 million in total for the projects);

(b) two;

c) two;

(d) one centre is located at Freycinet National Park. The other ‘centre’ is a network of smaller attractions and facilities in the vicinity of the Great Western Tiers (Deloraine, Mole Creek, Trowunna, Mersey River White Water Reserve, Alum Cliffs, King Solomon’s Caves); and

(e) total cost of the East Coast Interpretive Centre (Freycinet National Park) was $2,220,000 and the total cost of facilities on the Great Western Tiers area was: $1,780,000.

(2) Funding of the East Coast Interpretive Centre and the Great Western Tiers Centre was conditional on funds being used solely for the purpose of project development and construction.

(3) No, the grant conditions neither included nor excluded such an arrangement as funds were provided to the State for the purpose of development and construction of the Centres, after which the State assumed responsibility for them;

(a) not applicable – see (3) above

(b) the Forestry Eco Centre at Scottsdale was not funded under the RFA.

(4) Not applicable.

(5) Not applicable.

(6) Not applicable.

(7) The Commonwealth did not fund the construction of the Scottsdale Centre under the RFA. Dorset Council received a Regional Tourism Program grant of $85,000, administered by the Department of Industry, Tourism and Resources (DITR), for the interpretation components of the Centre.

(8) Not applicable.

(9) Not applicable.

(10) No.

(11) Not applicable.

(12) No.

(13) There is no general policy on providing capital funding to States.
Prime Minister: Energy Policy
(Question No. 1134)

Senator Brown asked the Minister representing the Prime Minister, 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 Hill—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) There are no permanent committees with members from outside the public service having a specific remit to advise the Prime Minister on energy policy.

However, at its ninth meeting, held on 5 December 2002, the Prime Minister’s Science, Engineering and Innovation Council, chaired by the Prime Minister, considered a report with energy policy implications. This report, and the composition of the working group which produced it, will be outlined in the response of the Minister for Science to Parliamentary Question No. 1137.

(2) There have been no temporary or ad hoc committees that have advised the Prime Minister on energy policy in the past five calendar years.

Radiation Protection Standards
(Question No. 1140)

Senator Allison asked the Minister for Communications, Information Technology and the Arts, upon notice, on 24 January 2003:

Given that, according to the foreword and annexes of the new Radiation Protection Standard RPS3 – Maximum Exposure Levels to Radiofrequency Fields – 3 kHz to 300 GHz, approved by Dr John Loy on 7 May 2002, research papers indicate adverse health problems from extremely low levels of radiofrequency (RF) energy, which have neither been confirmed nor denied:

(1) How will the Australian Communications Authority (ACA) handle these uncertainties when it integrates the levels specified in the standard into the regulatory framework.

(2) Will there be references in the regulations to: (a) the research papers; (b) the precautionary measures contained in clause 5.7(e) of the standard; and (c) the annexes at the back of the standard.

(3) Why has the ACA used only selected parts of the RF standard in regulating the mobile phone and broadcasting industries.

(4) What protection is now offered regarding occupational exposure to workers in these industries since the sections relating to occupational exposure have not been taken up by ACA.

(5) Why did the Australian Radiation Protection and Nuclear Safety Agency agree to selective use of parts of the standard.

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

(1) The Australian Communications Authority (ACA) has advised me that the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) is the Commonwealth agency with statutory responsibility to provide advice on safe radiation exposure limits. The ACA also advises that in set-
ting the exposure limits published in Radiation Protection Standard 3 (RPS 3), ARPANSA reviewed all the relevant scientific literature and ARPANSA incorporated significant safety margins into RPS 3 to address any uncertainties. The ACA further advises that, following consultation, it decided on 27 February 2003 to adopt those parts of the ARPANSA standard relevant to the regulation of radiofrequency exposure in the communications industry and mandated the exposure limits, as published by ARPANSA in RPS 3, in its new legislative instruments - Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003 and Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003. The new ACA EME regulations came into effect on 1 March 2003.

(2) No. However, I am advised by the ACA that the new legislative instruments make reference to where the full ARPANSA standard may be obtained. I also advised that RPS 3 is available at no cost to the public from the ARPANSA website at www.arpansa.gov.au.

(3) I am advised by the ACA that the Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003 will regulate the performance of particular mobile radiocommunications transmitters to protect the health and safety of persons exposed to electromagnetic radiation from the transmitters. The ACA has also advised that the Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003 (and related conditions on licences requiring compliance with this Determination) will also apply to a range of other transmitters. The ACA, in making its new EME regulations, adopted as recommended by ARPANSA those parts of the ARPANSA standard relevant to the regulation of radiofrequency exposure in the communications industry.

(4) The ACA has advised that Commonwealth, State and Territory occupational health and safety legislation requires employers to ensure the workplace is safe for employees and that the Authority defers to Commonwealth, State and Territory OH&S regulators on occupational exposure matters.

(5) The issues raised in this part of the question relate to ARPANSA and are matters for the Minister for Health and Ageing to address. I am advised that the same question was put to the Minister for Health and Ageing on 6 December 2002 in Senate Question 998. I am also advised that a reply to this Question was provided on 16 January 2003 by the Minister for Health and Ageing and published in the Senate Hansard of 4 February 2003 (page 8481).

**Increased Quarantine Intervention Program**

(Question No. 1158)

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 February 2003:

With reference to the information provided by each major airport about the infrastructure costs of implementing the Government’s Increased Quarantine Intervention Program, for each major airport: (a) what is the estimated implementation cost provided by the airport, including any caveats or qualifications placed upon the estimate; (b) what date was the information provided; (c) in what form was the information provided; (d) to which Commonwealth officer was the information provided; (e) what was the actual amount that the Commonwealth budgeted for each airport; (f) where works have been completed or are underway, what was the cost of the works; and (g) where works have commenced, what are the current estimated costs.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The information requested is set out in the following table

| Sydney Airport | What is the estimated implementation Cost (including Caveats or qualifications) | $11.3 million (GST exclusive) | Preliminary order of cost estimate |

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<table>
<thead>
<tr>
<th>Airport</th>
<th>Estimated implementation Cost (including Caveats or qualifications)</th>
<th>What date was the information provided?</th>
<th>In what format was the information provided?</th>
<th>To which Commonwealth Officer was the information provided?</th>
<th>What was the actual amount budgeted by the Commonwealth?</th>
<th>Where works have been completed or are underway, what was the cost of the works?</th>
<th>Where works have commenced, what was the current estimated costs?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melbourne Airport</td>
<td>$7.41 million (GST exclusive) - currently subject to review.</td>
<td>6 September 2002 - to be confirmed following review.</td>
<td>Letter and supporting documentation</td>
<td>Director, Industry Programmes, Department of Transport and Regional Services</td>
<td>$7.64 million (2003-04 Budget) plus $0.262 million for interim works and planning costs</td>
<td>$0.262 million for interim works and planning costs</td>
<td>N/A</td>
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<tr>
<td>Brisbane Airport</td>
<td>$2.868 million (GST exclusive)</td>
<td>Estimates were provided separately for three distinct elements of the project over the period September to December 2001</td>
<td>Letters and supporting documentation</td>
<td>Director, Noise Insulation, Department of Transport and Regional Services</td>
<td>$2.9 million</td>
<td>$2.807 million</td>
<td>N/A</td>
</tr>
<tr>
<td>Adelaide Airport</td>
<td>$0.605 million (GST exclusive)</td>
<td>12 September 2002</td>
<td>Email together with supporting documentation by mail</td>
<td>Director, Industry Programmes, Department of Transport and Regional Services</td>
<td>$0.605 million</td>
<td>$0.605 million</td>
<td>N/A</td>
</tr>
<tr>
<td>Location</td>
<td>Estimated Implementation Cost (including Caveats or Qualifications)</td>
<td>What date was the information provided?</td>
<td>In what format was the information provided?</td>
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<tr>
<td>Perth Airport</td>
<td>$1.625 million (GST exclusive)</td>
<td>27 December 2001</td>
<td>Email together with supporting documentation by mail</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Director, Noise Insulation, Department of Transport and Regional Services $1.625 million</td>
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<tr>
<td>Darwin Airport</td>
<td>$1.048 million (GST exclusive)</td>
<td>20 November 2001</td>
<td>Letter and supporting documentation</td>
<td></td>
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<td></td>
<td>Director, Noise Insulation, Department of Transport and Regional Services $1.05 million</td>
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<tr>
<td>Cairns Airport</td>
<td>Interim works $0.15 million (GST exclusive) Main works $2.93 million (GST exclusive)</td>
<td>6 September 2001 &amp; 10 October 2001 respectively</td>
<td>Email together with supporting documentation by mail</td>
<td></td>
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<td>Director, Noise Insulation, Department of Transport and Regional Services Interim works $0.15 million Main works $2.93 million</td>
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</table>

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Where works have been completed or are underway, what was the cost of the works?

Where works have commenced, what was the current estimated costs?

**Perth Airport**

Estimated implementation Cost (including Caveats or qualifications) $1.625 million (GST exclusive)

What date was the information provided? 27 December 2001

In what format was the information provided? Email together with supporting documentation by mail

To which Commonwealth Officer was the information provided? Director, Noise Insulation, Department of Transport and Regional Services

What was the actual amount budgeted by the Commonwealth? $1.625 million

Where works have been completed or are underway, what was the cost of the works? N/A

Where works have commenced, what was the current estimated costs? N/A

**Darwin Airport**

Estimated implementation Cost (including Caveats or qualifications) $1.048 million (GST exclusive)

What date was the information provided? 20 November 2001

In what format was the information provided? Letter and supporting documentation

To which Commonwealth Officer was the information provided? Director, Noise Insulation, Department of Transport and Regional Services

What was the actual amount budgeted by the Commonwealth? $1.05 million

Where works have been completed or are underway, what was the cost of the works? N/A

Where works have commenced, what was the current estimated costs? N/A

**Cairns Airport**

Estimated implementation Cost (including Caveats or qualifications) Interim works $0.15 million (GST exclusive) Main works $2.93 million (GST exclusive)

What date was the information provided? 6 September 2001 & 10 October 2001 respectively

In what format was the information provided? Email together with supporting documentation by mail

To which Commonwealth Officer was the information provided? Director, Noise Insulation, Department of Transport and Regional Services

What was the actual amount budgeted by the Commonwealth? Interim works $0.15 million Main works $2.93 million

Where works have been completed or are underway, what was the cost of the works? Interim works completed $0.138 million

Where works have commenced, what was the current estimated costs? Main works $2.93 million
Agriculture: Tasmanian Quality Assured Inc.
(Question No. 1166)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 17 February 2003:

With reference to the Minister’s media release of 10 February 2003, announcing that Tasmanian Quality Assured Ltd will conduct four case studies of quality management systems for segregating genetically-modified (GM) agricultural products:

(1) Is the Tasmanian Quality Assured Ltd mentioned in the Minister’s media release the same organisation as Tasmanian Quality Assured Inc. of 13A Brisbane Street, Launceston, Tasmania.

(2) Which is the correct name of the organisation conducting the four case studies.

(3) On what basis was Tasmanian Quality Assured awarded the contract to complete the four case studies of quality management systems for segregating GM agricultural products.

(4) Which other organisations submitted tenders for, or in some other way expressed an interest in, conducting these four case studies.

(5) When will each case study begin.

(6) When will each case study be completed.

(7) At what location will each case study be conducted.

(8) How much will each case study cost.

(9) Will the costs be fully met by the department; if not, who else will contribute funding to each case study and in what quantity.

(10) What are the specific stated objectives of each case study.

(11) How will the effectiveness of each case study be measured against the specific stated objectives of each case study.

(12) Will the audit tool referred to in the Minister’s media release, which will result from these case studies, become the standard for the use of the Australian Quarantine and Inspection Service when issuing export certification in relation to the GM status of Australian agricultural produce.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) Tasmanian Quality Assured Incorporated.

(3) Selective Tender.

(4) It is not appropriate to indicate the names of the other tenderers due to commercial in confidence considerations.

(5) The overall case study comprising the four case studies commenced on 28 January 2003.

(6) The overall study will be finalised by the end of April 2003.

(7) The overall study is a desktop study with site visits to various regions around Australia to discuss matters with industry experts.

(8) The overall study will cost up to $40,000.

(9) The Department of Agriculture, Fisheries and Forestry will be funding the overall study.

(10) The aim of the overall study is to:
• Identify the key elements of supply chain management necessary to enable traceability and/or identity preservation for GM and non-GM products for representative supply chains (e.g.: closed loop, bulk handling system);
• Identify what is needed at the point of exit from the supply chain to be able to verify/certify the GM/non-GM status of products (domestic or export);
• Identify existing traceability, quality assurance (QA) or quality management (QM) components or systems that could be used in such verification/certification systems (e.g. seed certification, on-farm QA, ISO), up to point of product exit from the supply chain (i.e. point of export or point of processing); and
• Identify the gaps in the availability of systems (e.g.: gaps for particular links of the supply chain; gaps in the subject coverage of existing systems; and incompatibilities of systems along the supply chain.

(11) The effectiveness of the overall study will be assessed from the final report.

(12) It is industry’s responsibility to develop supply chain systems that meet importing country government requirements in relation to GM status. The audit tool should assist industry in developing their supply chain systems and help them to ensure that risks are managed appropriately. AQIS certifies exports of agricultural products and commodities in accordance with the requirements of the Export Control Act 1982 on the basis of verifiable data that the exports meet the requirements of the importing country government.

Transport: Vehicle Import Approval
(Question No. 1170)

Senator Harris asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 19 February 2003:

(1) Does the year of manufacture of a vehicle determine what Australian Design Rules are applicable to that vehicle and, indeed, whether or not the Motor Vehicle Standards Act 1989 applies to that vehicle.

(2) Does the department nominate a year of manufacture for each vehicle for which an import approval is issued.

(3) Why does the department have no formal guidelines to check this date is correct.

(4) If this year of manufacture is incorrect, is not the department guilty of issuing a false and misleading document (certificate).

(5) Does the import approval nominate the compliance plate approval (CPA) holder who has agreed to comply that vehicle.

(6) Is this agreement binding on both the vehicle importer and CPA holder.

(7) What procedures does the department have in place to ensure the CPA holder can abide by this agreement.

(8) What compensation will the department offer to those who have imported vehicles, based on an agreement confirmed by the department, which is not able to be fulfilled.

(9) (a) Why has the department never issued warnings that details on the import approvals it issues may be incorrect and should not be relied on; and (b) why have departmental officers issued contrary advice that import approvals cannot be changed once issued and that details contained therein must be abided by.

(10) Given that two of the most important details on an import approval (year of manufacture and CPA holder) may be incorrect, why does the department bother issuing these documents.
Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) In part. The date of manufacture, as defined in the Australian Design Rules (ADRs) and the vehicle category determine the applicable ADRs for a vehicle model. The Motor Vehicle Standards Act 1989 applies to Road Vehicles, as defined in the Act, irrespective of the date of manufacture.

(2) The year of manufacture shown on the import approval, meaning the year in which the vehicle was originally manufactured is as provided by the applicant, except where the Department of Transport and Regional Services (DOTARS) has information to the contrary.

(3) DOTARS assumes that the information provided by the import approval applicant is accurate and correct, noting that there are criminal penalties under the Criminal Code 1995 for supplying false information.

(4) No.

(5) Yes, since October 2001, for vehicles that are being imported for compliance modifications.

(6) It is intended to be. See answer to Question (7).

(7) As noted in the answer to question (5), relevant import approvals have, since October 2001, identified the Compliance Plate Approval (CPA) holder who has agreed to modify the vehicle. It is a condition of the approval that the vehicle is modified by the CPA holder who is identified on the approval. This practice was set in place to support the then regulation 9E of the Motor Vehicle Standards Regulations, which required the Minister, before approving a relevant import application, to be satisfied that the importer had entered into binding arrangements with the holder of a CPA for modifying the vehicle. The binding arrangements were indicated by a ‘Letter of Agreement’, between the owner of the vehicle and the CPA holder, that accompanied the import approval application.

DOTARS also provides a basic check at the import approval stage to see if there is any obvious reason why the CPA holder may not be able to modify the vehicle. It does not alleviate the responsibility of the CPA holder to know which vehicles are within the scope of their CPA. Nor does it provide confirmation from DOTARS that the CPA holder will be able to fulfil the agreement. The main reason for doing a check is to try to identify whether there are any obvious problems before importation rather than after the event, by which stage the importer will be at a greater disadvantage if the CPA holder is unable, or unwilling, to fulfil the agreement. Where the agreement breaks down the parties need to settle the matter through ordinary commercial law processes.

(8) None. As explained in the previous answer, DOTARS does not “confirm” contracts between importers and CPA holders. DOTARS is not a party to the contract and can therefore not enforce the obligations of one party against the other.

(9) (a) The information on the import approval reflects the information provided by the Applicant. Accordingly, it would be pointless to advise the Applicant that the information in their approval might be incorrect.

(b) I am unable to answer this question. It is unclear what advice is being referred to.

(10) The Motor Vehicle Standards Act 1989 requires that certain types of vehicles may only be imported into Australia with the written approval of the Minister. Accordingly, if an import approval is not issued those vehicles could not be imported.

**Defence: Portsea Site**

(Question No. 1172)

Senator Allison asked the Minister for Defence, upon notice, on 21 February 2003:
QUESTIONS ON NOTICE

(1) Has the date for public comment on the draft Portsea Defence Land Community Master Plan been extended to 28 February 2003, as requested.

(2) Will the Government accept the advice of the consultants who prepared the draft master plan that private residential land-use be excluded and that the site remain in public ownership; if not, why not.

(3) Why have real estate agents been appointed to develop a marketing and sales program for the land ahead of finalisation of the master plan.

(4) Can a copy of the brief provided to Colliers International be made available; if not, why not.

(5) What is the current status of discussions with the Victorian State Government over the clean-up of the site.

(6) By what process, and on what basis, was permission given to Portsea landowner, Mr Lindsay Fox, to land his helicopter in the Norris Barracks area at Point Nepean throughout the summer.

(7) What are the terms of this arrangement.

(8) Was local government consulted over the decision; if not, why not.

(9) Were local residents consulted over the decision; if not, why not.

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

(1) Yes.

(2) The Government supports the land uses identified in the draft Portsea Defence Land Community Master Plan and has announced that:

(a) 205 hectares of native bushland south of Defence Road will be gifted to the State Government;
(b) the Government will deed in perpetuity 17.6 hectares of land near Police Point to the Mornington Peninsula Council for use as public open space; and
(c) following the Victorian State Government refusal to purchase the remaining 90 hectares of land through a priority sale, part of the site will be offered to the open market through an expression of interest process, providing the State Government with a further opportunity to purchase the site in line with intent of the draft Master Plan.

(3) Due to the time period required to procure consultants for this type of work, Defence initiated the procurement process to engage Marketing Agents for the divestment of the Portsea site in line with Government disposal timeframes.

(4) Yes. The tender documents, which were provided to Colliers International, can be made available. The following brief of work was provided as part of a public tender process, which called for marketing agents to provide:

(a) all encompassing marketing advice as required in scheduled project Control Group meetings;
(b) detailed marketing strategy for each property including likely targeting of prospective purchaser and the most appropriate forms of marketing media and documentation;
(c) focused and objective marketing advice and maintain a disciplined record of all contact (and the result of such contact) with any prospective purchasers throughout the marketing campaign should that be undertaken;
(d) all advertising documentation, including draft proofs for consideration and sign off by Defence;
(e) assistance in the preparation of tender documentation for the selection of successful tenderers/purchasers;
(f) assistance to Defence by attending, coordinating and recording meetings with Defence;
(g) A detailed works program with agreed milestones outlining submission of draft and final advertising and establishment of target auction/receipt of tender dates for the disposal of each property; and provide fortnightly progress reports.

The above works were formalised in a contract between Colliers International and the Department of Defence.

(5) Defence has not engaged the Victorian State Government on the clean-up of the site. However, Defence has decided to manage and pay for the remediation of unexploded ordnance on the site.

(6) Following a request from Mr Fox to land his helicopter on the Norris Barracks site, the department agreed to allow one further entity (ie Mr Fox), in addition to the Southern Peninsula Rescue Squad previously authorised, to use the Commonwealth land. The issue was carefully assessed and it was agreed to allow use of a landing site for restricted use and for a short time period only. The licence of three month's duration terminated 15 March 2003.

(7) The license was between the Commonwealth and Mr Fox and related to the terms and conditions under which he could use the land for helicopter landings and take-offs. It was expressly for non-commercial purposes and for one specific helicopter only. The license fee was $2,000 per annum (exclusive of GST). The security deposit was $10,000. LINFOX Global Insurance of $20,000,000 provided insurance. LINFOX paid the legal costs to create the license.

(8) and (9) No. As the land owner of the property, this was a matter for the Commonwealth (Defence).

Iraq

Senator Bartlett asked the Minister representing the Minister for Foreign Affairs, upon notice, on 21 February 2003:

(1) With reference to the view expressed by the Minister recently that Saddam Hussein’s behaviour is ‘intolerable’; (a) is it not the case that when, in the 1980s, Saddam Hussein’s regime was gassing Kurds and Iranians, the West increased its aid and support to Iraq; and (b) if Saddam Hussein’s behaviour is intolerable now, why was it not intolerable then?

(2) Is it not the case that Saddam Hussein was assisted by the United States of America (US) with intelligence, satellite imagery, arms and weapons of mass destruction at that time?

(3) Is it not the case that the US declared itself to be ‘neutral’ in the war between Iraq and Iran, while covertly assisting Iraq in that war?

(4) (a) Does the Government agree with US Senator John McCain, who has stated that it was ‘foolish’ for people to protest on behalf of the Iraqi people, because the Iraqis live under Saddam Hussein ‘and they will be far, far better off when they are liberated from his brutal, incredibly oppressive rule’; and (b) what advice has the US Government provided about the plan to liberate Iraq?

(5) Given that France, Germany and other members of the Security Council have questioned the urgent rationale for war now, saying that there is a chance that continued inspections under military pressure might accomplish the disarmament of Iraq peacefully: Does the Government agree; if not, why not?

(6) With the Minister urging that there be a United Nations (UN) resolution authorising an attack on Iraq, what are the implications for Australia’s relations with France, Germany, Russia and China now that these countries have argued for continued inspections?

(7) (a) Is the Government aware that foreign ministers for 22 Arab nations, meeting in Cairo recently, called on all Arab countries to ‘refrain from offering any kind of assistance or facilities for any military action that leads to the threat of Iraq’s security, safety and territorial integrity’; and (b) what are the implications of this statement in the event of an attack on Iraq?
(8) Given that, in his latest report, the Executive Chairman of the UN Monitoring, Verification and Inspection, Dr Blix, indicated that weapons inspectors were making noteworthy progress in forcing Iraq to make concessions on everything from allied surveillance flights to giving inspectors greater access to Iraqi weapons scientists, and also said Iraq was still not cooperating like a state that truly wanted to disarm, but there had been progress: Why does the Government claim that Saddam Hussein is playing a ‘cat and mouse’ game and that there has been no progress on disarmament?

(9) Given that US Secretary of State, Mr Powell, recently promised new intelligence on connections between Iraq and Al Qaeda, but then did not publicly provide it: Has that information been provided to the Australian Government; if so, when will it be released publicly?

(10) Given that Dr Blix pointed out recently, that the satellite images Mr Powell brought before the Council were shot 2 weeks apart and did not necessarily show Iraqi deception: What are the implications of this advice for Australia’s position?

(11) What response has the Minister made to the argument of the French Foreign Minister, Mr de Villepin, that no one has convincingly argued that immediate war would be shorter and more effective in disarming Iraq than continued UN weapons inspections under the threat of force?

(12) What response has the Minister made to French intelligence agencies finding that there was no support for the US claim of a strong connection between Baghdad and Osama bin Laden’s terrorism network?

(13) What advice has been sought from the British Prime Minister, Mr Blair, with regard to revelations that the United Kingdom’s latest intelligence white paper was found to have been plagiarized from Internet sources?

(14) Given that recent reports from Israel, suggest that the date of attack depends only on logistical considerations, when the deployment of US troops is complete, and that the war will begin at the end of February 2003 or the beginning of March 2003: Is this the Government’s understanding of the situation?

(15) Given that Israeli Major-General Gilad, Coordinator of Government Activities in the West Bank and Gaza, is quoted as saying on Saturday, 15 February 2003, that a US-led attack on Iraq would remove the Iraqi threat, and would be an example for ‘the removal of other dictators closer to us who use violence and terror’: What is the Government’s understanding of this statement?

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) (a) We cannot speak for other Western countries. Questions regarding United States policy are best directed to the government of that country. Australia provided no assistance or support to Iraq over this period.

(b) Iraq’s actions were regarded as intolerable when they occurred in the 1980s, as demonstrated by the response of the Government at the time (see for example the response to Question on Notice 1682 of 24 August 1984).

(2) See (1)(a).

(3) See (1)(a).

(4) (a) It is true that the Iraqi people will be better off having been liberated from Saddam Hussein.

(b) United States plans for assistance to a liberated Iraq can be found at www.usaid.gov/iraq/index.html. In addition, United States President Bush made a major statement on 16 March 2003 concerning his vision for Iraq and the Iraqi people, which can be found at www.whitehouse.gov/news/releases/2003/03/20030316-1.html, and senior US figures have made a series of public comments on this subject since that time.
(5) No. In his 7 March statement, Dr Hans Blix, head of UNMOVIC said “even with a proactive Iraqi attitude, induced by continued outside pressure, it would still take some time to verify sites and items, analyse documents, interview relevant persons, and draw conclusions.” Without Iraqi cooperation, inspections were doomed to continue interminably.

(6) It is regrettable that there was no further UNSC resolution to follow up UNSC resolution 1441. Australia’s bilateral relations with France, Germany, Russia and China remain good.

(7) (a) Yes, the Government is aware of the statement by Arab League ministers.

(b) Pronouncements of the Arab League are not binding on its members. Some of these countries are partners in the coalition of the willing.

(8) Briefings to the Security Council by the heads UNMOVIC and the IAEA on 27 January 2003 were a damning indictment of Iraq. UNMOVIC head Dr Hans Blix said “Iraq does not appear to have come to genuine acceptance, not even today” of the need to disarm. The issue was not whether inspectors needed more time, but whether Iraq was willing to cooperate. None of Dr Blix’s reports indicated that Iraq ever cooperated fully with UNMOVIC.

(9) US Secretary of State Powell made a convincing case in his presentation to the UN Security Council on 5 February. Evidence was provided to demonstrate the linkage between Abu Musab al-Zarqawi, who at the time was or had been in Iraq, under the protection of the Iraqi regime, and Al Qaeda. US Secretary Powell also established linkages between the terrorist group Ansar al-Islam, in Northern Iraq and Al Qaeda. Subsequent events in Iraq have validated Secretary Powell’s case.

(10) There are no implications. US Secretary Powell produced compelling evidence that the Iraqi regime continued its intention to deceive and was not cooperating fully with the inspection process, and hence was in material breach of UNSC 1441.

(11) Disarming Iraq through inspections failed for twelve years. Following the remarkably successful military campaign of recent weeks, a high priority remains locating, securing and disposing of Iraq’s weapons of mass destruction arsenal.

(12) None.

(13) None.

(14) Developments in Iraq over recent weeks have overtaken the matters raised in this question.

(15) Comments by Israeli officials are a matter for the Government of Israel.

**Trade: Livestock Exports**

(Question No. 1176)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 24 February 2003:

(1) Has the Australian Government received representations from the Kuwaiti Government or the Livestock Transport & Trading Co. (LT&T) in relation to the decision to suspend the live export licence of the LT&T wholly-owned subsidiary Rural Export & Trading (WA) Pty Ltd; if so: (a) when were these representations received; and (b) what was the nature of the Government’s response.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Representations were received from the Kuwaiti Embassy in January 2003, seeking a meeting to discuss the matter. A meeting was held with the Kuwaiti Ambassador on 18 March 2003.
Trade: Livestock Exports (Question No. 1179)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 24 February 2003:

(1) Did the livestock vessel Al Shuwaikh depart Portland, on or about 9 January 2003, carrying livestock bound for a foreign destination; if so: (a) when did the vessel depart; and (b) what was its destination.

(2) Which company owns and operates the vessel.

(3) Which company held the export licence for the transit of these livestock.

(4) Is this company a partly- or wholly-owned subsidiary of Livestock Transport & Trading Co.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The Al Shuwaikh departed Portland on 11 January 2003 bound for Bahrain, Jebel Ali, Kuwait and Port Sultan Qaboos.

(2) The Al Shuwaikh is owned and operated by the Kuwait Livestock Transport and Trading Company.

(3) Samex Australian Meat Company Ltd held the export licence for the transit of these livestock.

(4) The Department of Agriculture, Fisheries and Forestry has no information on the ownership of Samex Australian Meat Company Ltd.

Quarantine: US Navy Battle Group (Question No. 1181)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 24 February 2003:

With reference to the Australian Quarantine and Inspection Service (AQIS) bulletin no. 1, February 2003:

(1) What activities did AQIS undertake in relation to the recent US Navy battle group visit to Fremantle.

(2) How many staff provided these services.

(3) On what days were these services provided.

(4) What was the full cost of delivering these services.

(5) Did staff costs include overtime costs; if so, can details be provided of the overtime costs incurred.

(6) Were any costs recovered from the US Navy for the provision of these services.

(7) Did AQIS officers supervise the collection, transport and burial of waste from these vessels; if so: (a) what waste was generated; and (b) when and where was it buried.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The Australian Quarantine and Inspection Service (AQIS) undertook the normal range of quarantine border control functions for arriving international vessels including: initial processing of the Quarantine Pre-Arrival Reports (QPAR’s) and subsequent granting of ‘Approvals to Berth’, quarantine surveillance for items of quarantine interest carried by disembarking personnel, supervision of waste for disposal, monitoring the cleaning and disinfection of relevant equipment, and inspection of containerised equipment periodically offloaded.

(2) At various times, 22 staff provided services for a total of 81 hours.

QUESTIONS ON NOTICE
(3) Each day during the period 22 December 2002 to 28 December 2002.
(4) $10,973.50.
(5) Yes: $1,270.00.
(6) Yes.
(7) Yes.
(a) 45.36 tonnes.
(b) Deep burial was conducted daily at Henderson Tip – Henderson Landfill Site, City of Cockburn, Rockingham Road, Henderson, Western Australia.

Australian Defence Force: Suicide
(Question No. 1189)

Senator Chris Evans asked the Minister for Defence, upon notice, on 24 February 2003:

(1) How many suicides of Australian Defence Force (ADF) personnel, including cadets, have there been in each year since 1995.
(2) Can a breakdown be provided of these annual figures, listing: (a) the age that the person was when they committed suicide; (b) which service they were in; (c) how many years they had served in the ADF; and (d) which bases the deceased were serving at when they committed suicide.
(3) How many claims have been made since 1995 for compensation for the death by suicide of ADF members, including cadets, under the Safety, Rehabilitation and Compensation Act 1988.
(4) How many such claims have been successful.
(5) In respect of claims under the Act relating to ADF personnel who have committed suicide, what must a claimant establish to be successful.
(6) Is the rate of suicide by ADF members higher at some bases than others.
(7) Has there been any investigation into the reasons for higher suicide rates at some bases than others; if so: (a) when; and (b) what were the findings.
(8) (a) Has the department or the ADF investigated the common reasons for, and circumstances leading to, the suicide of its members; if so, what did any such investigations find; and (b) can copies be provided of any relevant reports.
(9) Has there been any investigation into the reported suicides of three Royal Australian Air Force members at Williamtown in 2002.
(10) What procedure is followed upon the suspected suicide of an ADF member; for instance, is there always an inquiry, are there common terms of reference for all such inquiries, who conducts the inquiry, and to whom do they report.
(11) (a) In what circumstances does a state coronial inquiry happen on the death of an ADF member; and (b) does the ADF ever refer an apparent suicide or death to a coroner.
(12) For each year since 1995, how many coronial inquiries have occurred in relation to the suspected suicide of an ADF member.
(13) (a) Does the ADF have any internal coronial procedures; and (b) in what cases have they been triggered.
(14) (a) How much has been spent by the department to date defending or handling the various administrative actions brought by Ms Susan Campbell on behalf of her deceased daughter, Cadet Sergeant Eleonore Tibble; and (b) can a breakdown be provided of this total sum, listing: (i) the cost of legal advice, including any in-house legal advice, (ii) administrative costs, (iii) salary costs, and (iv) travel costs of the officials involved.
**Senator Hill**—The answer to the honourable senator’s question is as follows:

1. Defence Health Service did not maintain records on suicides prior to 1996. The table below shows the number of suicides in the Australian Defence Force (ADF) by year since 1996.

<table>
<thead>
<tr>
<th>Year</th>
<th>No of Suicides</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>N/A</td>
</tr>
<tr>
<td>1996</td>
<td>13</td>
</tr>
<tr>
<td>1997</td>
<td>10</td>
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</tr>
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<td>7</td>
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<tr>
<td>2001</td>
<td>14</td>
</tr>
<tr>
<td>2002</td>
<td>8</td>
</tr>
<tr>
<td>Total</td>
<td>72</td>
</tr>
</tbody>
</table>

2. A breakdown can be provided for all elements in this question, except for the number of years of service. The sources of information are Notification of Casualty messages that do not include the number of years of service. Attachment 1 details the ADF suicide data by service by year for 1996 – 2001:

3. 10.

4. 5 of the 10 claims were successful.

5. It must be established that the suicide resulted from a physical or mental injury, or the aggravation of such an injury, that arose out of or in the course of the member’s employment; or, that the suicide resulted from a disease being an ailment or the aggravation of any such ailment that was contributed to in a material degree by the member’s employment by the Australian Defence Force.

6. The information available does not show a trend where suicide is higher at any base, ship or unit.

7. (a) and (b) There has not been an investigation that isolates higher suicide rates at any bases, ships or units.

8. (a) A 1991 study into suicides in the Royal Australian Navy (RAN) (1979-June 1991) found that the RAN suicide rate was generally lower than the US Navy, Army, Air Force and civilian statistics. RAN suicide rates were also found to be lower than some earlier Australian Army statistics. However, it was generally higher than for the Royal Navy and Royal Marines and more recent Australian Army statistics. There was a range of data gathering difficulties and the statistical significance of findings was queried given the fact that the absolute number of RAN suicides was small. The report highlighted that the most common precipitating factors were discordant family background and a major deterioration in intimate difficulties with a loved one, which was perceived as an actual loss of the relationship.

A 1992 research report investigated suicide and self-inflicted injury in the Australian Army. It compared occurrence rates between three age groups and 16 ranks, with rates occurring in similar groups of the civilian community and overseas military services. It examined data on 36 suicides notified as occurring between 1985 and 1991. That study revealed an overall suicide rate of 16.9 per 100,000 that was lower than similar sex/age ratio cohorts of the Australian general population.

It also found that suicide rates for males were higher than females, as is the case in the general community. Friday, Saturday and Monday were days with higher incidences of suicide, which coincides with social isolation patterns for individuals who have limited non-work activity or interpersonal interaction. These trends were more marked than in the population at large. The months of July and January were the worst. The study did not investigate factors such as marital status, precipitating events, psychiatric illness, means used, whether a note was left and reason given or the presence of preceding suicidal ideation.
A 1994 report on suicides from The Technical Cooperation Program nations (US, UK, Canada, Australia and New Zealand) reported that the victims tended to be over represented in the white, male, non-officer subgroups. Motivations appeared similar to those for civilian populations, with risks being higher for individuals who were experiencing feelings of rejection and isolation, most likely arising from a pending or recent relationship breakdown; individuals who were already divorced, widowed or separated; or members of the services who had unhappy parental family backgrounds. Higher risk was also associated with a history of drug or alcohol abuse and/or psychiatric referrals. Firearms were the predominant means, and victims were most likely to be found in their prime residence and on Mondays. It was recognised that, in countries with smaller military forces (such as Australia and New Zealand), annual frequencies can fluctuate greatly and interpretation require caution. One or two deaths a year, for example, may represent a 50% or 100% increase over the previous year in a smaller military. The study also cautioned about the use of civilian statistics for direct statistical comparative purposes.

A report completed in 2000 noted the ADF suicide rates. This report did not provide any comprehensive analysis of common reasons for, and circumstances, surrounding ADF suicides in particular. However, it did reiterate common, well-known risk factors, outlined in previous studies.

(b) Copies of the reports can be provided. The 1994 report will require the release of the other participating nations.

(9) Three deaths occurred in 2002 involving two Air Force members serving at Williamtown and one ex-Air Force member who discharged from the Air Force four days prior to his death. The three deaths have no common links and are being investigated by the relevant State authorities.

(10) There is no legal requirement for Defence to conduct an investigation. Investigations may be carried out to determine implications for Defence and subsequent actions and changes to the way business is done. Procedures outlined below allow for the appointment of an officer to conduct an investigation into the death of a serving member. A Board of Inquiry, that includes subject matter experts and a medical officer, may be established to investigate the circumstances of an incident such as suicide.

Australian Defence Force Publication (ADFP) 202 is the main reference for administrative processes related to Investigations and Boards of Inquiry. This publication provides a common Terms of Reference for Defence. ADFP 202 provides broad guidelines for when investigations are required. Defence Instruction General Personnel Number 11-2, titled Notification of Service and Non-Australian Defence Force Casualties describes the actions and procedures for dealing with fatalities and casualties. The description of suicide may only be used if a legal authority has confirmed that suicide was the cause of death.

Defence Instruction Navy Personnel Number 40-5, titled Management of Threatened, Attempted or Completed Suicides within the RAN provides the instruction for a Board of Inquiry to be established to investigate the circumstances of serious bodily injury. The members of a Board of Inquiry are determined by the Administrative Authority in line with technical and medical knowledge requirements This instruction also outlines how legal authorities can be assisting in their investigation.

(11) (a) In circumstances which do not involve ADF operations, deaths of ADF members and civilians within Australia are subject to the provisions of the Coroners Act in the State or Territory in which the death occurs. In some instances the jurisdiction of the Coroner may arise in respect of deaths occurring outside a State or Territory.

If the death of an ADF member or Australian civilian occurs overseas in non-operational circumstances, the remains will usually remain under local jurisdiction until repatriation to Australia,
when they then come under the jurisdiction of the Coroner or the State or Territory at the port of entry.

If the death of an ADF member occurs overseas in operational circumstances, the legal jurisdiction under which the remains will fall will depend on military, legal, and diplomatic authorities. Unless contrary arrangements are made by these authorities the remains will be under ADF jurisdiction.

(b) In accordance with the above procedure, the coroner is informed of the death of an ADF member as per State and Territorial legal requirements.

(12) This information is unable to be obtained. This matter is within the jurisdiction of each State Attorney-General.

(13) (a) and (b) No. The coronial process is a State process, not an internal ADF process.

(14) (a) Departmental costs in defending or handling the administrative actions brought by Ms Campbell on behalf of her deceased daughter, are not kept in the particularised format sought by this question and are unable to be provided.

(b) For the same reason a breakdown of costs expended are unable to be provided.

(i) This information cannot be provided as the cost of any external legal advice received is commercially sensitive and is the property of the legal firm involved. No particularised records are kept as to the cost of providing internal legal advice.

(ii) Administrative costs are not particularised.

(iii) Salary costs are not particularised.

(iv) Travel costs - of external lawyers - such information is the property of the legal firm/counsel concerned. The travel costs of the Departmental officer attending the hearing of the Tasmanian Anti-Discrimination Tribunal in Hobart in January 2003 were $737.58.

ADF SUICIDE DATA 1996-2001 BY SERVICE BY YEAR

<table>
<thead>
<tr>
<th>YEAR</th>
<th>Base</th>
<th>AGE</th>
<th>METHOD</th>
<th>M/F</th>
<th>ARA</th>
<th>RAAF</th>
<th>RAN</th>
<th>Grand Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>HMAS PENGUIN</td>
<td>26</td>
<td>OVERDOSE</td>
<td>M</td>
<td>1</td>
<td>1</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td></td>
<td>NOT KNOWN</td>
<td>19</td>
<td>HANGING</td>
<td>M</td>
<td>1</td>
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<td>24</td>
<td>OVERDOSE</td>
<td>M</td>
<td>1</td>
<td>1</td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>25</td>
<td>GUNSHOT</td>
<td>M</td>
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**Agriculture: Sugar Industry**

(Question No. 1201)

**Senator O’Brien** asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 25 February 2003:

Can details be provided of the benchmarks against which the department will measure the efficiency of the collection mechanism for the government’s new sugar tax/levy.

**Senator Ian Macdonald**—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

The collection mechanism is designed to reduce collection points and take advantage of any opportunity available to minimise the administrative burden associated with levy payment or collection. The uniqueness of the Primary Industry levy system precludes the opportunity to use external benchmarks.
The Department of Agriculture, Fisheries and Forestry measures the efficiency of the collection mechanism by closely monitoring feedback from field staff on the levels of intervention required to achieve compliance.

The benchmark for a reasonable level of intervention is the comparison with that of other levies administered by Levies Revenue Service of the level necessary within a risk management framework to achieve completeness of collection.

Agriculture: Sugar Industry
(Question No. 1210)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 25 February 2003:

(1) Can the Minister confirm that the Government’s sugar tax/levy does not apply to forward contracts for sugar formed prior to the commencement of the levy on 1 January 2003; if so, can details of the revenue implications of this arrangement be provided.

(2) Can the Minister confirm whether he has instructed his department to waive compliance with the Government’s sugar tax/levy for the first 60 days of its operation; if so, can details of the revenue implications of this arrangement be provided.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The sugar levy does not apply to forward contracts formed prior to 1 January 2003 if the contract is binding in regard to price. Sugar forward contracts are on a draw-down account basis. Therefore, the revenue implications cannot be determined until major contracts are fully drawn down. The life of each contract is variable as they are demand driven.

(2) The Minister has instructed the Department of Agriculture, Fisheries and Forestry to waive penalties for late payment of levy for the first 60 days of levy operation (January and February 2003). The waiving of penalties for late payment of levy monies by the refineries for the first 60 days of levy operation will not affect overall levy revenues. This arrangement may, however, delay the initial levy revenue stream.

Raising the Nation: A History of Commonwealth Departments of Agriculture, Fisheries and Forestry
(Question No. 1213)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 25 February 2003:

(1) Can details be provided of the full production costs of the publication Raising the Nation: A History of Commonwealth Departments of Agriculture, Fisheries and Forestry.

(2) How many copies have been produced.

(3) How many copies have been distributed at no cost to recipients.

(4) What is the procedure adopted by the department to ensure the production was subject to apolitical co-ordination.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Consulting services: $52,474
    Design and printing: $70,736
    Other costs: $21,960

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Total (estimated): $145,170
“Other costs” include legal, travel, public relations, marketing and other miscellaneous costs, some of which are attributable to AFFA’s broader contributions to the Centenary of Federation Celebrations.
Costs may change slightly as final design and printing invoices are still to be received.

(2) 1000 soft-covered copies and 250 hard-covered copies.
(3) 90 (as at 5 March 2003)
(4) Ministerial approval was not sought at any stage with regards to contents of the publication. Independent consultants, who are practising professional historians, were selected to write the publication. Copies of the final publication were delivered to relevant Government Ministers and the shadow Minister at approximately the same time.

Quarantine: Cabotage
(Question No. 1215)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 25 February 2003:
What contribution has the Australian Quarantine and Inspection Service made in the past 12 months to the Government’s consideration of quarantine issues in relation to cabotage.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
The Australian Quarantine and Inspection Service (AQIS) has contributed to the Government’s consideration of quarantine issues related to cabotage through representation at an Interdepartmental Consultation Group meeting in April 2002 and through discussions with the Department of Transport and Regional Services (DoTARS).
AQIS’s discussions with, and comments provided to DoTARS during the last 12 months have related to the quarantine risks associated with international vessels and clearance procedures required to ensure that these risks are managed effectively.

Immigration: People-Trafficking
(Question No. 1218)

Senator Greig asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 26 February 2003:
With reference to the practice of ‘trafficking’ in people:
(1) Is it not the case that there are women who were deceived at every stage of the trafficking process, who have gone to the department and are willing to testify, but the department has not responded to their offers.
(2) (a) On how many occasions have women made such representation to the department in the past 3 years; and (b) can details of these representations be provided.
(3) With reference to the evidence given by the First Assistant Secretary, Border Control and Compliance Division, Mr Moorhouse, to the Legal and Constitutional Legislation Committee estimates hearings in February 2003, that consent to prostitution effectively ruled out trafficking: is it not the case that under the United Nations protocol on trafficking, which the Government signed on 11 December 2002, consent is irrelevant in trafficking cases.
(4) Did Mr Moorhouse deliberately mislead the committee or was he unfamiliar with this protocol.
(5) With reference to evidence given by Mr Moorhouse which referred to the death of a woman, but dismissed her case because she was a ‘frequent drug user’ (Legal and Constitutional Legislation Committee Hansard, 11 February 2003, pp 156-7): (a) was the woman concerned Ms Puongton Simplee; and (b) why is the claim the woman was a ‘frequent drug user’ relevant to the case.

(6) Is it not the case that the coronial enquiry into Ms Simplee’s death is scheduled to occur from 12 March to 14 March 2003 and that it has not been established that drug use contributed to her death.

(7) Is it not the case that Ms Simplee was a victim of trafficking for prostitution and may have been brought into the country as a child.

(8) Is it not the case that Ms Simplee informed Australasian Correctional Management and the department that she had been a victim of trafficking, for which the department took no action.

(9) Why did the department take no action and why did it ignore the signs that Ms Simplee was a victim of violence.

(10) Can the department explain why it was that when Ms Simplee entered the detention Centre she weighed 38 kilos and died less than 3 days later weighing only 31 kilos.

(11) Does this case, and do other similar cases, raise questions about the appropriateness of mandatory detention for potentially trafficked women.

Senator Ellison—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator’s question:

(1) Wherever an indication of people trafficking emerges from the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) compliance activity, DIMIA refers the cases to the Australian Federal Police (AFP) which is responsible for prosecutions under the Criminal Code Amendment (Slavery and Sexual Servitude) Act in 1999.

(2) (a) and (b) Between September 1999 and May 2003, 11 cases apparently involving people trafficking, came to the attention of my Department and were referred to the AFP. Arrangements for referral were formalised in February 2002 under a joint service agreement between the two agencies.

For privacy reasons, and to ensure personal safety, it would be inappropriate to disclose details of cases. However, there are some common elements associated with the limited number of cases that DIMIA has referred with allegations of people trafficking. The people involved did not know they were coming to work in the sex industry, or had agreed to travel to Australia but conditions were significantly different. For example we understand the level of debt to the traffickers was arbitrarily increased significantly soon after arrival. In the case of those who did not know they were coming to work in the sex industry, there was a period of confinement associated with their introduction to the sex industry.

(3) The evidence given by Mr Moorhouse to the Legal and Constitutional Legislation Committee estimates hearings in February 2003 made reference to the Australian experience that it was uncommon for people found working illegally in the sex industry to indicate that they had been subject to people trafficking.

Mr Moorhouse did not state that consent ruled out trafficking. Rather, he sought to explain that the term ‘trafficking’ is usually used for people who are in some way deceived or coerced into coming to Australia. Clearly the absence of consent is one element of the UN definition as coercion rules out consent.

The purpose of Mr Moorhouse’s explanation was to distinguish ‘people trafficking’, which involves exploitation of the person concerned, from related concepts such as ‘people smuggling’, in which the person involved is usually a willing participant, and those who undertake ‘illegal employment’ who may simply be taking advantage of opportunities that present themselves.
(4) Please see (3) above.

(5) (a) The female detainee in question was Ms Puongton Simaplee (aka Simplee).

(b) Mr Moorhouse’s reference to the woman as a frequent drug user, as recorded during her period in detention, was relevant to the care provided. Mr Moorhouse was seeking to assist the Committee over the circumstances surrounding her death.

(6) The NSW Coroner commenced the inquest into Ms Simaplee’s death on 12 March 2003 and concluded on 24 April 2003. The Department is still considering the report. However, the Coroner concluded that Ms Puontong Simaplee died from the direct cause of consequences of narcotic withdrawal with an antecedent cause being malnutrition and early acute pneumonia.

(7) The date of arrival of Ms Simaplee, and accordingly her age on arrival, has not been able to be established because there is no record of her having arrived under this name or any of the other identities that she claimed. In terms of the information she provided to DIMIA she was somewhere between 12 and 25 years of age on arrival in Australia.

(8) Ms Simaplee was detained on Sunday 23 September 2001 and held in immigration detention for 3 days before her death. On Tuesday 25 September 2001 Ms Simplee claimed to be a Thai national who was a victim of trafficking. Inquiries as to her identity and the circumstances of her entry to Australia had not been completed at the time of her death in the early hours of Wednesday 26 September 2001.

(9) Action was clearly taken in establishing identity and seeking to respond to her medical care. It is difficult to establish identity quickly in the face of misleading and conflicting information and material. The level of care provided was based on professional medical advice provided by Australasian Correctional Management (ACM) staff. During the ACM induction process and the DIMIA interviews, there were no indications or physical signs that Ms Simaplee had been a victim of violence.

(10) At the time of Ms Simpalee’s admission to the detention centre it was noted that she was grossly underweight. Medical treatment was provided according to the advice of qualified medical practitioners and a recommendation made to commence a re-nourishment program after the withdrawal symptoms had subsided.

The Deputy State Coroner’s comments are currently being examined. However, he made no direct comments regarding the reason for the weight loss.

(11) Holding people in immigration detention who have originally entered Australia on a valid visa and have later become unlawful, is considered on a case-by-case basis. Bridging visas can and are granted where the person is making preparations for departure and is not a risk of flight. A Criminal Justice Stay Visa can also be issued where a Criminal Justice Stay Certificate is first issued by law enforcement authorities.

In this case, whilst there was doubt as to Ms Simaplee’s identity, a bridging visa would not have been able to be issued.

Immigration: SIEVX

(Question No. 1228)

Senator Brown asked the Minister for Justice and Customs, upon notice, on 27 February 2003:

Can a list be provided of names of the people who boarded the vessel known as SIEV X, indicating which of those people died.

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

No.
Copies of two lists were provided to the Senate Legal and Constitutional Committee following Estimates hearings in February. One list represents those people who disembarked the vessel approximately five kilometres from the point of departure.

The other list is in two parts, and details those who survived the sinking, with another page indicating which of those survivors came to Australia, provided by the Department of Immigration and Multicultural and Indigenous Affairs.

It is believed that these lists were compiled by the International Office for Migration and the United Nations High Commission for Refugees.

A list was provided to the AFP from a confidential source after the vessel sank. Provision of any details of that list would compromise that source. It may also compromise a current ongoing investigation in Indonesia. The list purports to contain some details of passengers, but its veracity has not been tested.

**Indigenous Affairs: Namatjira Avenue Housing Commission**

(Reaction No. 1262)

*Senator Ferris* asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 13 March 2003:

(1) Recent media articles have suggested that the Namatjira Avenue Housing Commission settlement near Dareton in New South Wales has encountered further economic difficulties with few employment opportunities particularly for young people. The Minister would be aware that the Aboriginal and Torres Strait Islander Commission established this community as a model example of new opportunities in Aboriginal and Torres Strait Islander living: (a) Does the Minister agree that there appears to be a substantial breakdown in community standards, law and order and work opportunities; (b) is Dareton an isolated instance of the problems that can arise in those Aboriginal communities that are some distance from non-indigenous centres and that have limited employment opportunities; and (c) are there any special measures that the Federal Government can take to assist with the problems in settlements such as Dareton.

(2) Given that the Australian Bureau of Statistics report on Housing and Infrastructure in Aboriginal and Torres Strait Islander Communities has revealed that there are 1,216 remote indigenous communities in Australia and that many of these settlements are in desperate need of infrastructure such as housing, education and health: Are there any measures being considered by the Federal Government to assist these small and often remote aboriginal communities.

*Senator Ellison*—The Aboriginal and Torres Strait Islander Commission has provided the following information in response to the honourable senator’s question:

(1) (a) The housing project at Namatjira Avenue was successfully completed in 2000, with the construction of 15 new homes and with the employment and training of 25 apprentices. At completion of the project 13 apprentices obtained TAFE qualifications and there are 2 currently employed by the local organisation Itha Mari Limited on Namatjira Avenue.

Social issues and employment opportunities for residents of Namatjira Avenue and the Indigenous residents of the Wentworth Shire are acknowledged.

To assist the community to work through these issues the Murdi Paaki Regional Council has agreed to sponsor a Summit in Dareton to be held on the 3 and 4 June 2003. The Summit will be hosted by the Namatjira Community Working Party (NCWP), an Indigenous body with representatives from the communities of Namatjira Avenue, Gol Gol, Buronga & Wentworth. The NCWP will invite government agencies, (Federal, State & Local) as well as other appropriate service providers to attend.
The aim of this Summit is to focus on a “whole of government” approach to work through the social issues affecting the Indigenous peoples of the Wentworth Shire, and in particular the residents of Namatjira Avenue.

Issues to be discussed will include the access to appropriate services from both government and non-government agencies relating to health, policing policies for the area, housing and employment opportunities.

(b) Dareton is located within the area known as the Sunraysia District, and is a short distance, 21 kilometres from the major regional centre of Mildura. The Sunraysia district is well known as a major horticulture centre and the Indigenous residents enjoy extensive seasonal employment opportunities. Over the last few seasons, however, these opportunities have been reduced due to the drought.

The residents of Namatjira Avenue have access to work opportunities through the local Community Development Employment Project (CDEP) scheme. Currently there are 10 participants from Namatjira Avenue working on the CDEP.

There are many Indigenous communities that are far more isolated than Dareton. It is acknowledged that remoteness from opportunities that other Australians enjoy adds substantially to social problems in these communities. The CDEP scheme provides important activity for many residents in these communities. The government has commenced a review of Indigenous business strategies to explore ways to facilitate Indigenous business opportunities including in remote communities. Improved telecommunications will, over time, reduce many of the problems associated with remoteness. The Commonwealth is providing targeted funding of $8 million over three years through the Telecommunications Action Plan for Remote Indigenous Communities (TAPRIC) to improve telephone and internet services and to expand the range of relevant online content available to those communities. However, real long term gains will depend on improved education outcomes. The National Aboriginal and Torres Strait Islander Education Policy has the support of all governments to improve education outcomes for Indigenous people, with a particular focus on early engagement and improved school attendance, literacy and numeracy.

(c) Government policy responses already take account of the underlying economic and employment problems which are faced by both Indigenous and non-Indigenous people in remote Australia. It should be understood, however, that addressing structural problems in both regional and remote Australia requires commitment to a regional response by all levels of government.

The government’s emphasis on directing Indigenous specific programs to areas of greatest need benefits remote communities. For example, much of the Commonwealth’s housing effort is directed towards remote communities.

The government believes that lasting solutions to overcoming Indigenous disadvantage cannot be achieved without the active participation of Indigenous people and their communities in working to improve their own circumstances. The Council of Australian Governments (COAG) is initiating a number of whole of government trial projects across rural and remote Australia which aim to improve the way governments work with each other and remote communities to deliver more effective responses to need as identified by the communities.

The COAG whole of government trials are predominantly focussed on remote communities. The centrepiece of the new approach is “shared responsibility”. This approach will attempt to redefine the relationship between government and indigenous communities.

(2) For example, there are a number of measures being undertaken to assist and address the housing and infrastructure needs of remote Aboriginal communities.
The Commonwealth allocated an additional $75m in the 2001 Budget over four years to address housing and infrastructure needs in rural and remote areas of Australia.

In conjunction with the States and Territories, the Commonwealth is developing measures and processes to ensure the targeting of housing and infrastructure funds to areas of greatest need and this is likely to result in an increased focus on rural and remote areas.

In November 1996, the Government allocated $11.6 million to deliver basic infrastructure to remote Indigenous communities under the ATSIC Army Community Assistance Program (AACAP). In 1999 the Commonwealth announced the continuation of AACAP for a further four years, providing a total of $51.6 million in total funding for AACAP, through to 2005.

In 2001, the Commonwealth, State and Territory governments adopted a policy of safe, healthy and sustainable housing for Indigenous Australians, ‘Building a Better Future: Indigenous Housing to 2010’. Implementation of the new policy and strategies outlined in the statement will provide better housing and housing related infrastructure, which will lead to improved environmental health outcomes for Indigenous people, particularly those in remote communities.

Also in line with its policy position, the Government is acting to facilitate access to a basic level of primary health care for remote communities. Since 1996, basic primary health care services have been approved for 46 remote communities that previously had little or no access to services.

The Commonwealth, through the negotiation of inter-government agreements, is seeking improved cooperation and efficiencies in the delivery of programs and a greater financial commitment from States and local government in addressing the needs of Indigenous people particularly in rural and remote areas.

Through ATSIC community housing and infrastructure programs there is a strong emphasis in securing community training and employment outcomes and assisting with improving ongoing management regimes.

Defence: Advertising (Question No. 1264)

Senator Chris Evans asked the Minister for Defence, upon notice, on 14 March 2003:

In relation to media reports on 5 and 6 March 2003 that Defence had cancelled all advertising with student publications:

(1) Has all advertising been cancelled, or just advertising with certain student publications; if only certain student publications are affected by this decision, can the names of the publications be provided.

(2) Who took the decision to cancel advertising with student publications.

(3) When was the decision to cancel advertising with student publications taken.

(4) Why was the decision taken to cancel the advertising with student publications.

(5) Prior to the decision to cancel advertising in student publications, in how many of these publications did Defence advertise.

(6) Can a list be provided of all educational institutions that had student publications containing Defence advertising prior to the decision to cancel such advertising.

(7) When did Defence start using advertising in student publications.

(8) How much has Defence spent in each of the past 5 financial years on advertisements in student publications.

(9) For what purpose does Defence advertise in student publications, is it solely for recruitment or are there other reasons; if so, can a list of the other reasons be provided.
(10) Does Defence keep records of how successful advertising in student publications is in attracting new recruits; if so, can information be provided on how many applicants over the past 5 financial years responded to advertisements in student publications.

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

(1) Advertising was cancelled with university student magazines only. This impacted on the following publications:

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Other universities not included in the above list either declined or did not respond to the media buyer’s request to place advertising.

(2) The decision was made by the Deputy Director of Operations, Defence Force Recruiting operating on guidance provided by the Director Defence Force Recruiting.

(3) 28 February 2003.

(4) There was a developing sentiment of animosity in university student magazines towards the Australian Defence Force’s role in a possible war with Iraq. Defence Force Recruiting did not want to further inflame the situation by continuing to place career advertising in these publications.

Defence Force Recruiting determined that the benefits of a career in the Defence Force would not be viewed objectively, by some, in universities during this climate, which prevailed in the week 24-28 February 2003. It was assessed that planned advertising in student magazines would not provide value for money.

Defence’s profile was already significant due to advertising and marketing in other media. The decision to withdraw the advertising in universities was assessed as not having a detrimental effect on the Tertiary Recruitment Strategy which was programmed to commence 17 March 2003 nationally.

(5) None. Advertising was placed in university magazines this year to test their value as a medium.

(6) Refer to part (1).

(7) Refer to part (5).

(8) No money has been spent on student magazines in the past 5 financial years.

(9) It will be solely for recruitment purposes.

(10) Defence Force Recruiting maintains records on the success of all advertising. Defence Force Recruiting has not previously advertised in student magazines.

Attorney-General's: Copyright
(Question No. 1267)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 18 March 2003:
In relation to the report, *Cracking down on copycats: enforcement of copyright in Australia*, released in November 2000 by the House of Representatives Standing Committee on Legal and Constitutional Affairs:

(1) What action is the Minister taking to respond to this report.
(2) When does the Minister intend to respond publicly to this report.

**Senator Ellison**—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) The Government has consulted widely in the preparation of a response to the report, holding meetings with a variety of interested parties. Input to the preparation of a response has also involved agencies and departments such as the Australian Federal Police, Director of Public Prosecutions, Australian Customs Service, and the Department of Communications, Information Technology and the Arts. The Attorney-General’s Department has coordinated this process. A draft response is being finalised.

In the meantime, the Government has already drawn on its consideration of the report in passing the Copyright Amendment (Parallel Importation) Act 2003. These amendments, which came into force on 13 May 2003, include new enforcement measures which provide balanced, yet effective, means for copyright owners to enforce their rights and deter copyright infringement.

(2) A release date for the response has not been determined.

**Customs: Passenger Movement Charge**

(Question No. 1270)

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 19 March 2003:

With respect to the additional $8 per passenger increase in the Passenger Movement Charge that came into effect on 1 July 2001 to fund increased passenger processing costs as part of Australia’s response to the threat of the introduction of foot and mouth disease:

(1) What was the total additional revenue raised by this extra $8 in each of the following financial years: (a) 2001-02; and (b) 2002-03 to date.

(2) What is the total additional revenue estimated to be raised by this extra $8 in each of the following financial years: (a) 2002-03; (b) 2003-04; (c) 2004-05; and (d) 2005-06.

(3) What was the total amount of Passenger Movement Charge collected at each airport and port for each of the following financial years: (a) 2001-02; and (b) 2002-03 to date.

(4) What is the total amount of Passenger Movement Charge estimated to be collected at each airport and port for each of the following financial years: (a) 2002-03; (b) 2003-04; (c) 2004-05; and (d) 2005-06.

(5) How much has been spent by the Government on new quarantine screening equipment at each airport and port since 1 July 2001.

(6) (a) How much additional money has the Government spent on other quarantine processing costs at each airport and port since 1 July 2001; and (b) what services, measures or expenses comprise that additional expenditure at each airport and port.

(7) How much additional money is estimated to be spent on new quarantine screening equipment and other processing costs respectively at each airport and port for each of the following financial years: (a) 2002-03; (b) 2003-04; (c) 2004-05; and (d) 2005-06.

(8) (a) Which programs are administering costs associated with increased passenger processing costs as part of Australia’s response to the threat of the introduction of foot and mouth disease; (b) how
much has been spent, and is it estimated will be spent, from each program in each year it has or is budgeted to operate; and (c) which department is responsible for the administration of each program.

(9) Are there any outstanding claims by any organisation or individual for expenditure on equipment or measures as part of Australia’s response to the threat of foot and mouth disease; if so: (a) who are the claimants; (b) what is each claim for; and (c) will each be paid and when.

(10) (a) How many passengers departing Australia were exempted from paying the Passenger Movement Charge; and (b) what is the legal basis and number of passengers for each category of exempted passengers.

(11) Will the $8 foot and mouth response component of the Passenger Movement Charge be removed, increased or reduced commensurate with the movement in costs associated with Australia’s response to the threat of the introduction of foot and mouth disease; if so, when; if not, why not.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Passenger Movement Charge and Australia’s response to the threat of the introduction of foot and mouth disease are the portfolio responsibility of the Ministers for Justice and Customs and Agriculture, Forestry and Fisheries. While I do not have any portfolio responsibility for those matters I do have responsibility for a programme involving the provision of infrastructure at major international gateway airports to facilitate increased quarantine intervention. Details of expenditure under that programme were provided in response to Question 1158.

There are no outstanding claims for expenditure under that programme on hand as at 26 March 2003.

Prime Minister and Cabinet: Energy Policy
(Question No. 1277)

Senator O’Brien asked the Minister representing the Prime Minister, upon notice, on 18 March 2003:

(1) Has the department established a task force to co-ordinate and develop energy policy; if so: (a) when was the task force established; (b) what are its terms of reference; (c) what is its membership; (d) what companies and/or industry groups have been consulted by the task force; (e) what matters has the task force considered; and (f) what matters is the task force currently considering.

(2) Has the task force considered the effectiveness of the fuel ethanol production subsidy announced on 12 September 2002; if so: (a) when did the task force consider this matter; (b) which companies and/or industry groups were consulted; and (c) what recommendations has the task force made.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) Yes

(a) The Task Force first met in January 2003.

(b) The Energy Task Force does not have public terms of reference. It is responsible for the coordination of energy policy in the Commonwealth, and where appropriate, for developing options for reform. It reports to the Energy Committee of Cabinet.

(c) The Energy Task Force is chaired by Mr Russell Higgins and comprises deputy secretary level representatives from the Departments of Prime Minister and Cabinet; Industry, Tourism and Resources; Transport and Regional Services; the Treasury; Environment Australia; and the Australian Greenhouse Office.
(d) The Energy Task Force has met with a wide range of bodies and companies with an interest in national energy policy.
(e) The Task Force has considered fuel excise reform.
(f) The Task Force will be considering and drawing together a range of issues relevant to developing a strategic energy policy including: market reform; resource development; environment; energy security; energy efficiency; innovation and revenue.

(2) Yes
(a) Between January and April 2003.
(b) The Task Force held general discussions with a range of relevant stakeholders including: the Australian Biofuels Association, the Australian Institute of Petroleum, the Independent Petroleum Group and the Sugar Research Institute.
(c) The Government has announced an extension to the fuel ethanol production subsidy in the 2003-04 Budget. The Task Force provided advice on this matter as part of its consideration of fuel excise reforms.

Manildra Group of Companies
(Question No. 1280)

Senator O’Brien asked the Minister representing the Prime Minister, upon notice, on 18 March 2003:
What payments, subsidies, grants, gratuities or awards have been made to the Manildra group of companies, including but not necessarily limited to Manildra Energy Australia Pty Ltd, since March 1996.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:
I am advised that, since March 1996 no payments have been made to the Manildra group of companies by my department or any agency within my portfolio.

Trade: Ethanol Imports
(Question No. 1297)

Senator O’Brien asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 18 March 2003:
(1) On what date or dates did: (a) the Minister; (b) the Minister’s office; and (c) the department, become aware that Trafigura Fuels Australia Pty Ltd proposed to import a shipment of ethanol to Australia from Brazil in September 2002.
(2) What was the source of this information to: (a) the Minister; (b) the Minister’s office; and (c) the department.
(3) Was the Minister or his office or the department requested to investigate and/or take action to prevent the arrival of this shipment by any ethanol producer or distributor or industry organisation; if so: (a) who made this request; (b) when was it made; and (c) what form did this request take.
(4) Did the Minister or his office or the department engage in discussions and/or activities in August 2002 or September 2002 to develop a proposal to prevent the arrival of this shipment of ethanol from Brazil; if so, what was the nature of these discussions and/or activities, including dates of discussions and/or activities, personnel involved and cost.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:
(1) (a) 30 August, 2002
Telstra: Pensioner Rebate
(Question No. 1306)

Senator Webber asked the Minister for Communications, Information Technology and the Arts, upon notice, on 20 March 2003:

1. Can the Minister confirm whether it is Telstra policy to offer the pensioner rebate only to those that are exclusive Telstra customers.

2. Given that Telstra is still in majority public ownership, is this policy supported by the Government; if not, will the Government demand that the policy be changed.

3. Can the Minister advise when Telstra adopted this policy and on what basis.

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

1. Telstra has advised that it offers rebates on call charges to the holders of the Commonwealth Government Pensioner Concession Card (PCC) who use Telstra for access, local and long distance calls. Telstra advises that over 1.2 million customers are currently receiving the rebates. Telstra further advises that it offers discounted connection fees and free use of the Call Control feature to holders of the PCC who use Telstra for access and local calls.

2. The Government requires Telstra, as a condition of its carrier licence, to have a low-income package in place in order to protect Telstra customers from the effects of line rental increases. The concessions offered to pensioners are an element of Telstra’s low-income package.

The Low-income Measures Assessment Committee (LIMAC), including representatives from the Australian Council of Social Service, The Smith Family, the Salvation Army, Anglicare Australia, Council on the Ageing, Jobs Australia and the Australian Federation of Homelessness Organisations, endorsed the low-income package at its first meeting on 3 June 2002. The pensioner concession arrangements described in the answer to part (1) were part of that package.

Under the licence condition, Telstra must consult LIMAC before making a significant change to its low-income package.

LIMAC, which is resourced by Telstra, is required to report annually to the Minister for Communications, Information Technology and the Arts on the effectiveness of the low-income package. The first report, for 2002-2003, is expected later this year.

3. Telstra has advised that the current restrictions on availability of access to the rebates were introduced on 1 July 2002. Customers who preselected other service providers for long distance calls were previously eligible for the rebates.

Telstra has advised that the change to eligibility for the pensioner concessions were made to reward people who choose to give Telstra all their business. In addition, Telstra has advised that the pensioner concessions would be commercially unsustainable if provided to people who only took up a Telstra access and local call service.
Telstra has further advised that the pensioner discounts that apply to connection fees and the Free Call control feature have been available only to holders of a PCC who use Telstra for access and local calls since 1 July 1992.

Inter-State Commission
(Question No. 1328)

Senator Harris asked the Minister representing the Attorney-General, upon notice, on 20 March 2003:

Can details be provided of: (a) the Inter-State Commission as set out in section 101 of the Constitution of the Australian Commonwealth; (b) all past commissioners and their terms of office; and (c) the present commissioners and their terms of office.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

Sections 101 to 104 of the Constitution deal with the Inter-State Commission, its role, and the appointment, tenure and remuneration of its Commissioners. Section 101 states:

There shall be an Inter-State Commission, with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, with the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder.

The Commission has existed for two periods only: from 1913-1920 and from 1984-1989.

The first period began with the passage of the Inter-State Commission Act 1912 (Cth). That Act gave the Commission the power to adjudicate upon disputes concerning constitutional provisions and laws relating to trade and commerce and to investigate and report on a wide range of matters such as prices, wages and tariffs. In 1913, Albert Piddington KC was appointed Chief Commissioner and Chairman, while the Hon George Swinburne and Sir Nicholas Lockeyer were appointed Commissioners. All were appointed for seven year terms in accordance with section 103 of the Constitution.

In 1915, the High Court, in the case of New South Wales v Commonwealth (1915) 20 CLR 54, held that the Commission could not exercise the powers of a court. The majority concluded that the Commission’s powers of “adjudication” did not allow it to issue an injunction preventing the New South Wales Government from seizing wheat compulsorily acquired under State legislation.

Swinburne resigned in 1918 and was not replaced. No further Commissioners were appointed after the terms of Piddington and Lockeyer expired in 1920. The Inter-State Commission Act 1912 (Cth) was repealed in 1950.

The second period of the Commission’s existence began with the proclamation of the Inter-State Commission Act 1975 (Cth) in September 1983. In March 1984, Justice Mervyn Everett of the Federal Court was appointed President of the Commission and Professor Helmut Kolsen, an economist, was appointed as a member. Later that year Mr Edward Butcher was also appointed as a member.

Justice Everett and Professor Kolsen did not complete their terms. Mr Butcher replaced Justice Everett as President of the Commission and Mr Keith Read and Professor Michael Coper were appointed as the other members.


There are, accordingly, no serving Commissioners.
National Security: Information Kits
(Question No. 1329)

Senator Mackay asked the Minister for Communications, Information Technology and the Arts, upon notice, on 24 March 2003:

(1) Can a detailed account be provided of all steps Australia Post took to convey to postal workers the Senate's request for a count of the returned anti-terrorism kits given during an estimates hearing of the Environment, Communications, Information Technology and the Arts Legislation Committee on 10 February 2003.

(2) Has Australia Post been able to actually count the kits, or to provide an estimation only, as indicated by the Minister for Justice and Customs in his answer to a question without notice on 4 March 2003.

(3) Can the number of returned kits, either actual or estimated, on a state by state basis, be provided.

(4) If more than one instruction to count these kits was given (a) how many times were instructions given, (b) who issued the instructions (c) on what date or dates were these instructions given.

(5) What was the instruction to managers as to how they were to convey this message to postal workers.

(6) What was the wording of the instruction to postal workers and/or managers.

(7) If this instruction was conveyed in writing, by letter or e-mail, can a copy of the wording of the instruction be provided.

(8) How does Australia Post account for the fact that so many postal workers were unaware that the anti-terrorism kits were being treated in the same way as other returned unaddressed mail.

(9) How many kits did Australia identify as containing white powder.

(10) Can a listing be provided of the location of the postal centres in which kits with white powder were identified.

(11) On how many occasions have the Australia Post special procedures for white powder scares been activated in 2003.

(12) When did Australia Post alert postal workers to the possibility of some returned kits containing white powder.

(13) (a) Were special instructions on handling affected kits circulated; (b) when were they issued; and (c) who issued them.

(14) What instructions did Australia Post give to postal workers regarding the handling of those returned kits which contained white powder.

(15) On what dates and times did Australia Post notify Government ministers about the presence of white powder in some returned kits.

(16) What testing did Australia Post do of returned anti-terrorism kits which contained white powder.

(17) How many kits were tested in this way.

(18) Who did the testing.

(19) What was the result of the testing.

(20) When was the instruction given to the Canberra Mail centre to destroy anti-terrorism kits because of storage problems.

(21) Has this instruction been given at any other mail centres in Australia.

(22) Where are the anti-terrorism kits currently being stored.
23. What procedures did Australia Post implement for the handling of unaddressed returned anti-terrorism kits.

24. What procedures did Australia Post implement for the handling of re-addressed returned anti-terrorism kits.

25. What procedures did Australia Post implement for the handling of returned anti-terrorism kits which had been re-packaged and were stamped.

26. Which mail centre in Australia received the greatest number of returned anti-terrorism kits.

27. Did Australia Post give any specific instruction to postal workers for the handling of returned anti-terrorism kits that had additional messages written on them.

Senator Alston—The answer to the honourable senator’s question, based on advice received from Australia Post, is as follows:

1. State Operation Managers and the key supervisors at those facilities where returned articles were being stored were advised on 18 February 2003 of the need for a count to be undertaken in each State on Friday, 21 February.

2. Australia Post provided an estimation of the number of returned kits held in each storage facility.

3. 7.953m security booklets were delivered nationally. The estimated final number of returned kits by State is as follows:

<table>
<thead>
<tr>
<th>State</th>
<th>Articles</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW/ACT</td>
<td>78,000 (2.8%)</td>
</tr>
<tr>
<td>VIC</td>
<td>20,010 (1.0%)</td>
</tr>
<tr>
<td>QLD</td>
<td>23,824 (1.5%)</td>
</tr>
<tr>
<td>WA</td>
<td>9,382 (1.2%)</td>
</tr>
<tr>
<td>SA/NT</td>
<td>11,780 (1.6%)</td>
</tr>
<tr>
<td>TAS</td>
<td>5,800 (2.9%)</td>
</tr>
<tr>
<td>Total</td>
<td>148,796 (1.87%)</td>
</tr>
</tbody>
</table>

4. An indication that a count would be needed was included in general handling and distribution arrangements information passed on to State Administrations on 10 January 2003, 28 January 2003 and 7 February 2003. Advice was issued on 18 February 2003 confirming that a count was to take place as of 21 February 2003. Advice for the final count, to be conducted on 20 March 2003, was sent on 17 March. This advice was issued from the Mail & Networks Division and was passed to the key facility supervisors responsible for undertaking the count.

5. (6) and (7) No specific instruction was issued to managers as to how they should convey this message to postal workers.

8. Many Australia Post staff do not need to be aware of, or involved in, the handling and distribution arrangements for specific mail lodgements. Those that do have a role or responsibility are made aware of general handling procedures related to their specific area of work. In this instance, staff with a role to play were given specific handling instructions according to their level of responsibility.

9. and (10) One article was identified as ‘suspect’ on the basis that it may have contained white powder: at Camperdown Hub (NSW) on 7 March 2003.

11. To April 2003, Australia Post’s incident response procedures for suspect chemical, biological or radiological substances had been activated on 44 occasions.

12. (13) and (14) Advice of the possibility of white powder was sent to State administrations on 6 February and information reinforcing vigilance and awareness was promulgated by individual States to staff over 6 and 7 February 2003. Communications reinforced the need for any ‘suspect’ articles to be handled in accordance with standard procedures. Those procedures had been devel-
oped in November 2001 – at the time of the anthrax scare in the US – in conjunction with relevant legal, occupational health and safety, emergency service authorities and government bodies. Staff receive ongoing training in these procedures.

(15) The article in question was handled in accordance with standard procedures for ‘suspect’ items. No particular advice was provided to Government Ministers.

(16) (17) (18) and (19) The article in question was referred to the New South Wales police. Subsequent advice from the police indicated that the article did not contain any form of hazardous substance.

(20) No particular instruction was issued to Canberra Mail Centre. The Centre did seek and receive permission from the Department of Prime Minister & Cabinet on 28 February to destroy articles being held in the Canberra South Delivery Centre part of the facility. However, this was not acted on when referred to Australia Post Headquarters for confirmation.

(21) A general instruction for the destruction of the returned articles was received from the Department of Prime Minister and Cabinet on 25 March 2003 and acted on nationally.

(22) Prior to their destruction, the returned articles were stored at:

- **NSW/ACT**
  - Australia Post Storage Warehouse, Rydalmere (NSW)
  - Canberra South Delivery Centre (ACT)

- **VIC**
  - State Mail Centre

- **QLD**
  - Underwood Mail Centre
  - Northgate Mail Centre
  - Gold Coast Mail Centre
  - Sunshine Coast Mail Centre
  - Toowoomba Mail Centre
  - Rockhampton Mail Centre
  - Mackay Mail Centre
  - Townsville Mail Centre
  - Cairns Mail Centre

- **WA**
  - Perth Mail Centre

- **SA/NT**
  - Adelaide Mail Centre (SA)
  - Darwin Mail Centre (NT)

- **TAS**
  - Hobart Mail Centre

(23) Articles were collected from various posting points and transported to the central storage facilities via the normal network collection channels.

(24) In response to a request from the Department of Prime Minister & Cabinet, such articles were held for the Department at the office of delivery (Canberra South Delivery Centre).

(25) No specific procedures were implemented. Such articles would have been delivered as addressed.
(26) The largest number of returned articles were stored at the Australia Post Storage Warehouse, Rydalmere (NSW).

(27) No.

**Rio Tinto Foundation for a Sustainable Minerals Industry**

**(Question No. 1331)**

**Senator Brown** asked the Minister representing the Prime Minister, upon notice, on 24 March 2003:

With reference to the loan of $35 million to establish the Rio Tinto Foundation for a Sustainable Minerals Industry:

1. (a) What was the process which resulted in the approval of the loan, including application, assessment and decision; (b) when and how were each of these steps taken; (c) who was involved at each stage; (d) who initiated the process; (e) who approved the loan; and (f) to whom has the loan been made.

2. Was anybody other than Rio Tinto able to apply for the loan.

3. (a) What similar loans or grants for research and development has the Government made in the past 5 years; and (b) to whom, when, and through what process.

4. (a) Can the foundation determine its own research priorities; and (b) is it required to consult with, or obtain approval from, the Government for research projects.

5. Are the research projects specified in the answer to question on notice no. 1077 (Senate Hansard, 5 February 2003, p. 8684) indicative or required as part of the conditions of the loan.

6. Who owns the rights to intellectual property created by the foundation.

7. Is the Government entitled to any commercial return from the foundation.

8. (a) What is the structure and governance of the foundation; and (b) who owns it.

**Senator Hill**—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) to (8) I understand the Minister representing the Minister for Industry, Tourism and Resources has provided answers to the honourable Senator’s question in his response to Parliamentary Question No. 1332.

**Rio Tinto Foundation for a Sustainable Minerals Industry**

**(Question No. 1332)**

**Senator Brown** asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 20 March 2003:

With reference to the loan of $35 million to establish the Rio Tinto Foundation for a Sustainable Minerals Industry:

1. (a) What was the process which resulted in the approval of the loan, including application, assessment and decision;
   (b) when and how was each of these steps taken;
   (c) who was involved in each stage;
   (d) who initiated the process;
   (e) who approved the loan; and
   (f) to whom has the loan been made

2. Was anybody other than Rio Tinto able to apply for the loan.
(3) (a) What similar loans or grants for research and development has the Government made in the past 5 years; and
(b) to whom, when, and through what process.
(4) (a) Can the foundation determine its own research priorities; and
(b) is it required to consult with, or obtain approval from, the Government for research projects.
(5) Are the research projects specified in the answer to question on notice no 1077 (Senate Hansard, 5 February 2003, p8684) indicative or required as part of the conditions of the loan.
(6) Who owns the rights to intellectual property created by the foundation.
(7) Is the Government entitled to any commercial return from the foundation.
(8) (a) What is the structure and governance of the foundation; and
(b) who owns it.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) (a) The loan to establish the Rio Tinto Foundation is part of an investment incentive granted under the Strategic Investment Coordination process to attract the Comalco Alumina project to Australia. The investment incentive of $137 million was considered under the Strategic Investment Coordination process and assessed against the published Strategic Investment Coordination Criteria (reference www.investaustralia.gov.au). Invest Australia supports the Prime Minister’s Strategic Investment Coordinator in the consideration of investment incentives for strategic projects. Proponents seeking an incentive under the Strategic Investment Coordination process must provide information to address the criteria. Invest Australia is a group within the Department of Industry, Tourism and Resources with a mission to attract productive foreign direct investment into Australia to support sustainable industry growth and development.
(b) The project proposal incorporating the Rio Tinto Foundation was one of the first under the Investing for Growth strategy announced by the Government in December 1997. Evaluations of the proposal and negotiation discussions commenced in 1998. The Government approved the incentive on 2 October 2001.
(c) Comalco Aluminium Limited requested consideration under the Strategic Investment Coordination process. The Strategic Investment Coordinator supported by Invest Australia in the Department of Industry Tourism and Resources evaluated the project proposal. Government approved the incentive.
(d) The Rio Tinto Foundation is a joint initiative of Comalco Aluminium Limited and the Commonwealth. The Commonwealth negotiated with Rio Tinto the allocation of part of the $137 million to sustainable research and development.
(e) Cabinet approved an investment incentive loan of $137 million to Comalco including $35 million for the establishment of the Rio Tinto Foundation.
(f) Comalco Aluminium Limited.

(2) The Strategic Investment Coordination process is open to any proponent that has a project that meets the published Strategic Investment Coordination Criteria. Investment incentives are project specific and may include grants, loans or other measures tailored to fit the circumstances of the investment. The loan agreement for the establishment of the Rio Tinto Foundation was specific to, and tailored to, the Comalco Aluminium Limited proposal.

(3) (a) and (b) Similar incentives for major projects made by the Government and managed by the Department of Industry Tourism and Resources that incorporate research and development are to Holden in 2000 and Methanex in 2001, both approved under the Strategic Investment Process.
(4) (a) The Foundation is governed by an Advisory Board comprising people drawn from Rio Tinto Group, business, academia and government. The Advisory Board determines the Foundation’s research priorities in accordance with its purpose for funding (see (5) below) and within the areas specified by its Charter and Rules which was agreed between the Commonwealth and Rio Tinto.

(b) The Government has a representative on the Advisory Board which approves research projects. No further approvals are required from the Commonwealth.

(5) The projects specified in answer to question on notice no. 1077 (Senate Hansard, 5 February 2003, p.8684) are the agreed initial priorities. The purpose of funding is to enable research and development activities and programs in sustainability, greenhouse gas abatement and energy efficiency in resource processing.

(6) Property rights would normally be retained by the project proponent, generally a Rio Tinto Group company.

(7) No.

(8) (a) The Foundation is governed by an Advisory Board (See (4) (a) above) which is supported in its work by the Rio Tinto Working Group. An Executive Director and supporting staff from Rio Tinto provide managerial and administrative support to the Advisory Board.

(b) The Foundation is not a registered organisation or entity and as such can not be owned.

Rio Tinto Foundation for a Sustainable Minerals Industry
( question No. 1333)

Senator Brown asked the Minister representing the Minister for Science, upon notice, on 24 March 2003:

With reference to the loan of $35 million to establish the Rio Tinto Foundation for a Sustainable Minerals Industry:

(1) (a) What was the process which resulted in the approval of the loan, including application, assessment and decision; (b) when and how was each of these steps taken; (c) who was involved at each stage; (d) who initiated the process; (e) who approved the loan; and (f) to whom has the loan been made.

(2) Was anybody other than Rio Tinto able to apply for the loan.

(3) (a) What similar loans or grants for research and development has the Government made in the past 5 years; and (b) to whom, when, and through what process.

(4) (a) Can the foundation determine its own research priorities; and (b) is it required to consult with, or obtain approval from, the Government for research projects.

(5) Are the research projects specified in the answer to question on notice no. 1077 (Senate Hansard, 5 February 2003, p. 8684) indicative or required as part of the conditions of the loan.

(6) Who owns the rights to intellectual property created by the foundation.

(7) Is the Government entitled to any commercial return from the foundation.

(8) (a) What is the structure and governance of the foundation; and (b) who owns it.

Senator Alston—The Minister for Science has provided the following answer to the honourable senator’s question:

The Education, Science and Training portfolio has no involvement with any of the issues (parts 1-8), raised in the honourable senator’s question.
Rio Tinto Foundation for a Sustainable Minerals Industry
(Question No. 1335)

Senator Brown asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 20 March 2003:

(1) Has Dr Robin Batterham communicated with the Government in any capacity regarding funding or allocation of money or benefits to the Rio Tinto Foundation for a Sustainable Minerals Industry: if so:
   (a) can details be provided including date, nature and content of the communication; and
   (b) can a copy of any written communications be provided.

(2) In the past 5 years, has Dr Batterham communicated with the Government in any capacity regarding carbon sequestration, clean coal or related energy matters: if so:
   (a) can details be provided including date, nature and content of the communication; and
   (b) can a copy of any written communications be provided.

(3) (a) What is Dr Batterham’s role on the Advisory Board of the Rio Tinto Foundation;
   (b) does he represent the Government as Chief Scientist or Rio Tinto as Chief Technologist.

(4) Has Dr Batterham reported to or advised the Government on any matters relating to the Rio Tinto Foundation: if so:
   (a) can details be provided including date, nature and content of the communication; and
   (b) can a copy of any written communications be provided.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) Dr Batterham has not communicated directly with the Department of Industry, Tourism and Resources or myself in relation to funding or allocation of money or benefits to the Rio Tinto Foundation for a Sustainable Minerals Industry. Indirectly, Dr Batterham is a member of the Rio Tinto Foundation Advisory Board on which the Commonwealth has a representative, Mr John Ryan, Deputy Secretary of the Department of Industry, Tourism and Resources, to represent its interests. Any advice on the Board’s activities to the Government would be provided by the Commonwealth representative.
   (a) Not applicable.
   (b) Not applicable.

(2) (a) and (b) The Department of Industry, Tourism and Resources has conducted a search for communications from Dr Batterham to myself, the former Minister for Industry, Science and Resources and the Department. The following communications dealt with, among other matters, carbon sequestration, clean coal or related energy matters:

<table>
<thead>
<tr>
<th>Date</th>
<th>Subject</th>
<th>Copy</th>
</tr>
</thead>
<tbody>
<tr>
<td>13/3/02</td>
<td>HiSmelt Presentation</td>
<td>Previously provided: Senate Hansard</td>
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<tr>
<td></td>
<td></td>
<td>5/2/03 p 8587</td>
</tr>
<tr>
<td>5/2/03</td>
<td>US Sequestration Initiative</td>
<td>Attached</td>
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</tbody>
</table>

In addition, I chaired a Ministerial Council on Energy meeting on 29/11/02 at which the Chief Scientist presented the case for a national emissions-free electricity programme.

The Hon Ian Macfarlane MP
Minister for Industry, Tourism and Resources Parliament House
CANBERRA ACT 2600
Dear Minister

The Department of Education, Science and Training has passed me a copy, dated 23 December 2002, of the Aide Memoire and background material concerning the US sequestration initiative.

I believe it is a splendid initiative that warrants close attention by the Australian Government. Sequestration is not yet held to be commonplace. It is not unknown nor all that difficult, it simply has not been used on a large scale to demonstrate its realistic costs and operating characteristics other than in a limited number of cases.

I applaud US efforts to bring in the hydrogen economy. Those efforts require that hydrogen to be produced cost effectively will likely involve fossil fuels as source material.

Halving emissions requires us to do much more than wait for renewables or for the relatively small reductions that are associated with greater use of natural gas. Rather it requires the adoption of an approach of renewables plus a swing to gas and a swing to zero emission coal usage.

The zero emission area requires sequestration to be demonstrated in many areas of the world. US leadership here should therefore be applauded and supported.

I commend the initiative and suggest it would be to Australia’s advantage to accept the US invitation to join and hence leverage Australian technology, both present and under development, to strengthen existing levels of collaboration.

I have copied this letter to our colleague, the Hon Dr David Kemp MP, Minister for the Environment and Heritage.

Yours sincerely
Robin Batterham
Cc: The Dr David Kemp NIP
Minister for the Environment and Heritage
Parliament House

CANBERRA ACT 2600

(3) (a) Dr Batterham is a member of the Rio Tinto Foundation Advisory Board.
(b) Dr Batterham was nominated by Rio Tinto to serve on the Advisory Board. The Commonwealth member on the Advisory Board represents Commonwealth interests.

(4) Dr Batterham has not reported to or advised me or the Department of Industry, Tourism and Resources in relation to the Rio Tinto Foundation. As indicated above in response to (1), the Commonwealth has a member on the Advisory Board, who would provide any advice on the Board’s activities to the Government.
(a) Not applicable.
(b) Not applicable.

Quarantine: Timber Imports
(Question No. 1354)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 25 March 2003:

With reference to public quarantine alerts PQA0254 and PQA0255:
(1) When did the Sudden Oak Death (Phytophthora ramorum) (SOD) pest risk assessment commence?
(2) When will the pest risk assessment be completed?
(3) When were interim restrictions imposed for sawn timber, round wood and logs imported from the United States of America?

(4) How has the absence of dry and moist heat treatment providers in Sydney impacted on importers of wood from the US?

**Senator Ian Macdonald**—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The Pest Risk Assessment for Phytophthora ramorum on wood commodities imported into Australia was initiated in August 2002.

(2) An Interim Pest Risk Assessment for Phytophthora ramorum on wood commodities was completed on 24 October 2002. A full risk assessment will be completed by the end of 2003 as part of a wider Coniferous Timber Import Risk Assessment.

(3) The interim restrictions for sawn timber, round wood and logs imported from the United States of America were introduced on 18 February 2003.

(4) The Australian Quarantine and Inspection Service (AQIS) has no record of reports that the lack of heat treatment facilities in Sydney has had any impact on importers of wood from the United States (US). AQIS believes that this is primarily because, when relevant species have been imported, they have been accompanied by the appropriate Animal and Plant Health Inspection Service certification from the US Department of Agriculture.

**Family and Community Services: Nursing Homes**

(Question No. 1357)

**Senator Allison** asked the Minister for Family and Community Services, upon notice, on 26 March 2003:


(2) (a) What are the most recent statistics the Government has received from the states on the breakdown by number, age and location of people under 65 in state-run nursing homes; and (b) can a copy of these statistics be tabled.

(3) In light of the 2003 Productivity Commission report on government services, which highlights massive funding differences between government and non-government disability services: How can the Government ensure the needs of younger people in nursing homes are being met when there is an up to $60 000 per year difference in service costs.

(4) Can an explanation be provided as to why young people in nursing homes, who generally have high support needs, in some states receive half the funding that is available to other people with disabilities.

(5) Given that the Commonwealth State Territory Disability Agreement (CSTDA) is the main instrument available to the Commonwealth to develop and implement a national approach to disability services, and given that the issues of an ageing population referred to in the intergenerational report are just as relevant to people with disabilities and their families: What is the Government doing in regard to long-term planning for Australia’s disability services through the CSTDA.

(6) What is being done through the CSTDA negotiation process to ensure that people under 65 with disabilities in nursing homes are able to access disability services to ensure they have the same rights and opportunities as other people with disabilities in our community.

(7) Whilst acknowledging that the states are responsible for young people in nursing homes, does the Government agree that it is a pressing national problem.
(8) What is the Government doing through the CSTDA to manage and monitor services and more appropri-ate accommodation for young people in nursing homes at the national level.

(9) (a) What discussions has the Minister had with the Minister for Ageing about the Department of Health and Ageing Innovative Pool Program; (b) what was the outcome of these discussions; (c) how is the CSTDA going to reflect the states participation in this program; and (d) what is the Min-isiter going to do for young people in nursing homes who are not represented in Innovative Pool pil-lots in their state.

(10) What is being provided in the CSTDA for the young individuals who may receive service through these 2-year pilots when the pilots finish.

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

(1) The statistics published on page 10 of the Australian of 24 March 2003 are of people under the age of 65 in Commonwealth funded high (nursing home) and low (hostel) residential aged care at 31 January 2003.

(2) (a) The Department of Health and Ageing collects data on people under the age of 65 in Common-wealth-funded high (nursing home) and low (hostel) residential aged care. (b) Table 1 provides data (as at 31 January 2003) on the number, age group, and jurisdiction for people under the age of 65 in Commonwealth-funded high (nursing home) and low (hostel) residential aged care where the State or Territory government is the approved provider of aged care services.

<table>
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<tr>
<td>Australia</td>
<td>146</td>
<td>300</td>
<td>244</td>
<td>690</td>
</tr>
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</table>

Source: Department of Health and Ageing

(3) The manner in which the States and Territories provide disability services (government or non-government sector) is a matter for individual jurisdictions. The Commonwealth provides a funding contribution for accommodation and other disability services, while the States and Territories are wholly responsible for service delivery.

Comparing the efficiency of the two sectors based on costs per place provided in the Productivity Commission Report on Government Services (Table 13 A.23) is difficult and should be interpreted with caution.

The non-government sector does have lower cost per places than government provided places although this is not a direct indication of efficiency as other factors may be responsible for any difference. They are:

- Government provided accommodation places usually have clients with higher support needs and therefore higher costs. As cost per place is calculated by dividing total expenditure by number of places on snapshot day this results in higher costs for the government sector.
- Data for non-government provided places reflect cost to government and not full cost of providing accommodation places. It only includes the government’s contribution towards non-
government provided places and excludes general overheads that would be included in the
government sector estimate of cost per place.

- Snapshot day data (a single day of collection) does not fully represent the number of service
recipients on an average day. Therefore, figures should be interpreted with caution.

(4) See answer to (3) above.

(5) One of the five policy priorities identified by Ministers for the next Commonwealth State Territory Disability Agreement is to improve long-term strategies to respond to and manage demand for specialist disability services. The Commonwealth is currently negotiating bilateral agreements with each State and Territory that commit both jurisdictions to provide information on the strategies in place to respond to and manage the demand and supply of disability services over the long term.

(6) Issues associated with young people in nursing homes will be an integral part of the multilateral agreement work-plan. The Commonwealth is also negotiating with each State and Territory to include strategies in their bilateral agreements to address the needs of young people in nursing homes.

(7) The shortage of State and Territory Government provided specialist disability accommodation is a matter of concern to the Commonwealth. The Commonwealth’s view is that residential aged care rarely provides appropriate accommodation support for younger people with disabilities and should be used as a last resort. Younger people with disabilities continue to be placed in residential aged care due to a shortage of State and Territory Government provided specialist disability accommodation. Younger people with disabilities should be supported for as long as possible in the community until they need support in specialist disability accommodation.

(8) The purpose of the CSTDA is to clarify respective Commonwealth and State/Territory government responsibility for services for people with disabilities, and to allocate funding for those services. The National Disability Administrators have drafted a CSTDA Implementation Plan which provides a mechanism for implementing, monitoring and reporting progress of an established work-plan. This work-plan includes an item stating that the Commonwealth will work with States and Territories to develop appropriate housing and support options for young people in nursing homes.

(9) (a) The Commonwealth Department of Family and Community Services (FaCS) meets regularly with the Department of Health and Ageing at officer level to discuss and progress issues in common such as young people in nursing homes. Information is shared on the Innovative Pool Program at these meetings, and the two departments liaise on a needs basis at other times. (b) The Department of Health and Ageing has undertaken to keep FaCS informed on all aspects of the Innovative Pool Program. FaCS has undertaken to continue to encourage States and Territories to develop appropriate housing and support options for young people in nursing homes. (c) Addressing the needs of young people in nursing homes via their Bilateral Agreements, including participating in the Innovative Pool. (d) Addressing the needs of young people in nursing homes is being included in negotiation of bilateral agreements under the next Commonwealth State Territory Disability Agreement. (d) The Commonwealth is negotiating with States and Territories to include strategies in their bilateral agreements to address the needs of young people in nursing homes, regardless of whether these young people are participants in the Innovative Pool pilot. This issue is also included on the CSTDA work-plan of disability administrators.

(10) All Innovative Pool projects will include a well-articulated exit strategy, which will outline how care services will be ensured for pilot participants after the pilot projects are complete.
Commonwealth Scientific and Industrial Research Organisation: Southern Surveyor
(Question No. 1358)

Senator Brown asked the Minister representing the Minister for Science, upon notice, on 26 March 2003:

With reference to the refit of the research vessel Southern Surveyor:

(1) How much did the refit cost, who did the refit and when.
(2) (a) Who tendered for the refit; and (b) how many tenderers were there.
(3) What would a new ship have cost.
(4) What problems have been encountered since the refit.

Senator Alston—The Minister for Science has provided the following answer to the honourable senator’s question:

(1) The total cost of the refit of Southern Surveyor was $1.969 million.

The refit was a collection of 39 separate items of work and was not managed as a single contract. P&O handled 24 of these items under its management contract with the Commonwealth Scientific and Industrial Research Organisation (CSIRO), which provides for the arrangement of alterations and improvements to the ship, in consultation with CSIRO.

The value of P&O’s items was $1.658 million. Table 1 lists the major contractors and suppliers used by P&O.

The remaining 15 items were handled directly by CSIRO Marine Research as they were within CSIRO’s area of expertise. The majority of these items were associated with scientific equipment or systems, as distinct from the ship’s hull, machinery and handling systems which were within P&O’s area of expertise. CSIRO’s own technical staff were actively engaged in specification, acquisition (through normal CSIRO purchasing procedures), fabrication (some in-house) and installation of the items.

The value of CSIRO’s items was $311,000. Table 2 lists firms who provided services and materials contributing to the items managed by CSIRO.

The refit was carried out between July 2002 and February 2003.

(2) (a) and (b). As noted in (1) above, the refit involved a number of separate items of work, the bulk of which was handled under P&O’s management contract. P&O have specialist skills in managing ship refits. As it is their ‘core business’, they have access to contractors and suppliers at favourable rates and this benefits CSIRO. P&O uses its own purchasing and contracting procedures for such works. CSIRO worked closely with P&O to ensure that P&O’s preferred suppliers and contractors represented value for money.

P&O has an approved list of suppliers that have proved that they meet minimum quality standards required to ensure that P&O maintain vessel survey and insurance classifications.

All items managed directly by CSIRO were handled in accordance with CSIRO’s purchasing procedures. In all but one case, due to the nature and value of the services or goods involved, tenders were not required under CSIRO’s purchasing procedures. This item was exempted from tender on the basis of there being a sole supplier.

(3) The cost of any new research vessel would depend on a wide range of factors such as size, function, capability, equipment, and on whether it was built new or bought second hand and converted. Therefore it is difficult to estimate a cost. As a guide, in April 2001, while preparing a Major National Research Facility (MNRF) “Australian Ocean Research Fleet” proposal, a new
75m research vessel with capabilities similar to *Southern Surveyor* was estimated to cost $45 million. This “concept” vessel did not form part of the MNRF proposal.

(4) While a number of technical problems and Occupational Health and Safety (OH&S) incidents have occurred during *Southern Surveyor*’s first three science voyages since the refit was completed, the respective Chief Scientists consider each of the three voyages successful with all major scientific objectives achieved.

### Appendix of Tables

**Table 1. Major Contractors and Suppliers used by P&O**

<table>
<thead>
<tr>
<th>Contractors &amp; Suppliers</th>
<th>Tasks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allison Labs</td>
<td>Stern A-frame</td>
</tr>
<tr>
<td>Away Voice and Data</td>
<td>Container Lab - Shelter Deck</td>
</tr>
<tr>
<td>BG Cranes</td>
<td>Afterdeck Crane</td>
</tr>
<tr>
<td>Bullivants</td>
<td>Container Lab - Shelter Deck</td>
</tr>
<tr>
<td>Burness Corlett</td>
<td>Afterdeck Crane, Classification Survey, Naval Architect, Stern A-frame</td>
</tr>
<tr>
<td>Collex</td>
<td>Stern A-frame, Stern Gantry Removal</td>
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<tr>
<td>Coventry Fasteners</td>
<td>Container Lab - Shelter Deck, Tie-down points</td>
</tr>
<tr>
<td>Elliot Bros</td>
<td>Afterdeck Crane, Shorten fixed A-frame, Stern A-frame</td>
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<tr>
<td>GHT</td>
<td>Coring Winch</td>
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<tr>
<td>Hamworthy</td>
<td>Sewage Treatment Plant</td>
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<td>Hempels</td>
<td>Stern A-frame</td>
</tr>
<tr>
<td>Hydrol</td>
<td>Stern A-frame</td>
</tr>
<tr>
<td>Kibbey and Cooper</td>
<td>Afterdeck Crane</td>
</tr>
<tr>
<td>Lloyds</td>
<td>Afterdeck Crane, Classification Survey, Stern A-frame</td>
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<tr>
<td>Lorentzen Marine</td>
<td>Coring Winch, CTD - Hydro Winch</td>
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<tr>
<td>Mobil</td>
<td>Afterdeck Crane, Stern A-frame</td>
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<tr>
<td>Revolution Design</td>
<td>Naval Architect, Stern A-frame</td>
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<tr>
<td>Robert Lichter</td>
<td>Split Elect Dist Board</td>
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<td>Roll Royce</td>
<td>Coring Winch, CTD - Hydro Winch</td>
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<td>Trevor Grant Electrical</td>
<td>3 Phase Power Outlets, Afterdeck Crane, Container Lab - Shelter Deck, Corer Deployment – transom, Corer deployment power, Coring Winch, CTD - Hydro Winch, Stern A-frame, Sewage Treatment Plant, Split Elect Dist Board, Electrical Works</td>
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<td>Vickers</td>
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<td>Wellco</td>
<td>Corer deployment power, Stern A-frame</td>
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## Table 2. Contractors and Suppliers used by CSIRO

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<th>Contractors &amp; Suppliers</th>
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<td>Crane maintenance</td>
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<td>Antarctic Connections</td>
<td>Batteries</td>
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<td>ASAP</td>
<td>Crane certification</td>
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<td>Away Voice and Data</td>
<td>Network upgrade</td>
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<td>Waterblaster</td>
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<td>Black Box</td>
<td>VGA/PAL Converter</td>
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<td>Bohler Uddeholm</td>
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<td>Brewsters</td>
<td>Tas Oak, Paint, Plywood</td>
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<td>D&amp;W Electrical</td>
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<td>Contractors &amp; Suppliers</td>
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QUESTIONS ON NOTICE
Australian Broadcasting Corporation: Programming
(Question No. 1365)

Senator Stott Despoja asked the Minister for Communications, Information Technology and the Arts, upon notice, on 27 March 2003:

(1) (a) Has the Minister had any correspondence with the Australian Broadcasting Corporation (ABC), or any commercial network, in relation to the coverage of the war on Iraq: and (b) specifically, has the Minister had any correspondence in relation to coverage of the war in time slots generally allocated to children’s and preschoolers’ programming.

(2) Has the Minister had any correspondence with the ABC or commercial networks regarding the Australian Broadcasting Authority’s (ABA’s) Children’s Television Standards (CTS) requirement that, ‘A licensee shall ensure that the child audience is appropriately notified of any variation to the schedule (CTS 3; I, J).’

(3) Is the Minister able to verify whether children’s programming, such as Playschool, has been interrupted by news bulletins covering the war in Iraq.

(4) Did these bulletins meet the ABA’s CTS requirement that no program broadcast during a children’s or preschoolers programming period may ‘present images or events in a way which is unduly frightening or unduly distressing to children’ (CTS 10; b).

(5) Did these bulletins meet the ABA’s CTS requirement that such bulletins are permitted only when ‘a news flash…cannot, in the public interest, be delayed until completion of the …program’ (CTS 5. 1).

(6) Were any such bulletins, during children’s programs, or during time slots dedicated to children’s programming, preceded by warnings of their potentially graphic and disturbing content.

(7) Will any action be taken in the case of any breaches of sections of the ABA’s CTS or the ABC’s Codes of Practice relating to children’s and preschoolers’ programming.

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

(1) (a) No. However, I note that the Minister for Children and Youth Affairs, the Hon. Larry Anthony MP, on 24 March 2003 announced he had written to all national television news directors seeking their cooperation in exercising restraint, particularly during prime viewing time for children and young people, in the type of visuals used in their coverage of the war on Iraq. Further, as noted in response to part (3), the ABA contacted all commercial television licensees prior to the start of the war to remind them of the requirements of the CTS. (b) As at 10 April 2003, I have received 9 letters in relation to coverage of the war in time slots generally allocated to children’s and preschoolers’ programming.

(2) No. I also note that the ABC is not governed by the ABA’s Children’s Television Standards.

(3) In relation to the ABC, the ABC has advised that, while it sought to minimise disruptions to its schedule, especially children’s programming, there were interruptions, especially during the first few days of the war in Iraq, as the ABC sought to provide up-to-date news and information about developments. All news and current affairs special bulletins and news updates were preceded by appropriate warnings.

Children’s programs were broadcast without interruption throughout this period on the ABC’s digital multi-channel service, ABC Kids.

A summary of the major programming changes and the States and territories affected are detailed below (Note: When the war broke out on 20 March, due to daylight saving there were five different time zones around Australia. On 30 March when daylight saving ended, this reduced to three time zones):
On the day the war began, 20 March 2003, children’s programming was suspended from 2.00-4.00pm (AEDST) in order to broadcast an ABC News and Current Affairs Special, Iraq War, which featured rolling coverage from the ABC and BBC. This programming change required one hour of children’s programs to be deleted from the day’s schedule. This affected ACT, NSW, Victoria and Tasmania, and South Australia for 30 minutes.

In Western Australia programming was interrupted at 4.30 pm for 10 minutes on 20 and 21 March.

On Friday 21 March, Business Breakfast was extended by 30 minutes (from 7.00-7.30am) to include breaking news. This programming change required the deletion of half an hour of children’s programming. This affected ACT, NSW, Victoria and Tasmania.

On Sunday 23 March, live rolling coverage of the war from the ABC’s Sydney studio from 6.30-9.00am required the deletion of two and a half hours of children’s programs in the ACT, NSW, Victoria and Tasmania. In Queensland, this affected children’s programs from 6.30am-8.00am; in South Australia from 6.30-8.30am and the Northern Territory from 6.30-7.30am.

Live national broadcasts of Defence Force Briefings from 24 March to 28 March, and from 31 March to 4 April at 11am (AEST) affected the following States and Territory:
- in the Northern Territory, these Briefings were broadcast during children’s times from 9.30-10.00am from 24-28 March; and
- in Western Australia, these Briefings were broadcast during children’s times from 8.00-8.30am from 24-28 March; and from 9.00-9.30am from 31 March – 4 April.

In addition to these News and Current Affairs specials, three-minute news updates were scheduled during children’s timeslots on Friday 21 March, Monday 24 March, Tuesday 25 March, Wednesday 26 March, Thursday 27 March and Friday 28 March, at the following times:
- in ACT, NSW, Victoria, Tasmania at 8.30am, 3pm, 4pm, and 5pm;
- in South Australia at 5pm on 20 March, at 8.30am, 3pm, 4pm, 5pm on 21 March, at 3.30pm, 4.30pm, 5pm on 24 March and at 8.00am, 9.30am, 3pm, 4pm, 5pm on 25 – 28 March;
- in Western Australia at 3pm and 4pm on 20 March, at 8.30am, 3pm, 4pm on 21 March, at 3pm, 4pm, 5pm on 24, 25, 26 and 28 March and at 8.30am, 3pm, 4pm, 5pm on 27 March;
- in the Northern Territory at 4.30 pm and 5pm on 20 March, at 8.30am, 3pm, 4pm, 5pm on 21 March, at 4pm and 5pm on 24 March, and at 7am, 8.30am, 3pm, 4pm, 5pm on 25-28 March; and
- in Queensland at 5pm on 20 March, at 8.30am, 3pm, 4pm, 5pm on 21 March, at 3pm, 4pm and 5 pm on 24 March, and at 7.30am, 9.00am, 3pm, 4pm, 5pm on 25 – 28 March.

On Friday 28 March the ABC’s war coverage was reviewed. Given the situation of the war, the decision was made not to schedule any further news updates in children’s programming timeslots unless events in Iraq required it. No news updates were broadcast in children’s timeslots for a period of 12 days (28 March – 9 April 2003).

On Thursday 10 April, given the international significance of events in Baghdad, a decision was made to schedule a news update at 3pm, prior to the start of the children’s timeslot.

The ABC continues to monitor events in Iraq closely and will schedule news updates as necessary, balancing these information needs with the needs of the children’s audience.

In relation to commercial television broadcasters, the ABA has advised me that, in anticipation of displacement issues and the potential for interruptions to C programming (programming for primary school age children), the ABA contacted all commercial television licensees prior to the start of the war and reminded them of the requirements of the CTS (particularly CTS 3(1)(k) and CTS...
5(1). As the CTS are a condition on all commercial television licenses, complaints about a breach of the CTS come directly to the ABA. As at 8 April 2003, the ABA has received no notifications under CTS 5(1) that a C program was interrupted in order to broadcast a news flash ‘in the public interest’.

(4) In relation to the ABC, the ABC has advised that it is not governed by the ABA’s CTS requirements. ABC children’s program requirements are set out in the ABC’s Editorial Policies and Code of Practice. The ABC has advised that it adhered to these requirements.

In relation to commercial television broadcasters, the ABA has advised me that as the CTS are a condition on all commercial television licenses, complaints about a breach of the CTS come directly to the ABA. The ABA has received no complaints alleging a breach of CTS 10(b).

(5) In relation to the ABC, the ABC has advised me that it is not governed by the ABA’s CTS requirements. ABC children’s program requirements are set out in the ABC’s Editorial Policies and Code of Practice. The ABC adhered to these requirements.

In relation to commercial television broadcasters, the ABA has advised me that in relation to ‘news flashes’ and CTS 5(1), the ABA has received no notifications that a C program was interrupted in order to broadcast a news flash ‘in the public interest’.

The ABA has, since 18 March, received 62 notifications from licensees of variations to C and P program (programming for pre-school age children) timings in accordance with CTS 3(1)(k)(i) – failure to broadcast in accordance with the schedule not a breach if ‘the failure was due to the unforeseen overrun or availability of live coverage of an event of national importance…which is suitable for viewing by children and which intrudes into a C or P period.

These variations have resulted in the late start or displacement (in their entirety) to a different time of C and P programming. Under CTS 3(1)(j) licensees are required to notify the child audience of displacements / variations (usually done by way of an onscreen ‘crawl’). As at 8 April 2003, the ABA has received no complaints alleging a breach of CTS 3(1)(j).

(6) In relation to the ABC, the ABC has advised me that all News and Current Affairs Specials and news updates covering the war in Iraq during timeslots devoted to children’s programming were preceded by the broadcast of an appropriate warning in accordance with the ABC’s Code of Practice.

The following warning was broadcast as a text graphic, as well as spoken:

“We interrupt our scheduled children’s programming to bring you this ABC news update. It may contain images unsuitable for younger viewers.”

In addition, both an ABC program promotion and station identification were broadcast before and after each news update to increase the distance between the update and the particular children’s program.

On Thursday 27 March, this warning was upgraded:

“In times of crisis the ABC has a responsibility to provide an independent, comprehensive news and information service for the Australian community. This includes coverage of wars and other events involving human suffering. The ABC does its best to ensure that there are warnings before coverage that might contain violent programming. We do take particular care to consider the needs of our younger audience. Events in war are unpredictable and coverage may interrupt normal programming at short notice”.

These warnings were broadcast at 7.00am as well as prior to every news update in children’s programming on 27 and 28 March.

In addition to the broadcast warnings, on Thursday 27 March a text link was published on the front page of the two ABC Online sites dedicated to children, The Playground and RollerCoaster. These
text links directed the audience to the “Grown Ups” section of both sites, where the following message appeared:

“Interruptions to Children’s Programming -
ABC Television is interrupting children’s programming to deliver the latest news on the war in Iraq. In times of crisis, the ABC has a responsibility to provide an independent, comprehensive news and information service for the Australian community. The ABC ensures that there are warnings before programs that might contain violent or disturbing content, taking particular care to consider the needs of our younger audience. During this current international crisis, news updates are scheduled during children’s programming and unscheduled news flashes may interrupt normal programming at short notice. If you have a complaint or wish to raise an issue of concern, please contact ABC Audience & Consumer Affairs at comments@your.abc.net.au”.

In relation to commercial television broadcasters, the ABA has advised that it has received no complaints to date on this issue.

(7) In relation to the ABC, the ABA has advised the ABA that news updates broadcast at 3.00 and 4.00pm on 26 March 2003 contained violent images that were unsuitable for broadcast at times when subsequent programs were directed at children. These images were not of the war in Iraq, but rather of violence during an anti-war protest in Sydney. The ABC regrets that this footage was used at this time.

The ABA may investigate complaints in relation to breaches of the ABC’s codes of practice under ss. 150-153 of the Broadcasting Services Act 1992. Under the ABC Act, the broadcaster’s Board is required to develop codes of practice in relation to its broadcasting services and notify those codes to the ABA. If the ABA finds against the broadcaster in relation to a complaint, it can recommend that the broadcaster take action to comply with the code of practice and take other action, including broadcasting an apology or retraction. If the broadcaster does not comply with the recommendation, the ABA may give the Minister a report. The Minister is required to table the ABA’s report in Parliament.

In relation to commercial television broadcasters, the ABA has advised that a breach of the CTS is a breach of a licence condition (vide paragraph 7(1)(b) of schedule 2 of the BSA), which is an offence under s.139 (1) of the BSA. There are a number of remedies available to the ABA in relation to breaches of licence conditions under ss.139 and 141-143. Any action taken by the ABA would depend on the circumstances of the breach.

Transport and Regional Services: Low Volume Scheme
(Question No. 1367)

Senator Harris asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 27 March 2003:

(1) Does the Low Volume Scheme still exist.

(2) If the scheme exists in a revised format, what are the terms and conditions for approvals.

(3) (a) How many vehicle approvals from the former scheme have been rolled over to the revised scheme; and (b) what criteria are used for this to occur.

(4) Is the revised scheme authorised, managed and regulated by administrative circulars or ministerial determinations; if so, are these administrative circulars the same as those which authorised, managed and regulated the former scheme; if not, what published authorisation is there to regulate and manage the revised scheme.
(5) Can the Minister provide an explanation as to why there was no provision made in the recent amendments to the Motor Vehicle Standards Act 1989 and Regulations for vehicles to be imported under the scheme.

(6) What criteria have been formalised, published and generally broadcast for the importation of vehicles and the application of a compliance plate to non-standard motor vehicles under the revised scheme.

(7) Do limits still exist for the importation of Low Volume Scheme vehicles under the revised scheme; if so, what is the time limit.

(8) (a) What qualifications, if any, do applicants require for gaining compliance approvals under the revised scheme; and (b) where are these qualifications published.

(9) (a) What workshop requirements are there for the revised scheme; and (b) where are these requirements published.

(10) Are there still concessions for compliance with current Australian Design Rules for approvals under the revised scheme.

(11) Given that international harmonization of standards is almost finalised, does the department accept vehicles from overseas manufacturers where vehicles comply with these international standards, without further testing of components.

(12) What extra standards does the department require of vehicles imported from overseas manufacturers who have adopted international Economic Commission for Europe standards.

(13) Are Single Uniform Type Inspections currently used to appraise vehicles for approvals under the revised scheme; if so, is every vehicle application treated in an identical manner; if not, what are the differing means of appraising applications.

(14) Are these restrictions published, formalised and generally broadcast as to the models eligible under the revised scheme.

(15) Are there any criteria for importation, application of a compliance plate, credentials, inspections, issuing of approvals, and workshop requirements for approvals which have not been published and generally broadcast, but which have been mooted and formalised; if so, what are they.

(16) How many applications for Low Volume Vehicles have been approved under the revised scheme from May 2002 to date.

(17) Which companies have been given approval to import vehicles under the revised scheme.

(18) What vehicles have been imported from 8 May 2002 to date under the revised scheme, including the make, model and month.

(19) How many vehicles does the department expect will be imported under the revised scheme for each of the following years: (a) 2003; and (b) 2004.

(20) How many vehicles does the department expect will be imported under the Specialist and Enthusiast Vehicle Scheme and the Registered Automotive Workshop Scheme for each of the following years: (a) 2003; and (b) 2004.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answers to the honourable senator’s question:

(1) Yes. From 8 May 2000 the scheme has been known as the Specialist and Enthusiast Vehicle Scheme (SEVS). It does not change the processes for new vehicles, but requires, from 8 May 2003, used vehicles to be imported and modified via a Registered Automotive Workshop (RAW) under the RAW Scheme.

(2) The conditions are as provided in the Motor Vehicle Standards Regulations 1989 and those included on a RAW approval.
(3) None. From 8 May 2003, all approvals for used vehicles under the former low volume scheme ceased. They were not rolled into the RAW Scheme, as it is a different process for approving the supply of vehicles to the market. Low volume approvals for new vehicles were not affected by this change as they are administered under the same processes that applied under the former scheme.

(4) The RAW Scheme is administered according to the provision of the Motor Vehicle Standards Act 1989 (the Act), the Motor Vehicle Standards Regulations 1989 (the Regulations) and ministerial determinations.

(5) The recent amendments to the Act and Regulations included, among other things, specific provision for importing used vehicles to cater for the new arrangements for such vehicles.

(6) There was substantial industry consultation in the development of the RAW Scheme. A Guide to the Registered Automotive Workshop Scheme was published and a series of RAW News circulars has been communicated via a dedicated RAW Scheme link on the Department’s website. The criteria for SEVS and the RAW Scheme are set out in the Regulations and ministerial determinations.

(7) Yes. The limit is 100 vehicles per year per vehicle category for each approval holder (in the case of new vehicles) and per RAW (in the case of used vehicles).

(8) An applicant for a RAW must meet a range of criteria that are set out in Regulations 40 to 54.

(9) The workshop requirements for a RAW are set out in Regulation 47.

(10) Yes.

(11) Where a vehicle is shown to comply with a United Nations Economic Commission for Europe (UN ECE) Regulation and that Regulation is specified as accepted for demonstration of compliance within the corresponding Australian Design Rule (ADR), then further testing of components would not normally be required.

(12) None, where the international standard is specified as acceptable within the ADR.

(13) No. The RAW Scheme replaces the former type approval system for used vehicles with a vehicle by vehicle inspection regime. RAW applications are approved as per the processes set out in the Regulations.

(14) Yes. The eligibility requirements under the SEVS are set down in Regulation 24.

(15) No.

(16) Eleven RAW approvals have been issued and a total of 14 vehicle models are on the schedules of approved vehicles, plus 39 motorcycle models.

(17) The following RAWs have been issued with an approval.

| TGB Unique Imports Pty Ltd, Penrith NSW | Crossover Car Conversions, Ferntree Gully, VIC. |
| Otobai Wholesalers, Pty Ltd. Logan City DC, Qld. (Motorcycles) | Modina Imports, Kingsgrove, NSW. |
| Shogun Car Company Pty Ltd, Aspley, Qld. | Cannington Auto Mart Pty Ltd, Cannington, WA. |
| Cliffdale Pty Ltd, Drycreek, SA. | Brig Investments, Gympie, Qld. |
| Iamshe Pty Ltd, Southport Qld. | |

(18) A search of the RAW Scheme database shows 179 import approvals issued from 8 May 2002 to date. A significant number of vehicles already imported under the old arrangements can be plated and supplied under the RAW Scheme.

(19) 2003: RAW Scheme estimated 1,000 cars plus 2,000 motorcycles.

2004: RAW Scheme estimated 8,000 cars plus 2,000 motorcycles.
(20) As per question 19 with an additional estimated 300 new vehicles in 2003 and 350 new vehicles in 2004.

**Immigration: Ms Puangthong Simaplee**  
(Question No. 1369)

Senator Greig asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 27 March 2003:

With reference to the case of Ms. Puangthong Simaplee, who was trafficked into Australia at the age of around 11 years, and forced to work as a prostitute:

1. Is the Minister aware that, after 16 years of bonded labour, Ms Simaplee died in September 2001 in detention, having been seized by authorities and taken straight to Villawood and subsequently given inappropriate treatment for her drug addiction.

2. Given that Australia has the ability to provide the victims of this insidious trade with a Criminal Justice Stay Visa and witness protection: (a) how many times has such a visa been issued in relation to trafficked women; and (b) is it true that the Australian Federal Police (AFP) currently cannot initiate a Criminal Justice Stay Visa unless requested to do so by the Department of Immigration and Multicultural and Indigenous Affairs.

3. Will the Government now create a people trafficking taskforce to provide the AFP with more comprehensive search and rescue powers to locate and protect women held captive in brothels and to prosecute traffickers.

4. Are trafficked women who are held in detention awaiting deportation provided with information regarding their eligibility for a Criminal Justice Stay Visa and provided with appropriate legal advice or Legal Aid.

Senator Ellison—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator’s question:

1. I am aware that on 23 September 2001 Ms Simaplee (aka Simplee) was located by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) as part of a compliance operation on a number of premises, including several associated with the sex industry. Ms Puangtong Simaplee was detained because of inconsistencies in her claims. Ms Simaplee initially identified herself as an Australian citizen and later provided a further alias and claimed to be a Thai national. It was not until after her death that more information became available identifying her as Ms Puangthong Simaplee, an unlawful non-citizen.

I am also aware that on 25 September 2001 Ms Simaplee made a number of claims in relation to her previous personal circumstances, including how she came to be in Australia. Based upon the information she provided to my Department, she was somewhere between 12 and 25 years of age on arrival in Australia. These claims were being examined by DIMIA at the time of her death on 26 September 2001 but were suspended due to the coronial inquest.

The issue of Ms Simaplee’s medical treatment and subsequent death were investigated by the NSW Coroner and the report of the inquest’s findings was released on 24 April 2003. The Coroner found that Ms Simaplee died as a result of narcotic withdrawal with an antecedent cause being malnutrition and early acute pneumonia.

2. (a) Nearly 270 Criminal Justice Stay Visas (CJVs) have been granted by DIMIA since 1999. These were granted for a range of reasons, including for perpetrators, witnesses and victims of sexual offences. Of these some 20 related to sexual offences. While the Department does not keep specific data on CJVs issued for people trafficking purposes, seven of these CJVs were issued either to witnesses or victims of sexual offences, and at least three were related to people trafficking.
(b) No. The criterion for a Criminal Justice Stay Visa is that a Criminal Justice Stay Certificate is in force. Under the Migration Act 1958 a Criminal Justice Stay Certificate can be issued by any of the following:

• in Commonwealth matters, the Commonwealth Attorney-General; and
• in State matters, the State Attorney General, State Director of Public Prosecutions or the highest ranking member of the police force of the state (eg the Commissioner of Police)

Should the Australian Federal Police (AFP) determine that an individual is required to remain in Australia for criminal justice purposes, the AFP can request that the Attorney-General’s Department issue a Criminal Justice Stay Certificate. The certificate prevents the individual’s removal from Australia. DIMIA plays no role in the issue of the certificate.

(3) While the reply to this question rests more appropriately with my colleague, Senator Ellison, I can advise that the Government is currently examining how to improve its existing arrangements for combating people trafficking. Close co-operation already exists between the relevant agencies, which the Government is seeking to strengthen. Similarly, a large number of policing and prevention measures are already in place in Australia and through our overseas aid program. In reviewing the scope of its current range of measures, the Government may consider, among other potential responses, whether a taskforce is the most effective means of addressing the real challenge of people trafficking.

(4) A Criminal Justice Stay Visa is not a visa category for which an individual can apply. The decision on whether a non-visa holder should remain in Australia for law enforcement purposes is made by the relevant law enforcement agency, which can then request a Criminal Justice Stay Certificate.

To enable DIMIA to identify people who have been trafficked they are questioned as a part of a structured interview. If any indication of people trafficking emerges from this interview, the case is referred to the AFP.

Section 256 of the Migration Act 1958 states that all detainees must be provided reasonable legal assistance on request. DIMIA does afford all reasonable facilities to obtain legal advice for persons in immigration detention and conducts interviews using an interpreter where necessary.

Senator Brown asked the Minister representing the Prime Minister, upon notice, on 2 April 2003:

(1) (a) Does the department or any of its agencies hold unpublished data from Roam Consulting, dated 2002, relating to electricity costs for new entrants, comparing ‘zero emissions’ coal with other fuels including conventional coal, gas combined cycle and renewables; (b) for whom was this data prepared for; (c) what was the cost of the work; (d) who paid for it; (e) what was the estimated cost of electricity generated from ‘zero emissions’ coal and what information was used to derive this estimate; and (f) can a copy of this information be provided.

(2) (a) Has unpublished data from Roam Consulting relating to the cost of ‘zero emissions’ coal been used in reports or advice provided to the Minister in the past 2 years, including reports and advice from the Chief Scientist; if so, can the following detail be provided, title, author, date and nature of the advice or report, and its purpose; (b) what was the estimated cost of electricity generated from ‘zero emissions’ coal and what information was used to derive this estimate; (c) for whom was the data prepared for; and (d) can a copy of the information be provided.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:
I am advised that:

1) The Department of the Prime Minister and Cabinet does not hold any unpublished data from Roam Consulting, dated 2002, relating to electricity costs for new entrants, comparing ‘zero emissions’ coal with other fuels including conventional coal, gas combined cycle and renewables.

2) Unpublished data from Roam Consulting relating to the cost of ‘zero emissions’ coal was referred to in a background paper titled “Beyond Kyoto – Innovation and Adaptation” prepared by an independent working group for the ninth meeting of the Science, Engineering and Innovation Council (PMSEIC) held on 5 December 2002. The Working Group’s report and presentation (www.dest.gov.au/science/pmseic) refer to the various data sources used to support its conclusions.

Environment and Heritage: Roam Consulting
(Question No. 1372)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 2 April 2003:

1) (a) Does the department or any of its agencies hold unpublished data from Roam Consulting, dated 2002, relating to electricity costs for new entrants, comparing ‘zero emissions’ coal with other fuels including conventional coal, gas combined cycle and renewables; (b) for whom was this data prepared for; (c) what was the cost of the work; (d) who paid for it; (e) what was the estimated cost of electricity generated from ‘zero emissions’ coal and what information was used to derive this estimate; and (f) can a copy of this information be provided.

2) (a) Has unpublished data from Roam Consulting relating to the cost of ‘zero emissions’ coal been used in reports or advice provided to the Minister in the past 2 years, including reports and advice from the Chief Scientist; if so, can the following detail be provided, title, author, date and nature of the advice or report, and its purpose; (b) what was the estimated cost of electricity generated from ‘zero emissions’ coal and what information was used to derive this estimate; (c) for whom was the data prepared for; and (f) can a copy of the information be provided.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question as follows:

1) Nil

2) Nil

Industry, Tourism and Resources: Roam Consulting
(Question No. 1373)

Senator Brown asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 2 April 2003:

1) (a) Does the department or any of its agencies hold unpublished data from Roam Consulting, dated 2002, relating to electricity costs for new entrants, comparing ‘zero emissions’ coal with other fuels including conventional coal, gas combined cycle and renewables; (b) for whom was this data prepared for; (c) what was the cost of the work; (d) who paid for it; (e) what was the estimated cost of electricity generated from ‘zero emissions’ coal and what information was used to derive this estimate; and (f) can a copy of the data be provided.

2) (a) Has unpublished data from Roam Consulting relating to the cost of ‘zero emissions’ coal been used in reports or advice provided to the Minister in the past 2 years, including reports and advice from the Chief Scientist; if so, can the following detail be provided, title, author, date and nature of the advice or report, and its purpose; (b) what was the estimated cost of electricity generated from ‘zero emissions’ coal and what information was used to derive this estimate; (c) for whom was the data prepared for; and (d) can a copy of the information be provided.
**Senator Minchin**—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) According to its records, the unpublished data from Roam Consulting (referred to in Question 1 above) is not held by my Department or agencies in my portfolio.

(2) Records in the Department and portfolio agencies also indicate that no unpublished data from Roam Consulting relating to the cost of ‘zero emissions’ coal has been used in Ministerial reports or advice in the past two years.

**Corporate Law Economic Reform Program**

(Question No. 1379)

**Senator Murray** asked the Minister representing the Treasurer, upon notice, on 7 April 2003:

(1) Why did the Government provide solely for the Australian Accounting Standards Board and not the Financial Reporting Council (FRC) to meet in public.

(2) Will the Federal Government be reviewing this position in the light of: (a) the FRC’s expanded responsibilities, as outlined in the proposals for phase 9 of the Corporate Law Economic Reform Program; (b) the Parliamentary Secretary to the Treasurer’s recent speech to the summer school held by the Australian Securities and Investments Commission; and (c) the fact that the International Accounting Standards Committee Foundation (the FRC equivalent) meets in public.

(3) Has the Federal Government considered establishing an independent foundation modelled on the International Accounting Standards Committee Foundation to oversee the accounting profession and the processes of setting audit and accounting standards in Australia.

**Senator Minchin**—The Treasurer has provided the following answer to the honourable senator’s question:

(1) The Parliament provided, in subsection 236A(2) of the Australian Securities and Investments Commission Act 2001, that if a meeting of the Australian Accounting Standards Board (AASB), or a part of one of its meetings, concerns the contents of accounting standards or international accounting standards, the meeting or that part of it must be held in public. This provision assists stakeholders to understand the rationale for particular standards. The Government did not propose a similar provision for the Financial Reporting Council (FRC) because the FRC is a policy oversight rather than a standard setting body. The AASB’s practice has been to hold its policy discussions in private.

(2) The FRC has commenced a discussion as to whether it should hold its meetings in public, except where sensitive issues such as appointments are being considered. The FRC is taking into account among other things its proposed expanded functions under CLERP 9 and the practices of other public interest bodies including counterpart bodies overseas. The Government will consider the matter in the light of any advice it receives from the FRC.

(3) Yes. However, the Government has proposed that these oversight functions be undertaken by the FRC, a Government appointed body established under legislation, with enforcement powers exercised by the Australian Securities and Investments Commission. This model is in line with best practice in comparable countries overseas including the United Kingdom which recently decided to move the audit oversight function from an independent foundation to the UK Financial Reporting Council.
Immigration: SIEVX  
(Question No. 1381)

Senator Jacinta Collins asked the Minister for Justice and Customs, upon notice, on 8 April 2003:

(1) Why did the written answer given in response to questions asked by Senator Collins to the Australian Federal Police (AFP) Commissioner, Mr Keelty, during a hearing of the Select Committee on a Certain Maritime Incident on 11 July 2002 (Committee Hansard, 11 July 2002, p. CMI 1982) not reveal that a survivor’s statement disclosed that there was radio contact between the crew of SIEV X and Abu Quassey at a time when there was apparently apprehension about the ability of the vessel to remain afloat.

(2) Why did the answer not explain the statement by Commissioner Keelty that there was no knowledge at all of radio calls from SIEV X to the mainland.

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

(1) The answer provided to the Senator’s question took the form it did because the query was understood to relate to distress calls. The answer did disclose that there were hearsay accounts of information but these did not include distress calls. No reference was made to the specific communication apparently referred to in the Senator’s present question as that did not involve a distress call. It is apparent from the transcript at the time the question was taken on notice that Senator Collins was already aware of that communication, as she refers specifically at the time to her understanding from survivor reports that there was communication between SIEV X and the mainland. The particular communication referred to in the question does not reveal apprehension about the ability of the vessel to stay afloat.

(2) See answer to (1). The Commissioner having indicated at the hearing that he did not have personal knowledge of any calls, has advised me that he subsequently became aware of the particular information referred to by the Senator. The answer provided to the Committee did not refer to the information for the reasons stated in answer to (1). At the time the Committee was provided with the answer, the covering letter invited the Committee to seek further clarification but the Committee did not do so.

The Commissioner referred at length, in subsequent answers to questions at the hearing, to the particular communication referred to in the question, and that communication was made available to the Committee.

Education: Indigenous Student Debt  
(Question No. 1382)

Senator McLucas asked the Minister representing the Minister for Education, Science and Training, upon notice, on 8 April 2003:

With reference to Indigenous student debt, and the ABSTUDY Student Financial Supplement Scheme, which enables eligible students to ‘trade in’ part or all of their living allowance for a loan on a dollar for dollar basis; For each of the following financial years, 1999-2000 and 2000-01: (a) what was the total level of national Indigenous student debt; and (b) what was the Indigenous student debt level for each state and territory.

Senator Alston—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

Due to the change-over of accounting systems in mid-1999, accurate data for 1999 is unavailable.
The cumulative debt for the Student Financial Supplement Scheme for ABSTUDY for the 2000-01 financial year was $284.119 million and for the 2001-02 financial year was $320.339 million.

As the ABSTUDY scheme overall is run on an academic year, to provide financial year figures would be misleading. Calendar year figures provide the most accurate data.

(b) The data for Indigenous debt is provided to the Department of Education, Science and Training (DEST) by Centrelink in an aggregated format and is not broken down into state and territory summaries. DEST is unable to obtain this data.

Environment: Grey Headed Flying Fox

(Question No. 1384)

Senator Allison asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 10 April 2003:

(1) Did the referral for the trial relocation of grey headed flying fox, provided by the Victorian Department of Sustainability and Environment, include details of the dispersal tactics currently being employed by the management of the Melbourne Royal Botanic Gardens.

(2) Can a copy of that referral, dated 9 April 2002, be provided.

(3) Is Environment Australia monitoring this dispersal actively; if so, what are its findings; and (b) if not, why not.

(6) Is the Government aware that Professor Mike Archer, Director of the Australian Museum, Dr Les Hall, author of Fruit & Blossom Bats of Australia, Dr Carol Booth, Queensland Conservation Council, Dr Nicola Markus, Worldwide Fund for Nature, Dr Hugh Spencer, Director, Cape Tribulation Tropical Research, Dr Pamela Conder, author of With Wings on their Fingers, amongst other scientists and conservationists, have called for restrictions on bat dispersal on ethical and ecological grounds.

(7) Is the Government considering this call for any dispersal activity to be at least restricted to the period that lies outside the bats’ mating, birthing and nursing period and that the bats must be undisturbed from 1 August to 1 May each year, irrespective of where they are roosting.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) Yes.


(3) The referral, including proposed monitoring arrangements, and public submissions were carefully examined by the Commonwealth. A decision was made that the proposal is not likely to have a significant impact on the matters of national environmental significance, including the listed Grey-headed Flying Fox, protected under the EPBC Act, on 7 May 2002. The Victorian DSE is responsible for the overall program and is implementing a monitoring program. The Victorian RSPCA also
actively monitors the program. Further details of the monitoring program can be obtained from the Victorian DSE.

(6) Yes. 

(7) The dispersal program in the Botanic Gardens has been timed to avoid disturbing the camp during the most vulnerable breeding and nursing period.

Iraq

(Question No. 1390)

Senator Brown asked the Minister representing the Attorney-General, upon notice, on 15 April 2003:

Has the Solicitor-General provided, or been asked to provide, an opinion on any aspect of the war in Iraq, the deployment of troops to the Middle East or any related or incidental matters.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

The consistent practice adopted by successive governments is not to disclose whether legal advice has been sought on a particular topic or from whom advice may have been sought.

Child Support Legislation: Administration

(Question No. 1392)

Senator Harris asked the Minister representing the Attorney-General, upon notice, on 16 April 2003:

(1) Does the Commissioner of Taxation currently exercise general administration of the Child Support (Registration and Collection) Act 1988 (the Registration and Collection Act) or the Child Support (Assessment) Act 1989 (the Assessment Act) in the capacity of his office as Commissioner of Taxation.

(2) Is there any requirement, legal or otherwise, other than section 48 of the Acts Interpretation Act 1901, for the Federal Privacy Commissioner to ensure that guidelines issued pursuant to section 17 of the Privacy Act 1988 concerning the collection, storage, use and security of tax file number information are issued in a manner consistent with the rule of law as well as with the Commissioner’s statutory obligations.

(3) Is there any requirement for the Privacy Commissioner to ensure that guidelines issued pursuant to section 17 of the Privacy Act concerning the collection, storage, use and security of tax file number information continue to be in force in a manner consistent with the rule of law and with the Commissioner’s statutory obligations.

(4) With reference to Guideline 9.8 of the Tax File Number Guidelines 1992, issued by the Privacy Commissioner under section 17 of the Privacy Act, which provides that a taxation Act for the purpose of the Guidelines is, ‘an Act for which the Commissioner of Taxation has general administration,’ including the Registration and Collection Act and the Assessment Act, and given that Schedule 5 of the Child Support Legislation Amendment Act 2001 (the Amendment Act) repealed and substituted sections 10 and 11 of the Registration and Collection Act and section 147 of the Assessment Act, having the effect of removing the Commissioner of Taxation from the Registration and Collection Act, under which he was nominated as the Registrar, and replacing the Registrar with the Secretary as the entity exercising general administration of both Acts: If the Federal Privacy Commissioner is made aware of the fact that a guideline made pursuant to section 17 of the Privacy Act is inconsistent or in direct conflict with a statute with regard to which that Guideline has direct effect (as in the effect of Guideline 9.8 on the Child Support Legislation given the repeal and substitution of sections 10 and 11 of the Registration and Collection Act and section 147 of the...
Assessment Act), what obligation is there, legal or otherwise, for the Privacy Commissioner to amend, rescind or repeal the Guideline or to inform the Parliament.

(5) Notwithstanding the fact that under the current state of Privacy Guideline 9.8 the Child Support Registrar is not in breach of the Guideline in relation to the exercise of her powers under sections 16B and 16C of the Registration and Collection Act and sections 150B, 150C and 150D of the Assessment Act, in the event that the Privacy Commissioner is made aware of inconsistencies noted in part (4) and refuses to investigate or refuses to take any remedial action regarding the current state of the Guideline (that is clearly and unambiguously inconsistent with the basis on which that Guideline was originally drafted taking into account the legislation for which it was and still is intended to have effect), is the Privacy Commissioner, or is the Commonwealth of Australia, in breach of international law or treaties to which the Commonwealth of Australia has undertaken to be bound.

(6) Will the Attorney-General advise the Privacy Commissioner of the amendments to the Child Support Acts made under Schedule 5 of the Amendment Act and the effect of the amendments on the Guidelines, and draw particular attention to Guideline 9.8, or, in the alternative, will the Attorney-General observe whichever protocol is appropriate in the circumstances to ensure that the Privacy Commissioner is made aware of the amendments and the effect of the amendments on the Guidelines.

(7) With reference to section 11 of the Registration and Collection Act, both prior to and after the amendments made under the Amendment Act, has this legislation, or has any other legislation, rule or regulation, provided at any time whatsoever that the Commissioner of Taxation exercise general administration of the Registration and Collection Act in the capacity of the Office Commissioner of Taxation; if so, will the Attorney-General particularise such times.

(8) With reference to section 147 of the Assessment Act, both prior to and after the amendments made under the Child Support Legislation Amendment Act 2001, has this legislation, or has any other legislation, rule or regulation, provided at any time whatsoever that the Commissioner of Taxation exercise general administration of the Assessment Act in the capacity of the Office of Commissioner of Taxation; if so, will the Attorney-General particularise such times.

(9) If the Attorney-General is unable to answer any question on the basis that the content does not come under the Attorney’s ministerial responsibilities will the Attorney refer the question to the appropriate Minister forthwith to be answered within the required time.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) No. Under the Administrative Arrangements Order, the Child Support (Registration and Collection) Act 1988 (the Registration and Collection Act) and the Child Support (Assessment) Act 1989 (the Assessment Act) are administered by the Minister for Family and Community Services. This legislation states that the Secretary of the Department of Family and Community Services has general administration of the Registration and Collection Act and the Assessment Act.

(2) In order to answer this question it would be necessary for me to provide legal advice and it is not appropriate that I do so.

(3) In order to answer this question it would be necessary for me to provide legal advice and it is not appropriate that I do so.

(4) In order to answer this question it would be necessary for me to provide legal advice and it is not appropriate that I do so.

(5) In order to answer this question it would be necessary for me to provide legal advice and it is not appropriate that I do so.
(6) Yes.

(7) The Australian Taxation Office has provided the Attorney-General with the following information:

The Commissioner of Taxation delegated the powers referred to him as the Child Support Registrar under the Child Support (Assessment) Act 1989 and the Child Support (Registration and Collection) Act 1988 to the National Program Manager of the Child Support Agency in the Department of Family and Community Services in an Instrument of Authorisation on 24 December 1998. As such, the Commissioner has not exercised any general administration of these Acts from this date.

(8) See answer to part (7) of the question.

(9) It is not necessary to refer any parts of this question to another Minister as all parts of the question that can be answered have been answered.

Agriculture: Wheat Streak Mosaic Virus
(Question No. 1400)

Senator O’Brien asked the Minister representing the Minister for Science, upon notice, on 17 April 2003:

(1) (a) When did the Minister become aware that the CSIRO plant laboratories in Canberra were suspected of being infected with wheat streak mosaic virus; (b) who advised the Minister; and (c) how was the Minister advised.

(2) (a) When did the Minister become aware that the CSIRO plant laboratories in Canberra were confirmed as being infected with wheat streak mosaic virus; (b) who advised the Minister; and (c) how was the Minister advised.

(3) When did CSIRO first suspect that its plant laboratories in Canberra were infected with wheat streak mosaic virus.

(4) With reference to the suspicion by CSIRO that its Canberra or other plant laboratories were infected with wheat streak mosaic virus (i.e. before the virus was confirmed as being present in the Canberra laboratories in April 2003): (a) what actions were taken by the Commonwealth (and on what dates) to advise the following stakeholders: (i) CSIRO’s research partners, (ii) rural industry peak bodies, (iii) state ministers of science and/or their departments, (iv) appropriate government agencies within overseas trading nations, and (v) any other stakeholders; and (b) in each instance: (i) who was advised, and (ii) how were they advised.

(5) Did the Department and/or CSIRO advise Plant Health Australia (PHA) of CSIRO’s suspicion that wheat streak mosaic virus may be present in its Canberra or other plant laboratories; if so, when and how was PHA advised.

(6) With reference to the confirmation by CSIRO that its Canberra plant laboratories were infected with wheat streak mosaic virus: (a) What action was taken by the Commonwealth (and on what dates) to advise the following stakeholders: (i) CSIRO’s research partners, (ii) rural industry peak bodies, (iii) state science ministers and/or their departments, (iv) appropriate government agencies within overseas trading nations, and (v) any other stakeholders; and (b) in each instance: (i) who was advised, and (ii) how were they advised.

(7) Did the Minister’s Department or CSIRO advise Plant Health Australia (PHA) of CSIRO’s confirmation that wheat streak mosaic virus was present in its Canberra or other plant laboratories; if so, when and how were PHA advised.

(8) With reference to the suspicion by CSIRO that its Canberra plant laboratories were infected with wheat streak mosaic virus (i.e. before the virus was confirmed as being present in April 2003) what actions were taken by the Commonwealth to trace the destination of plant seeds or other plant material from the CSIRO plant laboratories in Canberra.
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(9) With reference to the confirmation by CSIRO that its Canberra plant laboratories were infected with wheat streak mosaic virus: (a) what actions were taken by the Commonwealth to trace the destination of plant seeds or other plant material from CSIRO plant laboratories in Canberra; and (b) can a list of confirmed destinations be provided.

Senator Alston—The Minister for Science has provided the following answer to the honourable senator’s question:

(1) (a) On Friday 28 March 2003, the Minister was advised that the CSIRO division of Plant Industry had formally advised the appropriate officers in Agriculture, Fisheries and Forestry Australia that a disease affecting its wheat plants had been discovered in its glasshouses at Black Mountain. This advice made it clear that, while the disease had not been identified, CSIRO had taken steps to isolate and destroy plants showing symptoms of necrosis.

The 28 March advice explained that the US company Agdia had undertaken tests at CSIRO’s request and that these tests had returned a negative result for 8 different viruses, including wheat streak mosaic virus. The advice explained that CSIRO was continuing to explore possible causes of the disease including constructing “Within the division PCR primers for molecular diagnosis of Wheat Streak Mosaic Virus (WSMV) … to confirm the negative WSMV results of the US-based tests.”

(b) CSIRO.

(c) By email.

(2) (a) On Thursday 10 April 2003, the Minister received advice from CSIRO that it had positively identified a virus affecting wheat plants in some of its glasshouses on the Black Mountain site and in an enclosed ‘birdcage’ area at its Ginninderra Experiment Station as wheat streak mosaic virus. CSIRO was at this time seeking confirmation of this diagnosis from other Australian laboratories.

(b) CSIRO.

(c) Ministerial information brief.

(3) After detecting possible wheat virus symptoms, CSIRO contacted Agdia, a US company, on 14 February 2003 to arrange to test samples for eight different viruses, including wheat streak mosaic virus. CSIRO received negative test results from Agdia for all eight viruses on 6 March 2003. CSIRO staff examined the results and decided that further testing for wheat streak mosaic virus was warranted. They constructed their own Polymerase Chain Reaction (PCR) primers for the molecular diagnosis of wheat streak mosaic virus, and these tests positively identified its presence on 3 April 2003. CSIRO then proceeded to seek confirmation of this diagnosis by external laboratories at the Western Australian Department of Agriculture, the Queensland Department of Primary Industries and the Tasmanian Department of Agriculture.

(4) (a) (i), (b) (i) and (ii) On 2 April 2003, CSIRO contacted Professor John Patrick (University of Newcastle), Mr Robert Johnstone (Crop Breeding Services, Esperance) and Neil Hawes (South Australian Research and Development Institute) by email.

(a) (ii), (iii), (iv) and (v) These actions fall within the responsibility of the Minister for Agriculture, Fisheries and Forestry, and will be covered in the response to Question on Notice 1397.

(5) CSIRO advised the Office of the Chief Plant Protection Officer by telephone on 27 March 2003 of its suspicion of an unidentified virus in some of its wheat plants. CSIRO understands that the Office of the Chief Plant Protection Officer then advised Plant Health Australia.

(6) (a) (i), (b) (i) and (ii) Following positive identification of the wheat streak mosaic virus, CSIRO advised the following by email on 11 April 2003:
all staff in the Plant Industry division;
other CSIRO divisions and facilities located at Black Mountain;
the Centre for the Application of Molecular Biology to International Activities (CAMBIA); and
CSIRO’s Corporate Business Development and Commercialisation unit.

(a) (ii), (iii), (iv) and (v) These actions fall within the responsibility of the Minister for Agriculture, Fisheries and Forestry, and will be covered in the response to Question on Notice 1397.

(7) CSIRO advised the Office of the Chief Plant Protection Officer by telephone on 3 April 2003 that it had positively identified a wheat virus in some of its Canberra laboratories as wheat streak mosaic virus. CSIRO understands that the Office of the Chief Plant Protection Officer then advised Plant Health Australia of the positive identification of the virus.

(8) On 2 April 2003, the Office of the Chief Plant Protection Officer recommended that CSIRO contact its collaborators and advise them of the situation. The Office of the Chief Plant Protection Officer also asked CSIRO to provide information on collaborators to the Consultative Committee on Exotic Plant Pest Diseases and the departments of agriculture in the States concerned.

CSIRO identified three clients that had received wheat seed from the organisation: the University of Newcastle; Crop Breeding Services, Esperance, WA; and the South Australian Research & Development Institute. These sites were contacted by email on 2 April 2003. Further information on any other field sites was also being compiled at this stage.

(9) (a) The three sites identified as having received wheat seed from CSIRO were notified by CSIRO of the confirmation of wheat streak mosaic virus between 3 April and 4 April 2003. Professor John Patrick from the University of Newcastle, Mr Robert Johnstone from Crop Breeding Services and a representative from the South Australian Research and Development Institute participated in a teleconference on 9 April 2003 and reported that all material received from CSIRO had been checked and was asymptomatic.

In addition, CSIRO extended its trace of destinations back to January 2001 and this was endorsed by the Office of the Chief Plant Protection Officer. CSIRO continued its trace forward and trace back activities at the direction of the Office of the Chief Plant Protection Officer. Sampling and surveillance have been implemented.

(b) CSIRO initially confirmed that the University of Newcastle, Crop Breeding Services in Esperance and the South Australian Research & Development Institute in Adelaide had received wheat seed from CSIRO. By extending its trace of destinations, CSIRO identified a further 14 field sites and growers that had received and planted seed from CSIRO: Purlewaugh; Mendoorah; Binnaway; Coonamble; Cowra RS; Cootamundra; Holbrook; Cumnock; Gunning; Dunedoo; Bredbo; Bairnsdale; Wallendbeen; and Blayney. All growers at these sites were contacted between 18 April and 21 April 2003, and all relevant plant material was destroyed.

Employment and Workplace Relations: Surveys
(Question No. 1402)

Senator Sherry asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 22 April 2003:

What was the total cost of each of the following surveys: (a) 1990 Australian Workplace Industrial Relations Survey; and (b) 1995 Australian Workplace Industrial Relations Survey.

Senator Alston—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

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The total cost of the 1990 Australian Workplace Industrial Relations Survey was $1.5 million and the total cost of the 1995 Australian Workplace Industrial Relations Survey was $2.6 million.

**Immigration: Detention Centres**

(Question No. 1404)

**Senator Allison** asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 22 April 2003:

1. How many children are currently held in detention centres in Australia and offshore.
2. What are the schooling and pre-school arrangements at each detention centre for these children, including: (a) hours of instruction per week; (b) subjects provided; (c) extracurricular activities; and (d) qualifications of teachers providing instruction, including experience in teaching non-English speaking children.
3. Where schooling takes place inside detention centres rather than at the local school, can reasons be provided for this segregation in each case.
4. Can copies of memoranda of understanding with state and territory governments with regard to detainees accessing regular schools be provided.
5. What is the cut-off age after which schooling is not provided.
6. How many young detainees under state and territory school-leaving age are not provided with schooling.
7. (a) What are the aims of the schooling provided to detainee children; and (b) what has been done to evaluate its effectiveness.

**Senator Ellison**—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator’s question:

1. As at 2 May 2003, there are 118 children in immigration detention. Of those, 102 are in immigration detention facilities and 16 are in alternative places of detention.
2. Most school-aged children in immigration detention centres participate in external schooling within the community. Two centres, Baxter Immigration Detention Facility and Villawood Immigration Detention Centre, still have on-site school programs. All school programs provided by the Detention Services Provider (DSP) are based on the relevant state curriculum. Details of teacher qualifications have been provided only for the centres where on-site schools currently exist.

**Woomera Residential Housing Project (RHP)**

School-aged children at the Woomera RHP attend the local area school. Children over three years can now attend kindergarten at the school. The pre-school-aged children are able to attend the Woomera playgroup.

(a) The hours of instruction at the external school are the normal school hours, Monday to Friday. Kindergarten hours are from 8.30am to 11.30am, Monday to Thursday. The playgroup hours are from 10 am to 12 noon, Tuesday and Friday.

(b) The subjects provided are according to the state curriculum.

(c) Extracurricular activities include:
   - swimming (in season);
   - ten-pin bowling;
   - films when showing;
   - excursions to the shops, and appropriate places of interest; and
   - camps.
(d) The qualifications of the teachers employed at the local area school are a matter for the state government.

**Mariibyrnong Immigration Detention Centre (IDC)**
On 2 May 2003, there are no school-aged children at Mariibyrnong IDC.

**Perth Immigration Detention Centre (IDC)**
As at 2 May 2003, there are two school-aged children in detention in Perth IDC. One is in the Perth IDC and does not attend school. The other resides in an alternative place of detention under the auspices of the Perth IDC and attends external schooling.

(a) The hours of instruction at the external school are the normal school hours, Monday to Friday.
(b) The school provides a full English as a Second Language program, via computer, based on the WA curriculum. The school employs a full-time interpreter.
(c) Excursions are offered twice per week.
(d) The qualifications of the teachers employed at the local school are a matter for the state government.

**Port Hedland Immigration Reception and Processing Centre (IRPC)**
All school-aged children at Port Hedland IRPC attend external schools. The one pre-school-aged child goes on weekly excursions and takes part in activities with other children in the holiday periods, and will be enrolled externally later in 2003.

(a) The hours of instruction at the external schools are the normal school hours, Monday to Friday.
(b) The subjects provided are according to the state curriculum.
(c) Extracurricular activities include:
   • camping;
   • school excursions;
   • sports;
   • arts and crafts;
   • children’s videos;
   • walking the IRPC dog; and
   • homework assistance.
(d) The qualifications of the teachers employed at the local schools are a matter for the state government.

**Villawood Immigration Detention Centre (IDC)**
A number of children at Villawood IDC attend external schools. Those that do not attend external schools are able to access education within the IDC.

Children under school age have access to pre-school within the IDC and utilise the mobile toy library and Villawood IDC playgroup room.

(a) The hours of instruction at the external and internal school are the normal school hours, Monday to Friday. Pre-school is from 8:30am to 2pm, two days a week.
(b) Subjects in external schools are according to the state curriculum. Subjects provided within the IDC include:
   English (including literacy and language development);
   • maths;
• science;
• the environment;
• human society;
• arts and crafts;
• library; and
• sports.

(c) Extracurricular activities for those in external schools include:
• excursions with the school;
• extra tutoring; and
• school sports.

For those inside the IDC, extracurricular activities include:
• recreational craft activities;
• external excursions;
• yoga and meditation;
• board and video games; and
• drawing and storytelling.

(d) The qualifications of the teachers employed at the external schools are a matter for the state government.
Qualifications of the teachers at the Villawood IDC school are:

Teacher 1: Adult Education;
Master in Education
Graduate Diploma in Teaching English to Speakers of Other Languages (TESOL)
Diploma in Education
Bachelor of Arts

Teacher 2: Primary School;
Bachelor of Science
Master of Science
Bachelor of Education

Teacher 3: Pre-School;
Associate Diploma in Social Sciences
Diploma of Children’s Services
Bachelor of Arts in Teaching

Baxter Immigration Detention Facility (IDF)
The majority of the children at Baxter IDF attend external schools. Those that do not attend external schools are able to access the education program within the IDC. This program is staffed and run by East Gippsland Institute of Technology (EGIT). There is also pre-school, and for children under four years of age, Kindy Gym.

(a) The hours of instruction at the external schools are for the normal school hours, Monday to Friday. Within the IDF school is for five hours per day, Monday to Friday. Kindy Gym runs twice weekly for one hour, and pre-school hours are 9:00 am to 11:30 am daily.
(b) Subjects in external schools are according to the state curriculum. Subjects provided within the IDF include:

- English;
- maths;
- science;
- individual projects;
- drama;
- computing; and
- sport.

Activities for children in pre-school include studying insects, learning musical instruments, performing songs for the rest of the school, maths, science and English.

(c) Extracurricular activities include:

- soccer;
- table tennis;
- gym;
- pool;
- basketball;
- school sport; and
- excursions.

(d) The qualifications of the teachers employed at the local area school are a matter for the state government.

Qualifications of the Teachers at the Baxter IDF school are:

Teacher 1
Dip training & assessment systems
Cert III in computing

Teacher 2
Bachelor Education
Major in Aboriginal Studies ESL focus
Dip of Primary Teaching
Major Study English & English Literature

Teacher 3
Bachelor of Education
ESL Mainstream Course 1993

Teacher 4
Cert of Education
Dip of Teaching
Bachelor of Education Early childhood

Teacher 5
Bachelor of Education
Business ED & English
5 years Experience teaching
Cert III Office Admin
Cert 4 IT
Teacher 6
Bachelor of Education (Aboriginal ED)
Bachelor of Science
Teacher TAFE
Arid Land Management
Teacher 7
Bachelor of Musical Education

(3) For privacy reasons, given the small number of children attending school within immigration detention centres, details for each child have not been provided separately.
As at 2 May 2003, the reasons for detainee children being schooled internally and not externally are:
• behavioural management reasons. These cases are reviewed regularly;
• parents not giving approval for their children to attend external schooling;
• negotiations still in progress for access for some children to attend local government schools; and
• where detention is likely to be for a short period of time.

(4) As of May 2003, there are three signed agreements with State authorities regarding the access of children in immigration detention to government schools. Provided are copies of:
• the exchange of letters regarding the arrangement with the NSW Department of Education and Training, signed 28 June 2002;
• the Memorandum of Understanding with the South Australian government, signed 17 December 2002; and
• the Memorandum of Understanding with the Victorian government, signed 5 February 2003.
There is currently no finalised Memorandum of Understanding with the WA government. Negotiations formally commenced in February 2003 and are progressing positively. Notwithstanding the absence of a signed agreement, the WA State education authority has agreed to, and assisted with children in detention accessing government schools.

(5) Schooling is provided up to 18 years of age. Where the child turns 18 during the school year in general he/she would continue to attend for the duration of that year. While participation in schooling is voluntary, the Detention Services Provider is required to encourage parents to allow their children to participate.
Those who are over 18 and are within immigration detention centres have access to adult education programs in the centre.

(6) All detainee children under 18 years of age have access to education appropriate to their needs and circumstances.

(7) (a) The Immigration Detention Standards (IDS) require the Detention Services Provider (DSP) to ensure children have access to and are encouraged to participate in educational services appropriate to their age, intellectual and English language abilities. Initially most schooling was provided
within Immigration Detention Facilities. The education provided needed to factor in the child’s readiness, both social and emotional as well as academic.

The focus then moved to establishing formal arrangements with state governments to gain access for detainee children to government schools. There were limits to the number of detainee children who could access external schooling, as certain factors needed to be taken into consideration including:

- the child’s emotional well-being in such an environment;
- the views, concerns and needs of local schools;
- the requirement of state and territory authorities in relation to the provision of education for detainee children; and
- the length of time the child is expected to be in detention.

Education in mainstream schools is, however, not a new development. For example, as early as 1998 some primary school-aged children at Maribyrnong IDC began attending a nearby school under local arrangements.

As at 2 May 2003, approximately three-quarters of school-aged children in detention are attending schools in the community, where the aims of schooling are the same as those for children in the community.

For those children who receive schooling within detention centres the aim is to provide education services generally comparable with those provided in the community. The programs focus on English as a second language and take into account the individual needs of the children. For some children, this is necessary preparation for attending external schooling.

(b) For education provided within immigration detention centres, the Detention Services Provider is required to provide curriculum based educational opportunities broadly consistent with those available in the general Australian community. This must be provided by qualified teachers.

Suitably qualified personnel have reviewed the curriculum provided to a selection of those children educated within detention centres to confirm that it is appropriate to the children’s needs. The Department’s monitoring teams make regular visits to detention centres to monitor the Detention Services Provider’s performance against the Immigration Detention Standards, including the provision of education programs. The findings of these monitoring visits are reported to the Detention Services Provider and raised at the monthly Contract Operations Group meeting between the Department and the Detention Services Provider.

The evaluation of external education is the responsibility of the appropriate state education authorities.

**MEMORANDUM OF UNDERSTANDING**

between the
COMMONWEALTH OF AUSTRALIA

and the
STATE GOVERNMENT OF SOUTH AUSTRALIA

PROVIDING ACCESS FOR IMMIGRATION DETAINEE CHILDREN IN SOUTH AUSTRALIA TO EDUCATION IN SOUTH AUSTRALIAN GOVERNMENT SCHOOLS

THIS MEMORANDUM OF UNDERSTANDING (the ‘MOU’]) is made on the day of …2002

BETWEEN
COMMONWEALTH OF AUSTRALIA (‘the Commonwealth’) represented by the DEPARTMENT OF IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS (DIMIA) of 25 Chan Street, Belconnen, ACT 2500

AND

The STATE GOVERNMENT OF SOUTH AUSTRALIA represented by the DEPARTMENT OF EDUCATION AND CHILDREN’S SERVICES (DECS) of

31 Flinders Street, ADELAIDE, SA 5000.

Preamble

This Memorandum of Understanding (MOU) sets out the arrangements between the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) and the South Australian Department of Education and Children’s Services (DECS) for the placement of detainee children in government schools at Woomera, Port Augusta and Whyalla. This MOU is not intended to be legally binding, and neither party has the intention to enter into legal relations by entering into this MOU.

2. A number of school-age children who are unlawful non-citizens are detained in South Australia. Such detainee children come from a variety of ethnic, linguistic and cultural backgrounds. Many such detainee children are in detention for varying periods of less than 3 months. Others, however, are in detention for a number of months or years. This is either because they are seeking review of a DIMIA decision to refuse them a visa or because, a determination having been made that Australia does not owe them protection, they are awaiting removal from Australia.

3. Most such detainee children reside at either the Woomera Immigration Reception and Processing Centre (IRPC) or the Baxter Immigration Detention Facility (IDF). Some may also reside in residential housing projects established by DIMIA, as alternative places of detention, in townships near immigration detention facilities including Woomera, Port Augusta and Whyalla.

4. DIMIA acknowledges that all children in immigration detention should have access to education. DIMIA makes arrangements for detainee children residing at Woomera IRPC, the Baxter IDF and residential housing projects, to have access to education facilities through education services provided by its Detention Services Provider. However, DIMIA also seeks to enable certain children in immigration detention to access public education in the local community, provided the requirements of the Migration Act to detain unlawful non-citizens are met.

Interpretation

5. Under this MOU, unless the contrary appears:

‘Alternative place of detention’ is a reference to another place of detention approved by the Minister in writing under section 5(1)(b)(v) of the Migration Act.

‘Baxter IDF’ means the Baxter Immigration Detention Facility.

‘Designated Person’ means a person who:

• holds a detainee ‘on behalf of an officer’ while the detainee is in an alternative place of detention; and

• is directed by the Secretary (Department of Immigration and Multicultural and Indigenous Affairs) to accompany and restrain a particular detainee when they are not in a place of detention.

‘Detainee’ means a person held in immigration detention under section 189 of the Migration Act.

‘Detainee minor’ means a detainee under the age of 18, including:

(a) ‘unaccompanied minors’ ie unlawful non-citizens under 18 years of age and who do not have a parent, or a relative over 21 years of age in Australia and who are under the guardianship of the Minister pursuant to the IGOC Act;

QUESTIONS ON NOTICE
(b) ‘accompanied minors’ ie unlawful non-citizens under 18 years of age accompanied by a parent, or a relative over 21 years of age; or
(c) unlawful non-citizen minors who have a parent or other relative in Australia but not in immigration detention.

‘DIMIA’ means the Commonwealth Department of Immigration and Multicultural and Indigenous Affairs

‘DIMIA contact person’ means a DIMIA employee identified as occupying a DIMIA contact person position specified in Schedule 1 to this Memorandum of Understanding.

‘DIMIA Manager’ means the DIMIA Manager of the Woomera IRPC or the Baxter IDF, as appropriate.

‘DIMIA Deputy Manager’ means the DIMIA Deputy Manager of the Woomera IRPC or the Baxter IDF, as appropriate.

‘IGOC Act’ means the Immigration (Guardianship of Children) Act 1946.

‘Immigration detention’ for the purposes of this MOU means
(a) being in the company of, and restrained by:
   (i) an officer; or
   (ii) in relation to a particular detainee - another person designated by the Secretary to accompany and restrain the detainee; or
(b) being held by, or on behalf of, an officer in another place approved by the Minister in writing.


‘Officer’ is as defined in Section 5 of the Migration Act 1958.

‘Woomera IRPC’ means the Woomera Immigration Reception and Processing Centre.

Basis of this Memorandum of Understanding

6. The role of DIMIA is to regulate the movement of people into and out of Australia, in accordance with the Migration Act. Section 189 of the Migration Act requires all unlawful non-citizens in including those in South Australia to be detained and section 196 requires that they must remain in detention until such time as they are granted a visa or are removed from Australia. Section 198 of the Migration Act states that removal should take place as soon as is reasonably practicable.

7. The role of DECS is to administer public education in South Australia in accordance with the South Australian Education Act 1972.

Assessment

8. All detainee children who have been in or may be expected to be in immigration detention for longer than 3 weeks will be considered by DIMIA and DECS for placement in a South Australian government school.

9. Participation of detainee children in South Australian government schools will be based primarily on:
   • DIMIA assessment of the length of time a school age child has been, or may be expected to be, in detention;
   • DIMIA assessment of both the particular children and the individual school facility to ensure that the requirements of the Migration Act can be met;
   • DECS assessment of the child’s socialisation capabilities and abilities including literacy in English and numeracy; and
   • DECS assessment of the capacity of a particular South Australian government school in reasonable proximity to the normal place of immigration detention to meet the needs of such a child.
10. DIMIA will undertake assessments of any risks to compliance with the Migration Act in relation to any such child. DIMIA will then advise the relevant DECS contact officer(s) (Schedule 1) of those detainee children to be considered for placement in South Australian government schools.

11. DIMIA will obtain the agreement of the parents or guardians who are in Australia prior to the DECS assessments and participation by any detainee child in a South Australian government school.

12. DECS will then arrange for an educational assessment of each such detainee child, involving also the parents or guardian of the child. This assessment can take place at a school, DECS District Office or at the Woomera IRPC or the Baxter IDF, as appropriate, and may be observed by DIMIA staff.

13. The location for the assessment for each child is to be determined by agreement between DIMIA and DECS.

14. On the basis of this assessment, including any health or other issues, DECS will determine whether to enrol the child in a government school and propose which of the local schools participating (see para 16) is suitable to accommodate the child.

15. The decision as to which school the detainee child will attend will be jointly made by DIMIA and DECS.

Participating Schools

16. DECS will advise DIMIA of the names of more than one government primary and/or secondary school or other schools and other settings such as language centres, willing to participate. The schools will be within reasonable proximity to the normal place of immigration detention.

17. DIMIA will assess such schools for their capacity to comply with the Migration Act.

Consultation and Contact Points

18. The Commonwealth and the State will consult on any matters relating to the operation of this MOU or any other matters as may be agreed to be appropriate for consultation.

19. The parties will work together to manage, monitor and evaluate the performance of the MOU. The parties agree to review the MOU arrangements quarterly and at any other time at the request of either party. Quarterly discussions will be convened by the Director, Detention Operations, DIMIA.

20. The nominated DIMIA contact positions outlined in Schedule 1 will be the principal points of contact for general policy issues and time-critical or emergency situations.

21. In addition, the DIMIA person with whom the school has routine contact on matters pertaining to a particular child, will also be the case manager for that child. The DIMIA Manager or Deputy Manager will advise details of the case managers on a case-by-case basis.

Responsibilities

22. The ultimate responsibility for the welfare, care and security of unlawful non-citizens, including children in immigration detention, remains with DIMIA. DIMIA must ensure that unlawful non-citizens remain in immigration detention. This means that detainees must:
   - remain in a detention centre or an alternative place of detention approved by the Minister or his delegate in writing; or
   - be in the company of and restrained by an officer as defined by the Migration Act; or
   - be in the company of and restrained by a designated person.

23. For a child in detention to access a school outside of the normal place of immigration detention DIMIA must first:
   - approve a school which a detainee child is to attend as an alternative place of detention; and
   - authorise the principal (and any teachers as necessary) as designated persons.
24. DECS therefore agrees that schools accepting detainee children will be nominated for approval as alternative places of detention and principals (and any other necessary staff members) will be nominated for approval to act as designated persons.

25. The Director Detention Operations (DIMIA) will arrange for copies of the approvals to be provided to (SA to advise).

26. DECS agrees that in accepting detainee children it will meet normal requirements of any duty of care obligations.

Logistics
Responsibility of designated persons

27. Principals and teachers of schools accepting detainee children will take all practicable measures to ensure that such children remain at the school at all times unless engaged in external school activities approved by the nominated contact person (Schedule 1) and in the company of a designated person.

28. Designated persons will need to exercise a high level of responsibility with respect to detainee children placed in the school. Moral restraint, such as a direction not to leave the school, will be an appropriate means of ensuring the detainee child remains in immigration detention.

29. In the event of any disruption at the school involving detainee children, the principal will immediately advise the DIMIA IDF or IRPC Manager as appropriate (Schedule 1).

30. During the time a detainee child is outside the school on school activities such as excursions, a designated person is required to remain in physical proximity to the child at all times. However, the child shall be entitled to as much privacy when bathing, dressing and toileting as is consistent with maintaining immigration detention.

31. In situations where a detainee child indicates an intention to abscond, designated persons are expected to use their powers of persuasion, negotiation and conflict resolution to attempt to gain the child’s cooperation. The DIMIA Baxter IDF or Woomera IRPC Manager or Deputy Manager, as appropriate (see Schedule 1), should be notified as soon as possible if a child indicates an intention to abscond. In the event that a detainee child absconds, the principal or another designated teacher must notify the DIMIA IDF or IRPC Manager immediately.

32. Subject to Commonwealth privacy legislation, DIMIA will keep DECS informed of any information relevant to a detainee child which may assist DECS to assess the potential risks to the child, to other children or its employees while the child is attending a state school.

Health

33. Consistent with DIMIA’s duty of care to provide for the health and medical needs of immigration detainees, the health needs of detainee children are met by or through DIMIA’s arrangements with various health services providers.

34. Subject to Commonwealth privacy legislation, DIMIA will provide the school with evidence of inoculations that have been given to the child in detention and, where appropriate, any required health information. Where it does not have this information DIMIA will facilitate the provision of such information by parents or guardians.

35. Principals and teachers will advise DIMIA of any health needs identified for children in detention attending a government school. If a detainee child requires serious medical attention, including immediate attention, the school must first consult the nominated contact person (Schedule 1) who will seek parental or guardian consent. This does not affect emergency medical consent provisions under South Australian law.

Transport to and from school

36. It is the responsibility of DIMIA to organise the transport for detainee children between the child’s usual place of immigration detention and the school. Arrangements will need to ensure that detainee
children are delivered to, and collected from, a designated person at the school by an officer or designated person. It is the responsibility of the school principal to ensure that detainee children are collected from school only by a person known to be authorised to do so.

School supplies
37. DECS will advise DIMIA of any requirements for school uniforms, text books, lunches or equipment for children in detention. Where these requirements are normally met by parents, DIMIA will arrange for them to be provided for detainee children.

Internet access.
38. DECS will ensure that processes are in place for any internet access by children in detention to be closely supervised and monitored.

Participation in School Activities.
39. It is expected that children in detention will participate in school activities to the same extent as other school students, although there may be some limitations on participation in evening, overnight or out of town excursions and in sport undertaken outside school grounds.

40. Approval by the relevant contact person (Schedule 1) will be required for participation by detainee children in any activities external to the school and arrangements will need to be put in place to ensure children remain in immigration detention during such activities.

41. DECS will seek the consent of parents/guardians of detainee children, in the same way as for other students, for detainee children to participate in activities and excursions with a copy of any consent request provided also to DIMIA.

42. Detainee parents/guardians will normally be able to attend school parent/teacher nights and other school functions provided arrangements can be put in place to ensure that immigration detention is maintained.

Unaccompanied Minors
43. Under the IGOC Act, the Minister for Immigration and Multicultural and Indigenous Affairs is the guardian of certain non-citizen children who enter Australia without a parent or a relative over 21 years of age. Where the Minister is the guardian of a non-citizen child he is the guardian to the exclusion of the father and mother and every other guardian of the child, and has as guardian, the same rights, powers, duties, obligations and liabilities as a natural guardian of the child would have.

44. In putting forward children in detention for attendance at government schools, DIMIA will advise DECS whether any child is a ward of the Minister.

45. The Minister has delegated all his responsibilities relevant to unaccompanied minors attending South Australian government schools under these arrangements to DIMIA Managers and Deputy Managers.

46. For unaccompanied minors detained at Woomera IRPC, the Baxter IDF or residential housing projects, principals and teachers will need to consult the relevant DIMIA Manager or Deputy Manager in circumstances where they would normally consult parents. This includes arrangements for parent and teacher meetings, matters relating to the health and well-being of the child and other school activities.

Privacy
47. DIMIA and its Detention Services Provider through its contractual obligations, are bound by the Commonwealth Privacy Act 1988 not to disclose personal information about immigration detainees except in certain defined circumstances. This means that without the consent of the parents or guardians only limited personal details of detainee children can be made available to schools. Personal information about medical conditions or visa processing status would only be available from parents/guardians or with parental/guardian consent.
48. It is also important to the privacy of the detainee children, for the protection of the health and safety of family members still in the country of origin and to prevent sur place refugee claims, that photographs of detainee children, particularly with identifying material such as names, not be published or provided to the media. Principals and teachers will need to be alert to avoiding such photographs being taken.

Communications Strategies
49. To ensure the privacy of the detainee children and to contribute to the viability of these arrangements, DECS and DIMIA agree not to inform the media of details of schools or of children participating. There should not be any media comment or statements about the education arrangements under this MOU except by agreement. DECS should ensure that no media access is given to, or media interviews given by detainee children while they are participating in school activities.

Costs
50. DIMIA appreciates that in the provision of education to detainee children in South Australian government schools there may be costs to DECS over and above any Commonwealth/State funding arrangements that may apply. Given the fluctuating numbers and periods in the school system of such children and uncertainties over the numbers of schools that may be involved, any additional costs may be difficult to identify in the short term. DIMIA and DECS therefore agree to consult over the question of costs once these arrangements have been in place for six months.

51. When costs are agreed between DIMIA and DECS, the details thereof will form Schedule 2 to this MOU.

Commencement and Cessation

Term of the MOU
52. This MOU will have effect from the date of signing until 30 June 2005 (the term) unless extended in accordance with clauses 53 or terminated in accordance with clauses 55 to 57.

Extension of MOU
53. The parties may agree to extend the operation of the MOU for any period of time, and any subsequent periods of time, beyond the term (‘the further term’).

54. The parties shall use their best endeavours to agree upon the further term 12 months prior to the end of the existing term.

Termination
55. Either party may terminate this MOU by giving the other thirty days notice in writing of the intention to terminate.

56. In the event that either party terminates the MOU, DIMIA may revoke the approval that a particular school is a place of detention and its approval for the purpose of this MOU concerning designated persons.

Review of MOU
57. DIMIA and DECS agree to review this MOU twelve months after the commencement date. The review process will be jointly agreed between parties, in writing, within six months of signing. A further review will be undertaken two years after the commencement date.

Miscellaneous
58. Nothing in this MOU gives any person a right to be admitted to or enrolled in a South Australian government school, or if once admitted or enrolled to continue to be so admitted or enrolled.

59. This MOU, and the admission or enrolment of any detainee child, is subject to the detainee child complying with the conditions of enrolment applying to other students at the school, and in particular
the school’s discipline policy, the school’s right to suspend or expel pupils, the South Australian Education Act 1972, and policies of DECS.

Signed
For and on behalf of the State Government of South Australia

...........................................................................

by:
Steve Marshall
Chief Executive
Department of Education and Children’s Services

Date: ........................

and the Commonwealth of Australia

...........................................................................

by:
S.D. Davis,
First Assistant Secretary
Unauthorised Arrivals and Detention Division
Department of Immigration and Multicultural and Indigenous Affairs

Date: ........................

Schedule 1
Contact and Permission Arrangements and Details
for Children residing at Baxter IDF, Woomera IRPC, Woomera Residential Housing Project and other DIMIA Residential Housing Projects

a) with parents

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Responsibility of</th>
<th>Permission from</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transporting to and from school</td>
<td>Detention Services Provider</td>
<td>DIMIA IDF/IRPC Manager; or DIMIA IDF/IRPC Dep Manager</td>
</tr>
<tr>
<td>School excursions</td>
<td>DE&amp;T</td>
<td>Parents; and</td>
</tr>
<tr>
<td></td>
<td>Designated person</td>
<td>DIMIA IDF/IRPC Manager; or DIMIA IDF/IRPC Dep Manager</td>
</tr>
<tr>
<td></td>
<td>Detention Services Provider</td>
<td>Parents; and</td>
</tr>
<tr>
<td>After-hours on-site school functions, including those involving parents</td>
<td>Detention Services Provider</td>
<td>Detention Services Provider</td>
</tr>
<tr>
<td>Health emergency</td>
<td>DE&amp;T</td>
<td>Parents; and</td>
</tr>
<tr>
<td></td>
<td>Designated person</td>
<td>Detention Services Provider</td>
</tr>
</tbody>
</table>

b) unaccompanied children

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Responsibility of</th>
<th>Permission from</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transporting to and from school</td>
<td>Detention Services Provider</td>
<td>DIMIA IDF/IRPC Manager; or DIMIA IDF/IRPC Dep Manager</td>
</tr>
<tr>
<td>School excursions</td>
<td>DECS</td>
<td>DIMIA IDF/IRPC Manager; or</td>
</tr>
<tr>
<td></td>
<td>Designated persons</td>
<td>DIMIA IDF/IRPC Manager; or</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
In instances where a detainee child absconds or is involved in a disruption at a school, the DIMIA IDF/IRPC Manager shall be the first point of contact.

DIMIA Contact Details:

<table>
<thead>
<tr>
<th>Position</th>
<th>Location</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>DIMIA IDF Manager</td>
<td>Baxter IDF</td>
<td>08 8641 5715</td>
</tr>
<tr>
<td>DIMIA IDF Deputy Manager</td>
<td>Baxter IDF</td>
<td>08 8641 5715</td>
</tr>
<tr>
<td>Detention Services Provider (ACM)</td>
<td>Baxter IDF</td>
<td></td>
</tr>
<tr>
<td>DIMIA IRPC Manager</td>
<td>Woomera IRPC</td>
<td>08 8673 7203</td>
</tr>
<tr>
<td>DIMIA IRPC Deputy Manager</td>
<td>Woomera IRPC</td>
<td>08 8673 7960</td>
</tr>
<tr>
<td>Detention Services Provider (ACM)</td>
<td>Woomera IRPC</td>
<td>08 8673 7228</td>
</tr>
<tr>
<td>Director, Detention Operations</td>
<td>Canberra</td>
<td>02 6264 3005</td>
</tr>
</tbody>
</table>

MEMORANDUM OF UNDERSTANDING

between the

COMMONWEALTH OF AUSTRALIA

and the

STATE GOVERNMENT OF VICTORIA

PROVIDING ACCESS FOR CHILDREN IN IMMIGRATION DETENTION IN VICTORIA TO EDUCATION IN VICTORIAN STATE SCHOOLS

THIS MEMORANDUM OF UNDERSTANDING (the ‘MOU’) is made on the day of 2003 BETWEEN

COMMONWEALTH OF AUSTRALIA (‘the Commonwealth’) represented by the DEPARTMENT OF IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS (DIMIA) whose principal office is located at 25 Chan Street, Belconnen, ACT 2617

QUESTIONS ON NOTICE
AND

The STATE GOVERNMENT OF VICTORIA represented by the DEPARTMENT OF EDUCATION AND TRAINING (DE&T) whose principal office is located at 2 Treasury Place, East Melbourne VIC 3002.

Preamble

This Memorandum of Understanding (MOU) sets out the details between the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) and the Victorian Department of Education and Training (DE&T) for the placement of detainee children in Victorian state schools. This MOU is not intended to be legally binding, and neither party has the intention to enter into legal relations by entering into this MOU.

2. A small number of school-age children who are unlawful non-citizens are detained in Victoria. Such children come from a variety of ethnic, linguistic and cultural backgrounds, having overstayed visas or breached visa conditions or having arrived by air or sea unlawfully. Most such children are in detention for varying periods of less than 3 months. Others, however, are in detention for a number of months or years. This is either because they are seeking review of a DIMIA decision to refuse them a visa or because, a determination having been made that Australia does not owe them protection, they are awaiting removal from Australia. The number of school-age detainee children in Victoria at any one time varies considerably with the maximum number over the 12 months ending 1 September 2002 being five.

3. Most such detainee children reside at the Maribyrnong Immigration Detention Centre (IDC).

4. On occasion, detainee children may reside in other places approved as alternative places of detention. Some detainee children may reside in alternative places of detention under arrangements with community support organisations and/or State child welfare agencies, including in foster care arrangements.

5. DIMIA acknowledges that all children in immigration detention should have access to education. DIMIA makes arrangements for children residing at Maribyrnong IDC to have access to education facilities through education services provided by its Detention Services Provider. However, DIMIA also seeks to enable certain detainee children, whether detained at Maribyrnong IDC or in an alternative place of detention, to access public education in the local community, provided the requirements of the Migration Act to detain unlawful non-citizens are met.

Interpretation

6. Under this MOU, unless the contrary appears:

An ‘alternative place of detention’ is a reference to another place of detention approved by the Minister in writing under section 5(1)(b)(v) of the Migration Act.

‘Commonwealth privacy legislation’ means the Privacy Act 1988 (Cth)

‘DE&T’ means the Victorian Department of Education and Training.

‘Designated Person’ means a person who:

- holds a detainee ‘on behalf of an officer’ while the detainee is in an alternative place of detention; and
- is directed by the Secretary (Department of Immigration and Multicultural and Indigenous Affairs) or his/her delegate to accompany and restrain a particular detainee when they are not in a place of detention.

‘Detainee’ means a person held in immigration detention under section 189 of the Migration Act.

‘Detainee Minor’ means a detainee under the age of 18 years held in immigration detention pursuant to the Migration Act.

‘DIMIA’ means the Department of Immigration and Multicultural and Indigenous Affairs.
‘DIMIA contact person’ means a DIMIA employee identified as occupying a DIMIA contact person position specified in Schedule 1 to this Memorandum of Understanding.

‘DIMIA Manager’ means the person occupying the position of DIMIA Manager of the Maribyrnong Immigration Detention Centre (IDC).

‘DIMIA Deputy Manager’ means the person occupying the position of DIMIA Deputy Manager of the Maribyrnong IDC.

‘IGOC Act’ means the Immigration (Guardianship of Children) Act 1946.

‘Immigration Detention’ for the purposes of this MOU means
“(a) being in the company of, and restrained by:
(i) an officer; or
(ii) in relation to a particular detainee - another person directed by the Secretary to accompany and restrain the detainee; or
(b) being held by, or on behalf of, an officer:
(i) in a detention centre established under (the Migration) Act; or
(v) in another place approved by the Minister in writing.”


‘Officer’ is as defined in Section 5 of the Migration Act.

‘State Privacy legislation’ means the Information Privacy Act 2000 (Vic)

‘Unaccompanied Minor’ means a person under the age of 18 years held in immigration detention including:

‘unaccompanied wards’ ie, unlawful non-citizen minors who do not have a parent, or a relative (over 21 years of age) in Australia and who are under the guardianship of the Minister pursuant to the IGOC Act;

‘unaccompanied non-wards’ ie, unlawful non-citizen minors who have a relative over 21 years of age in Australia; or

other vulnerable minors who may be treated as being unaccompanied.

Basis of this Memorandum of Understanding

7. The role of DIMIA is to regulate the movement of people into and out of Australia, in accordance with the Migration Act. Section 189 of the Migration Act requires all unlawful non-citizens, including those in Victoria, to be detained and section 196 requires that they must remain in detention until such time as they are granted a visa or are removed from Australia. Section 198 of the Migration Act states that removal should take place as soon as is reasonably practicable.

8. The role of DE&T includes the provision of state education in Victoria to meet the needs of children and young people. DE&T provides such education in State primary schools, secondary, other schools and other settings such as language centres. Under the Education Act 1958 (Vic) the parent of each school age child is required to send their child to a State school, unless there is a reasonable excuse. DE&T’s policy is that, subject to section 64 of the Education Act 1958, all students have the right to enrol in the State school closest to the child’s residence.

Assessment

9. All detainee children who have been in or may be expected to be in immigration detention for longer than 3 weeks will be considered by DIMIA and DE&T for placement in a Victorian State school.

10. Participation of detainee children in Victorian State schools will be based primarily on:
• DIMIA assessment of the length of time a school age child has been, or may be expected to be, in detention;
• DIMIA assessment of both the particular children and the individual school facility to ensure that the requirements of the Migration Act can be met;
• DE&T assessment of the child’s socialisation, capabilities and abilities including literacy in English and numeracy; and
• DE&T assessment of the capacity of a particular Victorian State school in reasonable proximity to the normal place of immigration detention to meet the needs of such a child.

11. DIMIA will undertake assessments of any risks to compliance with the Migration Act in relation to any such child. DIMIA will then advise the Deputy Director (School Resources Strategy and Regional Coordination) Office of School Education (contact details at Schedule 1) and the relevant DE&T Regional Director (contact details at Schedule 1) of those children to be considered for placement in a Victorian State school.

12. DIMIA will obtain the agreement of the parents or guardians who are in Australia prior to the DE&T assessments and participation by any child in a Victorian State school.

13. DE&T will then arrange for an educational assessment of each detainee child involving also the parents or guardian of the child. This assessment can take place at a school, DE&T Regional Office or at Maribyrnong IDC and may be observed by DIMIA staff. The location for the assessment for each child is to be determined by agreement between DIMIA and DE&T. On the basis of this assessment, including any health or other issues, DE&T will determine whether to enrol the child in a State school and which of the local schools participating (see clause 14) is most suitable to accommodate the child.

Participating Schools

14. DE&T will advise DIMIA of the names of more than one State primary and/or secondary school, or other schools and other settings such as language centres, willing to participate. The schools will be within reasonable proximity to the normal place of immigration detention for the child or children concerned. DIMIA will assess such schools for their capacity to comply with the Migration Act.

Consultation and Contact Points

15. Regular, frequent and open communication will be established between DIMIA and DE&T. The parties will work together to manage, monitor and evaluate the performance of the MOU. The parties agree to review MOU arrangements quarterly and at any other time at the request of either party. Quarterly discussions will be convened by DIMIA’s Director, Detention Operations.

16. Schedule 1 outlines the DIMIA and DE&T contact positions. These positions will be the principal points of contact for general policy issues and time-critical or emergency situations. In addition, a DIMIA case manager will be assigned for each child attending a local school and this will be the DIMIA person with whom the school has routine contact on matters pertaining to that child.

17. DIMIA’s Detention Services Manager will advise details of the relevant community support organisations, authorised people and DIMIA case managers on a case-by-case basis.

18. Particular arrangements for contacts for unaccompanied minors are separately set out in clauses 38 to 42.

Responsibilities

19. The ultimate responsibility for the welfare, care and security of unlawful non-citizens, including children in immigration detention, remains with DIMIA. DIMIA must ensure that unlawful non-citizens remain in immigration detention.

20. In relation to a detainee child accessing schooling away from the normal place of immigration detention this means that DIMIA must:

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approve a school which a detainee child is to attend as an alternative place of detention; and
authorise the principal (and any teachers as necessary) as designated persons.
21. DE&T therefore agrees that schools accepting detainee children will be approved as alternative
places of detention and principals (and any other necessary staff members) will be authorised as desig-
nated persons.
Logistics
Duty of Care
22. Principals of schools accepting detainee children will implement arrangements to ensure that such
children remain at the school at all times unless-
(a) the student is involved in a scenario described in Schedule 1 approved by the nominated person, or
(b) the student is in the company of a DE&T designated person where the scenario requires it.
23. Designated persons will need to exercise a high level of responsibility with respect to detainee chil-
dren placed in the school. This clause does not limit or affect the authority of DE&T school staff, in-
cluding DE&T staff who are designated persons, from exercising their powers under regulation 22 of
the Education Regulations 2000 of Victoria, which states “A member of the staff of a State school may
take any reasonable action that is immediately required to restrain a student of the school from acts or
behaviour dangerous to the member of staff, the student or any other person.” Moral restraint, such as a
direction not to leave the school, will be an appropriate means of ensuring the detainee child remains in
immigration detention.
24. In the event of any disruption at the school involving detainee children, the school principal will
immediately advise the DIMIA Detention Services Manager (Schedule 1).
25. During the time a detainee child is outside the alternative place of detention, a designated person is
required to remain in physical proximity to the child. However, the child shall be entitled to as much
privacy when bathing, dressing and toileting as is consistent with maintaining immigration detention.
26. In situations where a detainee child indicates an intention to abscond, designated persons are ex-
pected to use their powers of persuasion, negotiation and conflict resolution to attempt to gain the
child’s cooperation. The DIMIA Detention Services Manager (Schedule 1) should be notified as soon as
possible if a child indicates an intention to abscond. In the event that a detainee child absconds, the des-
ignated person must notify the DIMIA Detention Services Manager (see Schedule 1) immediately.
27. Subject to Commonwealth privacy legislation, DIMIA will keep DE&T informed of any informa-
tion relevant to a detainee child which may assist DE&T to assess the potential risks to the child, to
other children or its employees while the child is attending a state school.
Health
28. Consistent with DIMIA’s duty of care to provide for the health and medical needs of immigration
detainees, the health needs of detainee children are met by or through DIMIA’s arrangements with vari-
ous health services providers.
29. Subject to Commonwealth privacy legislation, DIMIA will provide the school with evidence of vac-
cinations that have been given to the child in detention and, where appropriate, any required health in-
formation. Where it does not have this information DIMIA will facilitate the provision of such informa-
tion by parents or guardians.
30. The school principal or their nominee will advise DIMIA of any health needs identified for children
attending a Victorian State school. If a detainee child requires serious medical attention, including im-
mediate attention, the principal must first consult the nominated contact person (Schedule 1) who will
seek parental or guardian consent. This does not affect emergency medical provisions under Victorian
law. Nothing herein is intended to prevent the school first contacting or obtaining medical assistance or
an ambulance if it considers there has been a life-threatening injury to the child or it is necessary to relieve significant physical suffering.

Transport to and from school

31. It is the responsibility of DIMIA to organise the transport for detainee children between the child’s usual place of immigration detention and the school. Arrangements will need to ensure that detainee children are delivered to, and collected from, a designated person at the school by an officer or designated person as appropriate. It is the responsibility of the principal to ensure that detainee children are collected from school only by a person known to be authorised to do so.

School supplies

32. DE&T will advise DIMIA of any requirements for school uniforms, text books, lunches or equipment for detainee children. Where these requirements are normally met by parents, DIMIA will arrange for them to be provided for detainee children through its various services providers as appropriate.

Internet access.

33. DE&T will ensure that processes are in place for any internet access by detainee children to be closely supervised and monitored.

Participation in School Activities.

34. It is expected that detainee children will participate in school activities to the same extent as other school students, although there may be some limitations on participation in evening, overnight or out of town excursions and in school sport undertaken outside school grounds.

35. Approval by the relevant contact person (Schedule 1) will be required for participation by detainee children in any activities external to the school and arrangements will need to be put in place to ensure children remain in immigration detention during such activities.

36. DE&T will seek the consent of parents/guardians/foster parents of detainee children, in the same way as for other students, for children to participate in activities and excursions with a copy of any consent request provided also to DIMIA when required.

37. Detainee parents/guardians/foster parents will normally be able to attend school parent/teacher nights and other school functions provided arrangements can be put in place to ensure that immigration detention is maintained.

Unaccompanied Minors

38. Under the IGOC Act the Minister for Immigration and Multicultural and Indigenous Affairs is the guardian of certain non-citizen children who enter Australia without a parent or a relative over 21 years of age. Where the Minister is the guardian of a non-citizen child he is the guardian to the exclusion of the father and mother and every other guardian of the child, and has as guardian, the same rights, powers, duties, obligations and liabilities as a natural guardian of the child would have.

39. In putting forward detainee children for attendance at state schools, DIMIA will advise DE&T whether any child is a ward of the Minister.

40. All the Minister’s responsibilities relevant to the participation of such unaccompanied minors in Victorian State schools have been delegated to the DIMIA State Director, DIMIA Manager, Deputy Manager and to certain officials of the State child welfare agency as set out in clause 42.

Unaccompanied Minors Detained at Maribyrnong IDC

41. Where the Minister is the guardian of a detainee child, principals and teachers will need to consult the DIMIA Manager or Deputy Manager in circumstances where they would normally consult parents. This includes decisions relating to their health, well-being and school activities where an unaccompanied detainee child who is a ward of the Minister is attending a Victorian school.

QUESTIONS ON NOTICE
Unaccompanied Minors Detained in an Alternative Place of Detention

42. The Minister has also delegated most of his responsibilities for unaccompanied minors to relevant officials within State child welfare agencies, and those agencies normally assume responsibility for unaccompanied minors when a child is accommodated in an alternative place of detention in the community. Where detainee children reside in alternative places of detention under foster care arrangements with State child welfare agencies, principals and teachers will need to consult the relevant contact person (Schedule 1, part 3) in circumstances where they would normally consult parents.

Privacy

43. DIMIA, and its Detention Services Provider through its contractual obligations, are bound by the Commonwealth Privacy Act 1988 not to disclose personal information about immigration detainees except in certain defined circumstances. State child welfare agencies and community support organisations will be made aware of their need to comply with governing State/Commonwealth privacy legislation. This means that without the consent of the parents or guardians only limited personal details of detainee children can be made available to schools. Personal information about medical conditions or visa processing status would only be available from parents/guardians or with parental/guardian consent.

44. It is also important to the privacy of the detainee children, for the protection of the health and safety of family members still in the country of origin and to prevent sur place refugee claims, that photographs of detainee children, particularly with identifying material such as names, not be published or provided to the media. Principals will ensure that school staff are alert to avoiding such photographs being taken.

Communications Strategies

45. To ensure the privacy of the detainee children and to contribute to the viability of these arrangements, DE&T and DIMIA agree not to inform the media of details of schools or of children participating. There should not be any media comment or statements about the education provision arrangements under the MOU except by agreement. DE&T should ensure that no media access is given to, or media interviews given by detainee children while they are participating in school activities.

Costs

46. DIMIA appreciates that in the provision of education to detainee children in Victorian schools there may be costs to the DE&T over and above any Commonwealth/State funding arrangements which may apply. Given the fluctuating numbers and periods in the school system of such children and uncertainties over the numbers of schools which may be involved any additional costs may be difficult to identify in the short term. DIMIA and DE&T therefore agree to consult over the question of costs once the arrangement has been in place for six months.

47. When costs are agreed between DIMIA and DE&T, the details thereof will form Schedule 2 to this MOU.

Termination

48. DIMIA and DE&T reserve the right to terminate this MOU for any reason whatsoever by giving 30 days notice to the other party.

49. In the event that either party terminates the MOU, DIMIA may revoke the approval that a particular school is a place of detention and its approval for the purpose of this MOU concerning designated persons.

Review of MOU

50. DIMIA and DE&T agree to review this MOU before the end of 3 years from the date of commencement, or at any time earlier if formally requested by either party. DIMIA will be responsible for initiating this review.

QUESTIONS ON NOTICE
Miscellaneous

51. Nothing in this MOU gives any person a right to be admitted to or enrolled in a State school, or if once admitted or enrolled to continue to be so admitted or enrolled.

52. This MOU, and the admission or enrolment of any detainee child, is subject to the child complying with the conditions of enrolment applying to other students at the school, and in particular the school's discipline policy, the school's right to suspend or expel pupils, the Education Regulations 2000, the Education Act 1958, and policies of DE&T.

Signed

For and on behalf of the State Government of Victoria

by:

Kim Bannikoff
Director, Office of School Education
Department of Education and Training

Date: ...........................................

and the Commonwealth Government of Australia

by:

S.D. Davis
First Assistant Secretary
Unauthorised Arrivals and Detention Division
Department of Immigration and Multicultural and Indigenous Affairs

Date: ...........................................

Schedule 1

Contact and Permission Arrangements and Details

1. Children residing at Maribyrnong IDC

a) With parents

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Responsibility of</th>
<th>Permission from</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transporting to and from school</td>
<td>Detention Services Provider</td>
<td>DIMIA Manager / Deputy Manager</td>
</tr>
<tr>
<td>School excursions</td>
<td>DE&amp;T Designated person</td>
<td>Parents; and DIMIA Manager / Deputy Manager</td>
</tr>
<tr>
<td>After-hours on-site school Functions, including those involving parents</td>
<td>Detention Services Provider</td>
<td>Parents; and Detention Services Provider (IDC)</td>
</tr>
<tr>
<td>Health emergency</td>
<td>DE&amp;T Designated person</td>
<td></td>
</tr>
</tbody>
</table>

b) Unaccompanied Children

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Responsibility of</th>
<th>Permission from</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transporting to and from school</td>
<td>Detention Services Provider</td>
<td>DIMIA Manager / Deputy Manager</td>
</tr>
<tr>
<td>School excursions</td>
<td>DE&amp;T Designated person</td>
<td></td>
</tr>
</tbody>
</table>
### QUESTIONS ON NOTICE

#### After-hours on-site school functions
- **Health emergency**: Detention Services Provider
- **DE&T Designated person**: DE&T Designated person

#### 2. Children with parents residing in the community under community organisation support arrangements

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Responsibility of</th>
<th>Permission from</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transporting to and from a school</td>
<td>Community support organisation</td>
<td>DIMIA Detention Services Manager</td>
</tr>
<tr>
<td>School excursions</td>
<td>DE&amp;T Designated Person</td>
<td>Parents; and DIMIA Detention Services Manager</td>
</tr>
<tr>
<td>After-hours on-site school functions</td>
<td>Community support organisation</td>
<td>DIMIA Detention Services Manager</td>
</tr>
<tr>
<td>Health emergency</td>
<td>DE&amp;T Designated person</td>
<td>Parents; and DIMIA Detention Services Manager</td>
</tr>
</tbody>
</table>

#### 3. Unaccompanied Minors in the care of the state child welfare authorities

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Responsibility of</th>
<th>Permission from</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transporting to and from a school</td>
<td>Foster parents in conjunction with state child welfare authority</td>
<td>DIMIA Detention Services Manager</td>
</tr>
<tr>
<td>School excursions</td>
<td>D &amp;T Designated person</td>
<td>Foster Parents; and DIMIA Detention Services Manager</td>
</tr>
<tr>
<td>After-hours on-site school functions</td>
<td>Foster parents in conjunction with state child welfare authority</td>
<td>DIMIA Detention Services Manager</td>
</tr>
<tr>
<td>Health emergency</td>
<td>Foster parents in conjunction with state child welfare authority; DIMIA Detention Services Manager</td>
<td>Foster Parents; and DIMIA Detention Services Manager</td>
</tr>
</tbody>
</table>

In the above scenarios, if the first DIMIA contact is not available, the next point of contact would be:
1. DIMIA Detention Services Manager
2. DIMIA Manager
3. State Manager Entry and Compliance.

In instances where a detainee child absconds or is involved in a disruption at a school, the DIMIA Detention Services Manager should be the first point of contact.

**DIMIA Contact Details:**

<table>
<thead>
<tr>
<th>Position</th>
<th>Location</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>DIMIA Detention Services Manager</td>
<td>Melbourne CBD Office</td>
<td>9235 3322</td>
</tr>
<tr>
<td>DIMIA State Manager Entry and Compliance</td>
<td>Melbourne CBD Office</td>
<td>9235 3001</td>
</tr>
<tr>
<td>DIMIA Manager</td>
<td>Maribyrnong IDC</td>
<td>9318 6765</td>
</tr>
<tr>
<td>DIMIA Deputy Manager</td>
<td>Maribyrnong IDC</td>
<td>9318 6765</td>
</tr>
<tr>
<td>Detention Services Provider</td>
<td>Maribyrnong IDC</td>
<td>9317 4589</td>
</tr>
</tbody>
</table>
Physical Locations:

<table>
<thead>
<tr>
<th>DIMIA Melbourne CBD Office</th>
<th>Maribyrnong IDC</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Lonsdale St,</td>
<td>53 Hampstead Rd,</td>
</tr>
<tr>
<td>Melbourne Vic 3000</td>
<td>Maidstone Vic 3012</td>
</tr>
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</table>

DE&tT Contact Details
Ms Dawn Davis
Deputy Director – School Resources Strategy and Regional Coordination,
33 St Andrews Place Melbourne Vic 3000; Telephone 03-9637 2933

<table>
<thead>
<tr>
<th>Metropolitan Offices – Schools</th>
<th>Region</th>
<th>Regional Director</th>
<th>Address</th>
<th>Tel/Fax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Metropolitan:</td>
<td>Mr Ross Kimber</td>
<td>29 Lakeside Drive Burwood East 3151</td>
<td>Level 2</td>
<td>9881 0241</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Fax: 9881 0241</td>
<td></td>
</tr>
<tr>
<td>Northern Metropolitan:</td>
<td>Ms Victoria Triggs</td>
<td>(Locked Bag 88) Fairfield Vic 3078</td>
<td>582 Heidelberg Road</td>
<td>9488 9400</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Fax: 9488 9400</td>
<td></td>
</tr>
<tr>
<td>Southern Metropolitan:</td>
<td>Ms Jan Lake</td>
<td>33 Princess Highway (PO Box 5) Dandenong 3175</td>
<td>VACC Building</td>
<td>9794 3594</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Fax: 9794 3594</td>
<td></td>
</tr>
<tr>
<td>Western Metropolitan</td>
<td>Mr Rob Blachford</td>
<td>Parkville 3052 (PO Box 57 Carlton South 3053)</td>
<td>407 Royal Parade</td>
<td>9291 6500</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Fax: 9291 6555</td>
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<table>
<thead>
<tr>
<th>Regional Offices – Schools</th>
<th>Region</th>
<th>Regional Director</th>
<th>Address</th>
<th>Tel/Fax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barwon South Western:</td>
<td>Mr Trevor Fletcher</td>
<td>(PO Box 240) Geelong North 3215</td>
<td>Vines Road</td>
<td>5278 2857</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Fax: 5278 2857</td>
<td></td>
</tr>
<tr>
<td>Central Highlands:</td>
<td>Mr Malcolm Millar</td>
<td>1220 Sturt Street Ballarat 3350</td>
<td>Level 1</td>
<td>5337 8427</td>
</tr>
<tr>
<td>Wimmera</td>
<td></td>
<td></td>
<td>Fax: 5337 8427</td>
<td></td>
</tr>
<tr>
<td>Gippsland</td>
<td>Mr Peter Greenwell</td>
<td>(PO Box 381) Moe 3825</td>
<td>Cnr Kirk &amp; Haigh Sts</td>
<td>5127 0450</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Fax: 5127 0450</td>
<td></td>
</tr>
<tr>
<td>Goulburn-North Eastern</td>
<td>Adele Pottergton</td>
<td>(PO Box 403) Benalla 3672</td>
<td>Arundel Street</td>
<td>5762 5039</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Fax: 5762 5039</td>
<td></td>
</tr>
<tr>
<td>Loddon Campaspe</td>
<td>Mr Greg Gibbs</td>
<td>37-43 Havlin Street East</td>
<td>Arundel Street</td>
<td>5440 3111</td>
</tr>
<tr>
<td>Mallee</td>
<td></td>
<td>(PO Box 442) Bendigo 3550</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Fax: 5442 3139</td>
<td></td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
Defence: Property
(Question No. 1409)

Senator Allison asked the Minister for Defence, upon notice, on 23 April 2003:

(1) Why has the department not sought to gift the entire Point Nepean site to the public as it did for the five Defence Department owned properties on the Sydney Harbour foreshore.

(2) Why has the department not sought special grant funding for the transfer of Defence Department land at Point Nepean to the public as it did for the five Defence Department owned properties on the Sydney Harbour foreshore.

(3) What are the reasons for the different approach to the sale of Defence Department properties on the Sydney Harbour foreshore and at Point Nepean.

(4) What representations have been made to the Victorian State Government to reach agreement on the sale of the 90 hectares of land at Point Nepean.

(5) In the event that a suitable buyer cannot be found for the 90 hectares of land at Point Nepean, will the Commonwealth Government stand by its commitment to bar residential development from the site.

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

(1) and (2) The bushland and historical precinct of the Defence land at Point Nepean and the Sydney Harbour foreshore properties were offered to the respective State Governments as part of the Federation Fund initiative in 1999. Decisions to transfer land in the manner described are taken by Government. Departments do not have the authority to “gift” land in the manner described.

(3) Given the Victorian Government chose not to accept the Federal Government offer, the disposal of the property has been progressed in line with Commonwealth Government policy with regard to the disposal of surplus property.

(4) The Parliamentary Secretary to the Minister for Defence, the Hon Fran Bailey MP, wrote to the Premier of Victoria on 12 March 2003 offering approximately 90 hectares of the Defence land at Point Nepean, on the basis of a priority sale in line with the Commonwealth Property Disposals Policy. The Parliamentary Secretary also wrote to the Deputy Secretary Environment and Public Land from the Victoria Department of Sustainability and Environment to provide access to the site and copies of Defence’s due diligence assessment for the site. The Parliamentary Secretary also reiterated the priority sale offer. Subsequently, the Premier of Victoria advised that the Victorian State Government did not wish to purchase the site at market value and would prefer transfer of the site at no cost.

(5) Yes, the Government will stand by its commitment to restrict subdivision for new residential development.

Defence: Property
(Question No. 1412)

Senator Allison asked the Minister for Defence, upon notice, on 24 April 2003:

(1) Was the Parliamentary Secretary, Ms Bailey, advised of the letter from Victorian Premier, Mr Bracks, addressed to the Minister, dated 11 April 2003, with regard to Defence land at Point Nepean; if not, why not; if so, why was the Victorian Government’s request in that letter for ‘a timetable of meetings to enable the range of issues to be address and resolved quickly’ ignored by Ms Bailey.

QUESTIONS ON NOTICE
(2) Is it the case that Ms Bailey had said earlier that day, at a press conference, that she would consider such a meeting.

(3) Did Ms Bailey receive a letter, on 15 April 2003, from Mr Noel of Environment Victoria proposing that she discuss the issue with the Victorian Government at talks brokered by Environment Victoria; if so, why did Ms Bailey ignore this opportunity to resolve the issue.

(4) Why did Mr Bailey the next day call for expressions of interest for the Defence land at Point Nepean.

(5) Does the Government intend to engage in discussions with the Victorian Government over this matter; if so, when.

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

(1) Yes. As stated in the Hon Fran Bailey’s announcement of 12 March 2003, the Victorian State Government was given one month to submit a priority sale submission for the purchase (at market value) of an area of approximately 90 hectares of the Defence site at Portsea. Premier Bracks confirmed on 9 April 2003 that the Victorian Government did not wish to purchase the site at market value, and again on 11 April 2003 that the Victorian Government was not in a position to make an offer. Therefore, in line with the 12 March announcement, the Commonwealth decision to market the property was made.

(2) Yes.

(3) Yes. The basis of the decision to market the property is explained in the answer to part (1). The expression of interest process does not exclude the Victorian Government from taking the opportunity to acquire the site through this process.

(4) Refer to part (1).

(5) The Expression of Interest process provides the Victorian State Government with the further option to purchase the property and to negotiate with Defence.

**Education: School Bus Services**

*(Question No. 1414)*

**Senator Allison** asked the Minister representing the Minister for Education, Science and Training, upon notice, on 28 April 2003:

With reference to families living in Picola, Victoria, who wish to send their children to school in Echuca but who, because the most direct bus route to Echuca traverses New South Wales, are not entitled to the discounted fares available to students in Victoria through the Victorian State Government’s school bus services:

(1) Has the matter of these families been referred to the Cross Borders Anomalies Committee; if so, what transpired; if not, why not.

(2) Has the Minister made representations to the Victorian State Government on this issue.

(3) What is the Federal Government doing to ensure that students who have to cross borders are not disadvantaged in accessing education.

**Senator Alston**—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

(1) The Department has contacted the Victorian Department of Education and Training regarding this issue. They advised that this is not an issue for the Commonwealth Cross Borders Anomalies Committee. They have advised that this issue is a State issue for New South Wales and Victoria to sort out.
The Department understands that the Picola families involved have chosen to attend Echuca Secondary College instead of their nearest high school at Nathalia and, therefore, do not qualify for the free school bus travel through the Victorian Government’s School Bus Services.

For more details you may wish to contact the Hon Lynne Kosky MP, Minister for Education and Training in Victoria, on these issues.

(2) No.

(3) Transport arrangements for school students are the responsibility of State and Territory Governments. The Commonwealth Government has no direct role.

However, the Commonwealth contributes significant support for educational achievements, opportunities and choice available to students disadvantaged by geographic isolation so that their learning outcomes match those of other students.

In 2001-04, the Commonwealth’s Country Areas Programme (CAP) provides an additional $21.08 million annually to government and non-government education authorities to assist schools provide quality education to students in rural and geographically isolated areas and fund activities that support and enrich the curriculum and learning experiences including, for example, supplementing the costs of travel to attend excursions, go to career shows or participation in vocational education work placements.

State and Northern Territory education authorities decide the priority areas and how CAP funds are allocated in their jurisdictions in accordance with the Commonwealth CAP Guidelines.

CAP funds are paid to schools not individuals and cannot be used to pay for ongoing bus travel costs for individual students to attend school on a daily basis.

Iraq

(Question No. 1417)

Senator Allison asked the Minister for Defence, upon notice, on 30 April 2003:

(1) Can the Minister confirm the report in the Washington Post of 25 April 2003 that, nearly 3 weeks after the United States of America (US) forces reached Iraq’s most important nuclear facility, the Bush Administration has yet to begin an assessment of whether tons of radioactive material there remain intact.

(2) Is the Minister aware that, before the war began, the vast Tuwaitha Nuclear Research Centre held 3 896 pounds of partially-enriched uranium, more than 94 tons of natural uranium and smaller quantities of caesium, cobalt and strontium, according to reports compiled through the 1990s by inspectors from the International Atomic Energy Agency.

(3) Is the Minister aware that this material would be immensely valuable on the international black market, the uranium being in a form suitable for further enrichment to ‘weapons grade’, the core of a nuclear device.

(4) Is the Minister aware that these materials have been sought by terrorists seeking to build a so-called dirty bomb, which uses conventional explosives to scatter dangerous radioactive particles.

(5) Is it the case that the US Administration has no idea whether any of Tuwaitha’s potentially deadly contents have been stolen, because it has not dispatched investigators to appraise the site.

(6) Is the Minister aware that, according to officials at the Pentagon and the US Central Command, Iraq’s Atomic Energy Agency (IAEA) 120 acre Tuwaitha facility, 11 miles south of Baghdad, lay unguarded for at least 4 days and that there is evidence that looters made their way through buildings at the facility.
(7) (a) What is the Minister’s understanding of the role that the US Defense Department, other government agencies or US nuclear experts will have in assessing the Tuwaitha facility; and (b) when it is expected that this assessment will take place.

(8) Would such an inspection and assessment of any nuclear material that might be missing, including the breaking of tamper-proof seals on more than 409 barrels of radioactive material, be done in conjunction with the IAEA, as is required under the Nuclear Non-Proliferation Treaty.

(9) Is the site now safeguarded by the US Administration’s Central Command’s Sensitive Site Exploitation Planning Team, as reported; if so, are Australian troops involved.

(10) Is the Government concerned at the comments by Mr Corey Hinderstein, Deputy Director of the Institute for Science and International Security, when told US nuclear experts had not yet been to Tuwaitha: ‘I would have hoped that they would try to assess as quickly as possible whether the site had been breached. If there is radiological material on the loose in Iraq, with the chance that it may be transferred across borders, it would be extremely important to know that [in order] to prevent it from crossing a border or being transferred to a terrorist or another state’.

(11) Given the concerns previously expressed by the Prime Minister about Iraq providing chemical, biological or nuclear material to terrorists, what representation has the Government made to the US Administration about this situation.

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

(1) CENTCOM announced on 16 May that a specially-trained, 11-strong US Army team would soon begin a detailed assessment of the Tuwaitha site.

(2) There is no need to confirm the details of publicly available documents.

(3) I am advised that the IAEA allowed Iraq to keep these materials because they considered that the material was unfit for use in nuclear weapons development without complex, costly and time-consuming enrichment.

(4) Radioactive sources may be used in a so-called dirty bomb. I am advised that the uranium compounds stored at Tuwaitha would not be capable of inflicting significant radiological damage if used in a radiological dispersion device.

(5) Refer to part (1).

(6) Yes.

(7) (a) and (b) The US Government has implemented and is overseeing a series of activities to locate and assess evidence of Iraq’s Weapons of Mass Destruction programs. The specifics of the assessment program are a matter for the US administration.

(8) Australia favours the early reinstatement of the IAEA to resume its safeguards responsibilities at the Tuwaitha nuclear facility, in line with Iraq’s Nuclear Non-Proliferation Treaty safeguards agreement.

(9) Arrangements for the security of sensitive sites are a matter for the US administration. The Australian Government does not comment on the exact location of its troops on deployment.

(10) The Government does not comment on speculative statements.

(11) The Government has discussed the situation at Tuwaitha with the United States, including our support for early reinstatement of the IAEA to resume its safeguards responsibilities.
With reference to the answer to question no. 99 taken on notice by the Office of Parliamentary Counsel during additional estimates hearings in February 2003 of the Finance and Public Administration Legislation Committee:

(1) Can the information provided in relation to the answer be updated to the end of the 2003 Autumn sittings.

(2) Have drafting instructions been received by the Office of Parliamentary Counsel for the following legislation: (a) the Classified Information Procedures Bill; (b) the Corporations Amendment (Maximum Priority for Employee Entitlements) Bill; and (c) the Workplace Relations Amendment (Right of Entry) Bill; if so, when were the drafting instructions first received.

(3) Has the Office of Parliamentary Counsel received instructions to draft legislation requiring registered organisations under the Workplace Relations Act 1996 to hold secret ballots in order to affiliate to a political party registered under the Commonwealth Electoral Act 1918; if so: (a) when were the drafting instructions first received; (b) are the instructions incomplete; and (c) what is the current title of this legislation.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) For the 2003 Autumn sittings, the following lists show:

(a) Bills introduced;

(b) for Bills shown on the Proposed Legislation list published by the Department of Prime Minister and Cabinet on its website (www.pmc.gov.au/docs), Bills that OPC was unable to finish despite receiving timely instructions;

(c) other Bills shown on that Proposed Legislation list.

Questions about the priority category of any of the listed Bills should be directed to the Department of Prime Minister and Cabinet.

(a) Bills introduced

Australian Human Rights Commission Legislation Bill 2003
Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002
Aviation Transport Security Bill 2003
Civil Aviation Amendment Bill 2003
Civil Aviation Legislation Amendment Bill 2003
Dairy Industry Service Reform Bill 2003
Defence Legislation Amendment Bill 2003
Energy Grants (Credits) Scheme Bill 2003
Energy Grants (Credits) Scheme (Consequential Amendments) Bill 2003
Export Control Amendment Bill 2003
Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002
Family Law Amendment Bill 2003
Health and Ageing Legislation Amendment Bill 2003
Health Legislation Amendment Bill (No. 1) 2003
Health Legislation Amendment (Private Health Insurance Reform) Bill 2003
Maritime Legislation Amendment (Prevention of Pollution from Ships) Bill 2003
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Migration Legislation Amendment (Further Border Protection Measures) Bill 2002
National Health Amendment (Private Health Insurance Levies) Bill 2003
National Residue Survey (Customs) Levy Amendment Bill (No. 2) 2003
National Residue Survey (Excise) Levy Amendment Bill (No. 2) 2003
Passenger Movement Charge (Timor Sea Treaty) Amendment Bill 2003
Petroleum (Timor Sea Treaty) (Consequential Amendments) Bill 2003
Petroleum (Timor Sea Treaty) Bill 2003
Primary Industries (Excise) Levies Amendment (Dairy) Bill 2003
Private Health Insurance (ACAC Review Levy) Bill 2003
Private Health Insurance (Collapsed Organization Levy) Bill 2003
Private Health Insurance (Council Administration Levy) Bill 2003
Private Health Insurance (Reinsurance Trust Fund Levy) Bill 2003
Product Stewardship (Oil) Legislation Amendment Bill (No. 1) 2003
Taxation Laws Amendment Bill (No. 4) 2003
Taxation Laws Amendment Bill (No. 5) 2003
Trade Practices Amendment (Personal Injuries and Death) Bill 2003
Trade Practices Legislation Amendment Bill 2003
Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003
Workplace Relations Amendment (Protecting the Low Paid) Bill 2003
Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003
(b) Bills that OPC was unable to finish despite receiving timely instructions (being Bills shown on the Proposed Legislation list)
Child Support Legislation Amendment Bill 2003
Communications Legislation Amendment Bill (No. 2) 2003
Customs Legislation Amendment (Valuation Provisions) Bill 2003
Electoral and Referendum Amendment Bill 2003
Petroleum (Submerged Lands) Legislation Amendment Bill 2003
Protection of the Sea (Antifouling Systems) Bill 2003
Radiocommunications Legislation Amendment Bill 2003
Workplace Relations Amendment (Restructure and Renumber) Bill 2003
(c) Other Bills (being Bills shown on the Proposed Legislation list)
Aboriginal and Torres Strait Islander Commission Amendment Bill 2003
Aboriginal and Torres Strait Islander Heritage Protection Bill 2003
ACIS Administration Amendment Bill 2003
Administrative Review Tribunal (Consequential and Transitional Provisions) Bill 2003
Administrative Review Tribunal Bill 2003
Age Discrimination Bill 2003
Air Services Legislation Amendment Bill 2003
ASIC (Enforcement Powers) Bill 2003
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Australian Postal Corporation Amendment Bill 2003
Aviation Safety Legislation Amendment Bill 2003
Classified Information Procedures Bill 2003
Commonwealth Electoral Amendment Bill 2003
Commonwealth Superannuation Board Bill 2003
Communications Legislation Amendment Bill (No. 1) 2003
Corporations Amendment (Audit Reform and Corporate Disclosure) Bill 2003
Corporations Amendment (Maximum Priority for Employee Entitlements) Bill 2003
Corporations Amendment Bill 2003
Crimes (Overseas) Amendment Bill 2003
Criminal Code Amendment (Serious Drug Offences) Bill 2003
Customs Legislation Amendment Bill (No. 1) 2003
Customs Legislation Amendment Bill (No. 2) 2003
Customs Tariff Amendment Bill 2003
Family and Community Services Legislation Amendment (Child Care Benefit and Other Measures) Bill 2003
Financial Framework Legislation Amendment Bill 2003
Financial Services Reform Amendment Bill 2003
Freedom of Information Amendment Bill 2003
Higher Education Funding Amendment Bill 2003
Industrial Chemicals (Notification and Assessment) Amendment Bill 2003
Intellectual Property Laws Amendment Bill 2003
Jurisdiction of the Federal Magistrates Service Legislation Amendment Bill 2003
Law and Justice Legislation Amendment Bill 2003
Legislative Instruments (Consequential Amendments) Bill 2003
Legislative Instruments Bill 2003
Managed Investments Amendment Bill 2003
Migration Agents (Integrity Measures) Bill 2003
Migration Legislation Amendment Bill (No. 1) 2003
Migration Legislation Amendment Bill (No. 2) 2003
Migration Legislation Amendment Bill (No. 3) 2003
Military Compensation Bill 2003
National Crime Laws Bill 2003
National Transport Commission Bill 2003
New Business Tax System Bill 2003
Offshore Petroleum (Annual Fees) Bill 2003
Offshore Petroleum (Registration Fees) Bill 2003
Offshore Petroleum (Royalty) Bill 2003
Offshore Petroleum Bill 2003
Ozone Protection Amendment Bill 2003
Postal Services Levy Bill 2003
Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) Bill 2003
Social Security (Further Simplification) Bill 2003
Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Bill (No. 2) 2003
Superannuation Legislation (Commonwealth Employment) Repeal and Amendment (Consequential Amendments) Bill 2003
Superannuation Safety Amendment Bill 2003
Taxation Laws Amendment (Superannuation) Bill (No.1) 2003
Taxation Laws Amendment Bill (No. 6) 2003
Telecommunications Interception Legislation Amendment Bill 2003

(2) (a) Questions about the Classified Information Procedures Bill should be directed to the Attorney-General’s Department.
(b) Questions about the Corporations Amendment (Maximum Priority for Employee Entitlements) Bill should be directed to the Department of the Treasury.
(b) Questions about the Workplace Relations Amendment (Right of Entry) Bill should be directed to the Department of Employment and Workplace Relations.
(3) Questions about amendments of the Workplace Relations Act 1996 should be directed to the Department of Employment and Workplace Relations.

**Hydrogen Economy Conference**
*(Question No. 1425)*

*Senator Nettle* asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 5 May 2003:

With regard to the sponsorship by the Australian Government of a major international conference, ‘The Hydrogen Economy – Challenges and Strategies for Australia’, in Broome on 18-21 May 2003:

(1) How much is this conference going to cost?
(2) Are the funds coming from the $1 million announced by the then Minister for Forestry and Conservation (Mr Tuckey) in October 2001, which was earmarked for the National Hydrogen Study by the Australian Department of Industry, Tourism and Resources; if so, what is the total of those funds; if not, where are the funds coming from?
(3) (a) Are any funds being provided for the conference above those provided for in the answer to (2); and (b) what budget allocation is the funding coming from.
(4) Given that the power point presentation located at http://www.mp.wa.gov.au/rchapple/issues/hydrogen/hydro.zip provided to the Broome Shire Council as a result of a visit by Mr Tuckey on Monday, 16 December 2002, states, ‘The greatest potential of the Kimberley region and its Tidal Power is for servicing Australia’s future based on a: Hydrogen Economy’ (slide 12), and the promotion for the conference states, ‘the International Hydrogen Conference will be held at the Cable Beach Resort in Broome, Western Australia – a location specially chosen because of its proximity
to the scenic Kimberley region and the great tidal flows of King Sound’, is the conference in any way operating as a promotion for Derby Tidal Power?

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) The estimated cost of the conference to the Commonwealth will be around $275,000.

(2) The conference is being funded from $1 million appropriated to the Department of Industry, Tourism and Resources in the 2002-03 Budget for the purpose of studying the potential of hydrogen, including its relationship with tidal power.

(3) (a) No. (b) Not applicable.

(4) No. The purpose of the conference is to map the future of hydrogen as a possible long-term source of energy and to identify Australia’s contribution to world hydrogen developments. The tidal energy resource of the Kimberley region has the potential to provide energy to produce hydrogen and realise a clean, renewable, flexible and cost effective fuel.

New Caledonia: Australian Mining Companies
(Question No. 1457)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 15 May 2003:

Have embassy officials in New Caledonia met on a regular basis with representatives of Australian mining companies operating in New Caledonia; if so: (a) when were the meetings held; (b) for each of the meetings, which companies were represented and who represented them; and (c) for each of the meetings: (i) what issues were raised, (ii) what requests for assistance were made of embassy officials, and (iii) what assistance did embassy officials provide.

Senator Hill—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

Embassy officials are frequently involved in meetings with a range of Australian business representatives, including from mining companies, in the pursuit of Australia’s national interests overseas. To discover and provide the details being sought would require the diversion of significant resources within the department, which I am not prepared to authorise. In addition, many meetings with Australian business representatives are held on a “Commercial-in-Confidence” basis and it would not be appropriate to disclose the details of participants or issues raised.

Papua New Guinea: Australian Mining Companies
(Question No. 1459)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 15 May 2003:

Have embassy officials in Papua New Guinea met on a regular basis with representatives of Australian mining companies operating in Papua New Guinea; if so: (a) when were the meetings held; (b) for each of the meetings, which companies were represented and who represented them; and (c) for each of the meetings: (i) what issues were raised, (ii) what requests for assistance were made of embassy officials, and (iii) what assistance did embassy officials provide.

Senator Hill—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

Embassy officials are frequently involved in meetings with a range of Australian business representatives, including from mining companies, in the pursuit of Australia’s national interests overseas. To discover and provide the details being sought would require the diversion of significant resources within
the department, which I am not prepared to authorise. In addition, many meetings with Australian business representatives are held on a “Commercial-in-Confidence” basis and it would not be appropriate to disclose the details of participants or issues raised.

**India: Australian Mining Companies**  
(Question No. 1460)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 15 May 2003:

Have embassy officials in India met on a regular basis with representatives of Australian mining companies operating in India; if so: (a) when were the meetings held; (b) for each of the meetings, which companies were represented and who represented them; and (c) for each of the meetings: (i) what issues were raised, (ii) what requests for assistance were made of embassy officials, and (iii) what assistance did embassy officials provide.

Senator Hill—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

Embassy officials are frequently involved in meetings with a range of Australian business representatives, including from mining companies, in the pursuit of Australia’s national interests overseas. To discover and provide the details being sought would require the diversion of significant resources within the department, which I am not prepared to authorise. In addition, many meetings with Australian business representatives are held on a “Commercial-in-Confidence” basis and it would not be appropriate to disclose the details of participants or issues raised.

**Laos: Australian Mining Companies**  
(Question No. 1461)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 15 May 2003:

Have embassy officials in Laos met on a regular basis with representatives of Australian mining companies operating in Laos; if so: (a) when were the meetings held; (b) for each of the meetings, which companies were represented and who represented them; and (c) for each of the meetings: (i) what issues were raised, (ii) what requests for assistance were made of embassy officials, and (iii) what assistance did embassy officials provide.

Senator Hill—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

Embassy officials are frequently involved in meetings with a range of Australian business representatives, including from mining companies, in the pursuit of Australia’s national interests overseas. To discover and provide the details being sought would require the diversion of significant resources within the department, which I am not prepared to authorise. In addition, many meetings with Australian business representatives are held on a “Commercial-in-Confidence” basis and it would not be appropriate to disclose the details of participants or issues raised.

**Thailand: Australian Mining Companies**  
(Question No. 1464)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 15 May 2003:

Have embassy officials in Thailand met on a regular basis with representatives of Australian mining companies operating in Thailand; if so: (a) when were the meetings held; (b) for each of the meetings, which companies were represented and who represented them; and (c) for each of the meetings: (i) what
issues were raised, (ii) what requests for assistance were made of embassy officials, and (iii) what assistance did embassy officials provide.

Senator Hill—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

Embassy officials are frequently involved in meetings with a range of Australian business representatives, including from mining companies, in the pursuit of Australia’s national interests overseas. To discover and provide the details being sought would require the diversion of significant resources within the department, which I am not prepared to authorise. In addition, many meetings with Australian business representatives are held on a “Commercial-in-Confidence” basis and it would not be appropriate to disclose the details of participants or issues raised.