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SITTING DAYS—2003

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

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

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

THURSDAY, 19 JUNE

Petitions—
Iraq ........................................................................................................................... 11935

Business—
Rearrangement.............................................................................................................. 11935
Rearrangement.............................................................................................................. 11936

Notices—
Postponement ............................................................................................................... 11936

Business—
Rearrangement.............................................................................................................. 11936
Rearrangement.............................................................................................................. 11936
Rearrangement.............................................................................................................. 11936

Energy Grants (Credits) Scheme: Draft Regulations ......................................................... 11936

Committees—
Medicare Committee—Reference ................................................................................ 11937
Iraq........................................................................................................................... 11937
International Criminal Court.............................................................................................. 11937
Forestry: Management ....................................................................................................... 11938

Committees—
Ministerial Discretion in Migration Matters Committee—Establishment .................. 11938
Foreign Affairs, Defence and Trade References Committee—Reference .................. 11939
Finance and Public Administration References Committee—Reference ................. 11940
Aung San Suu Kyi ............................................................................................................. 11940

Notices—
Postponement ............................................................................................................... 11941

Budget—
Consideration by Legislation Committees—Additional Information ......................... 11941
Industrial Chemicals (Notification and Assessment) Amendment Bill 2003 ................. 11941
Australian Film Commission Amendment Bill 2003—
First Reading ................................................................................................................ 11941
Second Reading ............................................................................................................. 11941

Budget—
Consideration by Legislation Committees—Reports .................................................... 11944
Workplace Relations Amendment (Protecting the Low Paid) Bill 2003—
Report of Employment, Workplace Relations and Education Legislation Committee. 11944
Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2]—
In Committee ................................................................................................................ 11945
Australian Prudential Regulation Authority Amendment Bill 2003—
Second Reading ............................................................................................................. 11982
In Committee ................................................................................................................ 11984
Third Reading ............................................................................................................... 11985

Acts Interpretation Amendment (Court Procedures) Bill 2003—
Second Reading ............................................................................................................. 11985
Third Reading ............................................................................................................... 11985

Maritime Legislation Amendment (Prevention of Pollution from Ships) Bill 2003—
Second Reading ............................................................................................................. 11985
Third Reading ............................................................................................................... 11987

Intellectual Property Laws Amendment Bill 2002—
Second Reading ............................................................................................................. 11987
Third Reading ............................................................................................................... 11987
CONTENTS—continued

Murray-Darling Basin Amendment Bill 2002—
Second Reading ............................................................................................................ 11987
Third Reading ............................................................................................................ 11992

Questions Without Notice—
Foreign Affairs: Travel Advice ..................................................................................... 11992
Howard Government: Economic Policy....................................................................... 11994
Defence: Properties ...................................................................................................... 11995
Australian Labor Party: Centenary House .................................................................... 11996
Defence: Properties ...................................................................................................... 11997
Iraq ........................................................................................................................................ 11998
Defence: Properties ...................................................................................................... 12000
Health: Irradiated Food ................................................................................................ 12001
Sport: Antidoping ......................................................................................................... 12002
Immigration: Detainees ................................................................................................ 12003
Education: University Funding ..................................................................................... 12004

Distinguished Visitors ........................................................................................................ 12005

Questions Without Notice:
Health: Pharmaceutical Benefits Scheme ..................................................................... 12005

Questions Without Notice: Take Note of Answers—
Defence: Properties ...................................................................................................... 12007

Committees—
Reports: Government Responses .................................................................................. 12016

Energy Grants (Credits) Scheme: Draft Regulations—
Return to Order ............................................................................................................. 12047

Documents—
Auditor-General’s Reports—Report No. 51 of 2002-03 .............................................. 12048
Budget—
Consideration by Legislation Committees—Report...................................................... 12048
Taxation Laws Amendment Bill (No. 4) 2003—
Report of Economics Legislation Committee .............................................................. 12048
Taxation Laws Amendment Bill (No. 8) 2003—
Report of Economics Legislation Committee .............................................................. 12048
Committees—
Economics Legislation Committee—Extension of Time .............................................. 12048
Public Works Committee—Report ............................................................................... 12048
Energy Grants (Credits) Scheme: Draft Regulations—
Return to Order ............................................................................................................. 12050

Committees—
Membership .................................................................................................................. 12051
Medicare ....................................................................................................................... 12051

Documents—
Commonwealth-State Housing Agreement .................................................................. 12078
Great Barrier Reef Marine Park Authority ................................................................... 12079
Consideration ................................................................................................................ 12081

Committees—
Foreign Affairs, Defence and Trade References Committee—Membership ............... 12081
Treaties Committee—Report: Government Response .................................................. 12081
Consideration ................................................................................................................ 12083

Documents—
Auditor-General’s Reports—Report No. 38 of 2002-03 .............................................. 12083
Consideration ................................................................................................................ 12085
Adjournment—
Health: Services .................................................................................................................. 12085
Gambling ............................................................................................................................. 12087
Trade: Live Cattle and Sheep Exports .................................................................................. 12089
Immigration: Policy ............................................................................................................. 12091
Documents—
Tabling .................................................................................................................................. 12094
Questions on Notice—
Veterans’ Affairs: Fraud Control—(Question No. 1004 amended) .................................. 12095
Gippsland Electorate: Programs and Grants—(Question No. 1095 and 1108) ................. 12097
Trade: Blueberry Exports—(Question No. 1206)................................................................. 12112
Iraq—(Question No. 1452) ................................................................................................. 12114
Iraq—(Question No. 1467) ................................................................................................. 12115
Thursday, 19 June 2003

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

PETITIONS

The Clerk—A petition has been lodged for presentation as follows:

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 100 citizens).

Petition received.

BUSINESS

Rearrangement

Senator ABETZ (Tasmania—Special Minister of State) (9.31 a.m.)—I move:

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

No. 10 Australian Prudential Regulation Authority Amendment Bill 2003

No. 11 Acts Interpretation Amendment (Court Procedures) Bill 2003

No. 12 Maritime Legislation Amendment (Prevention of Pollution from Ships) Bill 2003

No. 13 Intellectual Property Laws Amendment Bill 2002

No. 14 Murray-Darling Basin Amendment Bill 2002

No. 16 Health Legislation Amendment Bill (No. 1) 2002

Australian Film Commission Amendment Bill 2003

Senator Harradine—Could I have that motion clarified, please?

Senator Abetz—I have been advised that No. 16, which is the Health Legislation Amendment Bill (No. 1) 2002, and the Australian Film Commission Amendment Bill 2003 have been added. But in the event that there is not agreement by 12.30 p.m. today in relation to those two items, they will be withdrawn.

Senator Brown—Those two bills have not been agreed to. I wish to record a no vote from the Greens because those two bills have not been agreed to.

The PRESIDENT—I know that there are always problems with lunch time bills on Thursday but they are usually sorted out by the time they come around.

Senator Mackay—As I understand it, to assist Senator Brown, it is a procedural thing. The government is aware of concerns and if the opposition remains then they will not be considered non-controversial.

The PRESIDENT—that is the normal practice.

Senator Brown—The process here should be that they should not be put on this list until there has been agreement. The government can add them later but they should not be on this motion. There should be fur-
The PRESIDENT—These matters are usually worked out between government leaders and whips and we are not going to have a debate on that this morning. No doubt those matters will be clarified before 12 o’clock.

Senator Nettle—I would appreciate Senator Abetz reading just once more the bills that the government is proposing to list in this section.

Senator Abetz—They are items Nos 10-14, and then No. 16 and the Australian Film Commission Amendment Bill. But as I have indicated in relation to No. 16 and the Australian Film Commission Amendment Bill, if there is not agreement from honourable senators by midday or 12.30 p.m., then we as a government will not be proceeding with those two items given the understanding around the chamber. I understand relevant officers have been contacted with that information.

Question agreed to.

Rearrangement

Senator ABETZ (Tasmania—Special Minister of State) (9.36 a.m.)—I move:

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

(1) general business notice of motion No. 482 standing in the name of Senator McLucas relating to proposed reforms to Medicare; and

(2) consideration of government documents.

Question agreed to.

NOTICES

Postponement

An item of business was postponed as follows:

General business notice of motion no. 471 standing in the name of the Chair of the Select Committee on Medicare (Senator McLucas) for today, relating to an extension of time for the committee to report, postponed till 26 June 2003.

BUSINESS

Rearrangement

Senator FERRIS (South Australia) (9.36 a.m.)—by leave—At the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I move:

That business of the Senate order of the day no. 1, relating to the presentation of the report of the committee on the 2003-04 Budget estimates, be postponed till a later hour.

Question agreed to.

Rearrangement

Senator FERRIS (South Australia) (9.37 a.m.)—by leave—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I move:

That business of the Senate order of the day no. 1, relating to the presentation of the report of the committee on the 2003-04 Budget estimates, be postponed till a later hour.

Question agreed to.

Rearrangement

Senator FERRIS (South Australia) (9.37 a.m.)—by leave—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I move:

That business of the Senate order of the day nos 3 and 4, relating to the presentation of the reports of the committee, be postponed till a later hour.

Question agreed to.

ENERGY GRANTS (CREDITS) SCHEME: DRAFT REGULATIONS

Senator O’BRIEN (Tasmania) (9.38 a.m.)—I move:
That there be laid on the table, no later than immediately after motions to take note of answers on Thursday, 19 June 2003:

(a) draft regulations to be made under the Energy Grants (Credits) Scheme Bill 2003;
(b) draft regulations to be made under the Energy Grants (Credits) Scheme (Consequential Amendments) Bill 2003; and
(c) records of any meetings at which members of industry or other groups with a potential to be affected by the passage of these bills were permitted to examine the draft regulations referred to above.

Question agreed to.

COMMITTEES

Medicare Committee

Reference

Senator MACKAY (Tasmania) (9.39 a.m.)—At the request of Senator Evans, I move:

That the Health Legislation Amendment (Medicare and Private Health Insurance) Bill 2003 be referred to the Select Committee on Medicare for inquiry and report by 9 September 2003.

Question agreed to.

IRAQ

Senator ALLISON (Victoria) (9.39 a.m.)—I move:

That the Senate—

(a) notes the report on the health of Iraqi children by UNICEF published in May 2003, which indicates that:

(i) acute malnutrition rates in children under five have nearly doubled since the previous survey in February 2002 and 7.7 per cent of children under five are suffering from acute malnutrition and, without treatment are at very high risk of dying,

(ii) unsafe water from disrupted water services and the resulting rapidly increasing rates of diarrhoea may be playing a significant role in this malnutrition, and

(iii) one in ten children is in need of treatment for dehydration;

(b) notes the 19 May 2003 update from the United Nations (UN) Office of the Humanitarian Coordinator for Iraq, which indicates that in Iraq:

(i) distribution systems have broken down, largely owing to a lack of running costs at the Minister of Health and prevalent insecurity,

(ii) there are shortages of vaccines across the country, and

(iii) public health programs and disease control and surveillance have not yet been fully re-established; and

(c) calls on the Federal Government to seriously address these issues through its representations to the UN and the United States of America and by increasing its contribution to the rebuilding of Iraq through health services for Iraq’s children.

Question agreed to.

INTERNATIONAL CRIMINAL COURT

Senator GREIG (Western Australia) (9.40 a.m.)—I move:

That the Senate—

(a) notes that the International Criminal Court’s Prosecutor commenced office in the Hague on 17 June 2003;

(b) reaffirms its support for the International Criminal Court and the important role that it will play in bringing to justice those who commit crimes against humanity;

(c) welcomes the adoption by the European Union of a revised Common Position on the International Criminal Court, obliging member states to cooperate with the court; and
(d) urges the Government to decline any request from a country seeking to enter into an agreement with Australia pursuant to Article 98 of the Rome Statute, which would grant its citizens immunity from prosecution in the International Criminal Court.

Question agreed to.

FORESTRY: MANAGEMENT

Senator RIDGEWAY (New South Wales) (9.40 a.m.)—I move:

That the Senate—

(a) notes that:

(i) over 20 000 hectares of native forest is logged in Tasmania each year,

(ii) Tasmania has the second highest rate of land clearing in Australia,

(iii) the level of logging of native forests in Tasmania is threatening the natural and cultural heritage values of Tasmania and is contributing to increases in Australia’s greenhouse gas emissions, and

(iv) earlier this year, El Grande, one of Australia’s largest trees, was damaged, and possibly killed, when a regeneration burn conducted by Forestry Tasmania breached containment lines in the Florentine Valley;

(b) condemns Forestry Tasmania and the Tasmanian Forest Practices Board for their regulation of forestry operations and management of Tasmania’s native forests, in particular Forestry Tasmania’s conduct of management activities and the Tasmanian Forest Practices Board’s failure to ensure that a robust Forestry Practices Code is effectively implemented; and

(c) calls on the Tasmanian Government to:

(i) ensure logging of high conservation value old-growth forests ceases immediately, in accordance with the goals of the Tasmania Together process,

(ii) amend the Forestry Practices Code to ensure greater protection for the natural and cultural heritage values of Tasmania’s forests, and

(iii) review the regulation and management of the Tasmanian forestry sector to ensure that forestry operations are carried out in a more sustainable manner and with greater regard to the natural and cultural heritage values of Tasmania’s forests.

Question negatived.

Senator Brown—I would like it to be noted that the last three motions have been voted against by the government.

The PRESIDENT—The record will show that.

Senator Brown—No, it will not.

COMMITTEES

Ministerial Discretion in Migration Matters Committee

Establishment

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (9.41 a.m.)—I move:

(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.

Question agreed to.

Foreign Affairs, Defence and Trade References Committee
Reference
Senator MARK BISHOP (Western Australia) (9.42 a.m.)—I move:

(1) That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report:
   (a) the adequacy of current arrangements within the Department of Defence for the health preparation for the deployment of the Australian Defence Forces (ADF) overseas;
   (b) the adequacy of record keeping of individual health and treatment episodes of those deployed, and access to those records by the individual;
   (c) the adequacy of information provided to individual ADF members, pre-deployment, of the likely health risks and anticipated remedial activity required;
(d) the adequacy of current arrangements for the administration of preventive vaccinations, standards applied to drug selection, quality control, record keeping and the regard given to accepted international and national regulation and practice;

(e) the engagement in this process of the Department of Veterans’ Affairs and the Repatriation Medical Authority for the purposes of administering and assessing compensation claims; and

(f) the adequacy of the current research effort focussing on outstanding issues of contention from the ex-service community with respect to health outcomes from past deployments, and the means by which it might be improved.

(2) That, in undertaking the inquiry, the committee consider recommendations for an improved system within the Defence and Veterans’ administrations which will give greater assurance to the individual that their health risks are minimised, and fully recorded for the purposes of future compensation where justified.

Question agreed to.

Finance and Public Administration References Committee

Senator MARK BISHOP (Western Australia) (9.42 a.m.)—I move:

That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report:

The options and preferences for a revised system of administrative review within the area of veteran and military compensation and income support, including:

(a) an examination and assessment of the causes for such extensive demand for administrative review of decisions on compensation claims in the veterans and military compensation jurisdictions;

(b) an assessment of the operation of the current dual model of internal review, Veterans’ Review Board/Administrative Appeals Tribunal, its advantages, costs and disadvantages;

(c) an assessment of the appropriate model for a system of administrative review within a new, single compensation scheme for the Australian Defence Forces and veterans of the future, including compensation claim preparation, evidentiary requirements, facilitation of information provision and the onus of proof;

(d) identification of policy and legislative change required to amend the system at lowest cost and maximum effectiveness; and

(e) an assessment of the adequacy of non-means tested legal aid for veterans, the appropriateness of the current merits test and its administration, and options for more effective assistance to veteran and ex-service claimants by ex-service organisations and the legal industry.

Question agreed to.

AUNG SAN SUU KYI

Senator NETTLE (New South Wales) (9.43 a.m.)—by leave—I move the motion as amended:

That the Senate—

(a) notes that 19 June 2003 marks the 58th birthday of Burmese democratic leader Daw Aung San Suu Kyi, who is under detention in Burma; and

(b) calls upon:

(i) the Burmese regime to immediately release Daw Aung San Suu Kyi and all political prisoners,

(ii) the Government to pressure the Burmese military regime to comply with United Nations General Assembly resolutions,

(iii) the Government to ensure that any projects, including the proposed 3-year humanitarian assistance and
training programs, are suspended until the democratic parliament is convened, and

(iv) the Government to exert economic and diplomatic pressure against Burma until the regime enters into official dialogue with Daw Aung San Suu Kyi as a first step towards restoring democracy.

Question agreed to.

Senator Brown—I ask again that the government’s opposition to that motion be noted.

NOTICES
Postponement
Senator NETTLE (New South Wales) (9.44 a.m.)—by leave—I move:

That general business notice of motion no. 486 standing in her name for today, relating to Australia’s military ties with the United States of America, be postponed till the next day of sitting.

Question agreed to.

BUDGET
Consideration by Legislation Committees
Additional Information
Senator FERRIS (South Australia) (9.45 a.m.)—On behalf of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee, Senator Sandy Macdonald, I present additional information received by the committee relating to hearings on the supplementary budget and additional estimates for 2002-03.

INDUSTRIAL CHEMICALS (NOTIFICATION AND ASSESSMENT) AMENDMENT BILL 2003
AUSTRALIAN FILM COMMISSION AMENDMENT BILL 2003
First Reading

Bills received from the House of Representatives.

Senator ABETZ (Tasmania—Special Minister of State) (9.46 a.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator ABETZ (Tasmania—Special Minister of State) (9.46 a.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

INDUSTRIAL CHEMICALS (NOTIFICATION AND ASSESSMENT) AMENDMENT BILL 2003

The Industrial Chemicals (Notification and Assessment) Amendment Bill 2003 makes a number of changes to the Industrial Chemicals (Notification and Assessment) Act 1989 (the Act). The Act establishes a system of notification and assessment of industrial chemicals to protect health, safety and the environment and to provide for registration of certain persons proposing to introduce industrial chemicals.

The proposed changes relate to the commercial evaluation permit system and company registration.

The commercial evaluation permit system allows the chemical industry to introduce new and innovative industrial chemicals to Australia, for the purpose of commercial evaluation. The provisions under the Act allowing this faster and less costly pathway to introduce new chemicals were first introduced in 1992.
The commercial evaluation permit allows companies to introduce new industrial chemicals at a specified volume and over a defined time. Companies provide information about the chemical and the commercial evaluation process to the National Industrial Chemicals Notification and Assessment Scheme (NICNAS). NICNAS conducts a health and environmental risk assessment and establishes conditions for safe use of the chemical under the permit. The NICNAS Director can refuse to grant a permit if not convinced that the volumes are needed for commercial evaluation. In addition, there are penalties for companies that contravene the permit conditions.

The change to the commercial evaluation permit system is to increase the volume of chemical from the current maximum of 2000 kilograms to a new maximum of 4000 kilograms, to be introduced over the existing maximum time period of two years. A volume change was considered following informal representation from chemical companies, and formal representation from industry members of the NICNAS Industry Government Consultative Committee to NICNAS in July 1999. The chemical industry maintained that the volume limit of 2000 kilograms was too low and that not all industry sectors could access this fast track mechanism to bring in new and innovative chemicals. The alternative mechanisms under NICNAS have longer assessment times and fees and require more industry resources and chemical data. Consequently, Australia was missing out on some new and innovative chemicals and technology.

The NICNAS Industry Government Consultative Committee endorsed reform of the category to meet the changing needs of the chemical industry, starting with a survey of industry practices concerning the use of the commercial evaluation permit system. A strong prerequisite for the reform was that worker and public health and environmental standards were not to be compromised.

The survey of industry practices confirmed that an increase in the volume of chemical available under the commercial evaluation permit was needed, with twenty-eight percent (28%) of those surveyed indicating that the current maximum of 2000 kilograms is too low to complete the process of commercial evaluation. NICNAS analysed the data and concluded that an increase in volume under permit to a maximum of 4000 kilograms would enable industry to access this permit in most circumstances.

In moving to the higher volume, there are additional responsibilities for NICNAS and industry in maintaining community standards for chemicals introduction. Applicants are to provide a summary of health and environmental effects of the chemical for NICNAS to use in the risk assessment. NICNAS is to upgrade its guidance on the use of the commercial evaluation permit system. In addition, it is introducing a raft of administrative changes to help ensure that companies understand and comply with permit conditions, including the requirement that they report back to NICNAS on any adverse effects experienced during the commercial evaluation, and the success or otherwise of the commercial evaluation process. NICNAS is to compile this information and provide feedback to the public.

These changes are not expected to lead to a change in the NICNAS assessment fee.

The changes made to the company registration provisions in the Act were developed in response to an independent review conducted in 2000 in relation to the company registration program. These aim to streamline administration, deliver reform and enhance regulatory compliance.

One area of change relates to the renewal of registration, with the aim of encouraging timely renewals. The company registration year runs from 1 September to 31 August in the following year. Currently a registered company has to renew its registration with NICNAS by 1 August, 30 days before the registration actually expires. Since the inception of the company registration scheme in 1997, the compliance rate with this renewal date has been persistently low (around 50% each year), and this is despite vast administrative improvements to enable a smoother renewal process. Furthermore, an average of 10 per cent of the registrants failed to renew by the start of the new registration year. NICNAS has had to allocate significant resources to pursue outstanding renewals, and this has added substantially to compliance costs. Although an urgent handling fee is in place, it is not mandatory and cannot be used as a means to encourage compliance.
One reason for the large number of late renewals is the renewal deadline itself. Feedback shows that an early renewal date has caused confusion among industry. Companies cannot understand a renewal deadline which precedes expiry of registration by a month, since most other licences and registrations have up until the expiry date for renewal. The second reason is that some companies take the view that payment will only take place on final demand knowing NICNAS cannot apply late fees under the Act.

To address these issues, this bill will align the deadline for the renewal of registration with the expiry date of registration, i.e. 31 August. The bill will also abolish the urgent handling fee and put in place a late renewal penalty for renewals received after this date. Any compliance costs in pursuing late renewals will be shifted to the late registrants.

If a company has not renewed its registration by 31 August for the following year, its registration lapses until the application fee, the registration charge for renewal and the late renewal penalty have been paid, whereupon the registration is deemed to have been re-instated from the beginning of the registration year. A company runs the risk of committing an offence if it introduces relevant industrial chemicals without a registration being in force, and where charges have been laid against the company for such an offence, the company is precluded from paying the applicable fees and charges to retrospectively re-instate its registration to avoid the offence.

Parallel to these changes, the bill also specifies 31 August as the date by which a registered company has to notify NICNAS if, for any reason, it is not renewing its registration for the next registration year. Currently no deadline is specified for such notification, and when a renewal is not received by 31 August, NICNAS cannot tell if the renewal is late or registration is no longer required.

Measures are taken to ensure the late renewal penalty is viable. This bill stipulates that if a company is registered for one year and seeks registration in the following year, that registration in the following year is treated as a renewal and not as a new registration. This is to prevent companies from using new registrations to avoid the late renewal penalty when their renewals are late.

The other area of change relates to the fee setting mechanism for company registration. Currently company registration fees and charges are prescribed in the Act. This is an exception rather than a rule as all other NICNAS fees and charges are placed in regulations. This has resulted in an inflexible fee system which cannot readily respond to cost recovery needs. This bill moves company registration fees and charges out of the Act. They will become part of the regulations and will allow for the application of consumer price indexation. Any changes to fees and charges will require due consultation and Ministerial approval.

In summary, the changes proposed in this bill are aimed at streamlining administration and delivering reform to the NICNAS scheme. The change in maximum chemical volume allowable under the commercial evaluation permit will enable the faster introduction of new and innovative chemicals and technology, while retaining safeguards to protect human health and the environment. The combined measures taken for company registration will encourage timely renewals and strengthen regulatory compliance. They will improve the collection of cost recovery revenues for the health and safety and environmental regulation of industrial chemicals in Australia.

AUSTRALIAN FILM COMMISSION AMENDMENT BILL 2003

The purpose of the Amendment Bill is to facilitate the integration of two major cultural agencies in accordance with the Government’s announcement in the 2003-04 Budget. Following recommendations from the review of cultural agencies within the Communications, Information Technology and the Arts portfolio, the Government has decided that ScreenSound Australia—the National Screen and Sound Archive and the Australian Film Commission (AFC), should be integrated into a single statutory agency. In taking this decision the Government has taken into account the implications for the cultural objectives of the agencies, the need for appropriate governance arrangements and relationships with key stakeholders. Accordingly, the Government considers that integrating the AFC and ScreenSound Australia, a current program of the De-
partment of Communications, Information Technology and the Arts, will provide real benefits and opportunities for both organisations.

The AFC is the Commonwealth’s primary agency for supporting film, television and interactive media production and distribution and their creators. The AFC also supports activities and events that provide the wider Australian community, including regional Australians, with access to Australian audiovisual product. ScreenSound Australia is the national institution responsible for preserving, documenting and interpreting the Australian experience in audiovisual media.

The proposed amendments will, for the first time, give clear recognition in Commonwealth legislation to the important work of collecting and preserving the nation’s sound and visual heritage. Specifically, the amendments will articulate a broader cultural role for the AFC by conferring on it express functions and powers in relation to the development, maintenance and exhibition of a collection of film and/or sound recordings, supporting documentation such as scripts and artefacts such as original film posters.

This bill amends the Australian Film Commission Act 1975 to enable the transfer of administrative responsibility for ScreenSound Australia to the AFC. It will ensure that the AFC has the functions and powers that will enable it to properly manage, maintain and exhibit the national screen and sound collection and it facilitates the transfer of relevant Commonwealth assets, liabilities, contractual rights and obligations, and records to the AFC. ScreenSound Australia staff are currently employed under the Public Service Act 1999. To ensure no disadvantage to staff, the bill also provides the AFC with the power to employ staff under the Public Service Act. This bill establishes a Chief Executive Officer position within the AFC to support these arrangements.

The synergies created by combining the resources of ScreenSound Australia and the AFC will expand the scope and focus of national screen culture activities and enhance co-ordination. Links between Australian audiovisual heritage resources and the broader sound, film and television industry will be improved as will educational and exhibition activities. Combining ScreenSound’s extensive collection of screen and sound material with the AFC’s ability to support national exhibition programs will ensure that more Australians than ever, particularly in regional areas, are able to enjoy the unique audiovisual resources in ScreenSound’s collection. The combined agency will therefore be in a stronger position to provide national leadership in enhancing access to, and understanding of, audiovisual culture.

Debate (on motion by Senator Mackay) adjourned.

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

Ordered that the resumption of the debate on the Australian Film Commission Amendment Bill 2003 be made an order of the day for a later hour.

**BUDGET**

**Consideration by Legislation Committees Reports**

**Senator FERRIS** (South Australia) (9.48 a.m.)—Pursuant to order and at the request of the chairs of the respective committees, I present reports from all legislation committees except the Economics Legislation Committee and the Rural and Regional Affairs and Transport Legislation Committee in respect of 2003-04 budget estimates, together with the Hansard record of all proceedings and documents presented to committee.

Ordered that the reports be printed.

**WORKPLACE RELATIONS AMENDMENT (PROTECTING THE LOW PAID) BILL 2003**

**Report of Employment, Workplace Relations and Education Legislation Committee**

**Senator FERRIS** (South Australia) (9.48 a.m.)—On behalf of the Chair of the Employment, Workplace Relations and Education Legislation Committee, Senator Tierney, I present the report of the committee on the Workplace Relations Amendment (Protecting
the Low Paid) Bill 2003, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2]

In Committee

Consideration resumed from 18 June.

The CHAIRMAN—The question is that government amendments (10) to (12) on sheet RA231 be agreed to.

Senator BROWN (Tasmania) (9.50 a.m.)—Could I ask that the government outlines again the amendments we are dealing with?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.50 a.m.)—These amendments that I moved yesterday relate to the role of prescribed authorities. It was stated that it was unnecessary to prescribe three-year terms for the prescribed authorities because of the sunset clause. The provision that required that ministers keep a list of those persons who had consented to being appointed as prescribed authorities and that outlined the procedure for removing a person’s name from that list is to be removed as a result of these amendments. This is because such an administratively complex scheme is inappropriate for legislation that will cease to have effect in three years. Finally, the provision that sets out how prescribed authorities are to be remunerated is unnecessary because the Remuneration Tribunal Act 1973 will provide a basis for ensuring that a person acting as either an issuing or prescribed authority under the bill will be appropriately remunerated. These provisions are really somewhat mechanical due to the effect of the sunset clause. That was basically the reason for government amendments (10) to (12).

Senator BROWN (Tasmania) (9.52 a.m.)—The minister might enlighten us as to how many of these prescribed authorities, the faceless judges—or ex-judges—as we established yesterday, there are in Australia. In other words, how big a pool is the government looking at here? What indications do the government have that there are retired judges who are prepared to take part in a process which suspends all the norms of the legal rights of Australian citizens? For example, how many of these judges are there in the Northern Territory or Tasmania?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.53 a.m.)—I will just clarify a couple of things that Senator Brown said there. First, we are not transgressing, as he outlined, the norms of the rights of individuals. We are approaching a very serious issue and ensuring that there is a balance between the need for security and protecting the rights of the individual. The other issue is that this applies to both former judges and to current judges. That needs to be spelt out. As for the number involved, we can certainly find out the number of serving judges and I will take that on notice. The number who have retired might take a little longer to find out, but I will take that on notice and get back to the committee.

Senator BROWN (Tasmania) (9.54 a.m.)—The second part of my question is: has the government done a survey to give it any indication of how many judges would be prepared to take part in a process which does suspend rights, such as habeas corpus, which are built into the legal system in Australia and have been since Australia became a nation? Has there been a survey of the judges who would be prepared to take part in such a process? I suspect not all of them would be prepared to do that. In fact, I suspect a good
many of them wouldn’t; it would be an affront to their sense of justice and fair play.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.54 a.m.)—In respect of previous legislation that dealt with search warrants and who should issue a search warrant or whatever the warrant was, surveys were not sent out to judges, magistrates or whoever the officers were asking whether they would be willing to do that. I am not aware of a market survey of that sort being done. In this case it has been widely known that we are looking at prescribed authorities and who would fit that bill. To my knowledge, we have had no reaction from the judiciary or from former judges saying that they are not going to serve or that they are not willing to serve. I am aware of no such reaction. I think it is inappropriate to survey people before you have legislation in place. It is certainly not something that we have done in the past and I do not see it as appropriate in this case.

Senator BROWN (Tasmania) (9.55 a.m.)—Let me reinterpret that: not one judge in the country has indicated to the government that they are prepared to serve in this process—not one. That is very interesting indeed. It is interesting also that no assessment has been made and presumably there has been no approach to the judges, ‘fraternal and sisternal’, to see whether anybody out there is prepared to take part in this process. I will say this because it is logical: you will have a body of judges who are the pool from which will be drawn those who are prepared, in a faceless and secret capacity, to watch over a process which removes the rights of innocent Australians. Innocent Australians do not end up in courts but in this case they will end up in this secret star chamber and they will be interrogated by unqualified ASIO officers, in terms of the law, without their legal representatives being present under many of the circumstances in which this legislation can be applied. The judges who do not like this dramatic removal of the rights of citizens will not take part in the process and they will be eliminated, but those who believe that it is okay will be left on the list. They are the very people who will not ensure that the rights of citizens are protected from, to quote what the minister said yesterday, ‘cruel and unusual treatment’ under this procedure. They are going to be the ones who are self-selected into this process. Do you see what I mean? It is a very dangerous process. There is no requirement here that judges will take part in this activity or that they will sit in turn, rostered, at the bench because there is no bench there. Judges who do not mind presiding over a secret arena where people’s rights are suspended will be self-selected. They will become the ones who function as the prescribed authority. It is a process which is invidious to say the least.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.58 a.m.)—I am compelled to comment, and particularly for the record, that if Senator Brown is saying that the judges who are more willing to participate in this exercise are those who do not want to participate are more likely to protect the rights of the individual, and those who do not want to participate are more likely to transgress or not protect the rights of the individual, the government finds that offensive and it is an unfair reflection on the judiciary of this country.

Senator BROWN (Tasmania) (9.59 a.m.)—That is exactly what I am saying. Judges are human beings. If the government finds that offensive, it is getting to see why the Greens find this whole process offensive. There are many examples in not too distant history of exactly this process taking place, where the establishment of a police state left some people, a minority of the judiciary, in place simply because they did not mind tak-
ing part in police state operations. We of course are talking about no individuals in particular at all. I am saying the process here is corrupt and corrupting, and it reaches right into the judiciary. It is aimed at a process which is going to self-select judges who do not mind what is going on here, who do not mind citizens having their rights and privileges ripped away—innocent citizens brought into an interrogation process in secret, with all their protections removed and without even a lawyer there. These are judges who are asked, by the way, to adjudicate on whether this person—this citizen who has been hauled off the street, who is known to be innocent but whom ASIO wants information out of, and who says, ‘I want my lawyer’—should have the lawyer of their choice.

Guess the process. No, do not guess it; we dealt with it yesterday. The process is that this judge who is prepared to take part in the process begins at that stage by hearing evidence as to whether or not the lawyer should be allowed to take part in the process. Evidence from whom? What balance of evidence does this judge get? None at all. He or she simply hears from ASIO as to why this lawyer, who does not know that the process about him or her is taking place, should not be allowed into the secret court to defend this innocent Australian citizen. The lawyer gets knocked out by this faceless judge—it is his or her decision—hearing one side of the story only. No defence is allowed.

Should a lawyer be brought in—should the judge say, ‘Notwithstanding ASIO’s objections, this lawyer is allowed to appear’—the first thing they are going to say is: ‘Why has my client been brought in here off the street? She or he is innocent.’ What happens then? Under this government and Labor Party legislation, the lawyer is refused the right to have that information. You cannot be told why this citizen has been arrested under this Liberal-Labor legislation. What a repugnant situation this is. The minister might say he is offended by my implication that this process will self-select judges. It does not call in a cross-section of judges and it does not roster them; it self-selects. That is an offensive part of this offensive legislation.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (10.03 a.m.)—I want to say something on this issue of the prescribed authority because I do think it is an important issue which warrants some comments before these provisions are voted upon by the committee. The prescribed authority does play a crucial role in the questioning regime because, of course, they are the person before whom questioning must take place. The prescribed authority supervises the questioning and can give a wide range of directions to manage the process.

The opposition is pleased that, despite the bluster of last December from the government about our model for the prescribed authority being unworkable and unconstitutional, the government has now accepted the model. The government wanted lower-level legal officers to supervise questioning. The opposition has insisted upon that regime being supervised by former or current judges—that is, by experienced judicial experts who are independent of ASIO, independent of the government of the day and not vulnerable to political pressure or prime ministerial displeasure. I would commend to the committee the arguments that were presented by Mr Bret Walker SC on behalf of the Law Council of Australia. Mr Walker argued—correctly, in my view—that the prescribed authority ‘must not become engaged on anything which sees them lining up with the institution which is doing the questioning’. He likened the role to that of a chaperone. He said:
... as I understand the role of a chaperone, it is not to run interference on things but, by their simple presence and by the nature of the person, to perhaps instil a sense of propriety that might not otherwise happen … The idea is that if you have got a respectable retired judge … then the chances of the security services misbehaving are hugely reduced, I would have thought. People do tend to behave better when they are in the presence of people whom they cannot control.

I think the evidence also of Dr Stephen Donaghue is worth remembering as we deal with these provisions about the prescribed authority. Dr Donaghue argued, like the Law Council, that a judge would be most suitable in this role. I would like to quote him. He said:

The questioning is not being conducted by the prescribed authority … it is being supervised by them. It seems to be desirable to have someone acting in that position who would … make sure that the process takes place appropriately … I would submit that a sitting Supreme Court judge, or a retired judge of any court, is less likely to be in a position to be pressured by the executive in the way that they exercise that function than an AAT member, who is likely to have had a less distinguished legal career and is likely to be dependent … it is a … safeguard in my view. There are certainly a great many Supreme Court judges or retired judges who would exercise that function very vigorously.

I think the question raised by Senator Brown in relation to the numbers of available judges or retired judges to fulfil the role of the prescribed authority is an important one. I, too, am disappointed that that information cannot be provided to the committee. After all, it is now some time since the good sense of having a senior judicial officer—that argument that was presented by the opposition—was accepted by the government. I think it is reasonable for that information to be provided and I am disappointed that it is not able to be provided as the committee deals with these provisions.

Using a retired judge as a prescribed authority was well received by agencies. It was well received by lawyers and community groups who appeared before the Senate inquiry. I note that the Director-General of ASIO, Mr Richardson, said that he thought using retired judges was well aligned to the current bill. But I thought the point he made that he was supportive of whatever model instilled the greatest community confidence in the regime is also a very important point. I am glad he said that. I am sure other senators would share that sentiment. I think the question of ensuring community confidence in these provisions and new powers is very important.

The opposition is pleased that the government has accepted the model for the prescribed authority that the opposition has argued for for a very long time—a model that, I might say, was pressed by this Senate, insisted on by this Senate, as the most appropriate model for the prescribed authority. It is essential that we have a high level of judicial officer being present as the prescribed authority. I do not believe the original proposal of the government, that this responsibility be handed to magistrates or AAT members willy-nilly, would have instilled an adequate level of community confidence. It is such an important role that these changes, in the view of the opposition, are essential. The opposition is pleased that they have been made.

Senator BROWN (Tasmania) (10.12 a.m.)—The response to that submission from Senator Faulkner is that when you have a corrupt process it corrupts everybody involved. The point I have been making here is that you cannot have a judge presiding over a situation which strips away the time-honoured rights of citizens brought before a court which, for the first time that I know of, is a court where innocents will be effectively interrogated and tried, with their rights suspended and without legal advice. You cannot
have that situation and expect, even in the words of Mr Bret Walker of the Law Council, that the prescribed authority, the judge, must not line up with those doing the interrogation.

The judge is going to have no alternative because this law is going to state that he or she is taking part in a process where the citizen brought before them has their rights suspended in terms of legal representation and a good many other things. They do not have the right to have been charged first; they do not have the right to bring any witnesses in self-defence—extraordinary circumstances. So under those circumstances, any judge, retired or otherwise, who appears in this process is part of a corrupting process as far as our belief in a citizen’s rights under the open law of the Commonwealth of Australia.

According to Senator Faulkner, Dr Donaghue has said that it is important that the prescribed authority be a person like a judge so that they make sure the procedures take place appropriately. Well, they cannot. The very essence of this law is that it is inappropriate if you judge it against the fundamental rights of citizens of Australia. Those rights are removed. The appropriateness of these proceedings falls down at the outset. A prescribed authority judge who takes part in that process is going to be taking part in a process which is totally inappropriate compared to what we know and what we value in our usual courts of law and judicial proceedings.

We get into the area of humbug here, saying, ‘Getting judges involved is going to make this okay.’ It is going to do nothing of the sort. As I said earlier, it will be self-selecting. There will be judges who find this legislation so repugnant that they will not take part in this process. They are the very people who would be most likely to do what they could to defend the interests of an innocent Australian caught up in this process. The judges who do take part in the process and who are even going to be keen on it will be less likely to see a citizen who is brought into that secret chamber for interrogation as having a need for their rights to be looked after.

Question agreed to.

Senator GREIG (Western Australia) (10.16 a.m.)—by leave—I move Democrat amendments (R1) and (R3) on sheet 2923:
(R1) Schedule 1, item 24, page 9 (after line 34), after paragraph (3)(a), insert:
(ab) that there are reasonable grounds for believing that it is likely that the person will commit, is committing or has committed a terrorism offence; and
(R3) Schedule 1, item 24, page 12 (line 21), at the end of subsection (1), add:
; and (d) the issuing authority is satisfied that there are reasonable grounds for believing that it is likely that the person will commit, is committing or has committed a terrorism offence.

The amendments relate to what we argue is the most serious of our range of objections to the legislation—specifically, the issue of suspects versus non-suspects—and they underpin our strongest underlying objection to the legislation. In its present form the bill enables the detention and questioning of any individual citizen—any Australian—whether or not they are suspected of involvement in terrorism. That means that if there is a chance that someone has some information that is useful to ASIO, that person can be detained against their will for interrogation. As we know, there is no right to silence and only a limited right to legal representation. If you do not have the information ASIO is looking for, you will have to prove it—the same kind of double negative we have seen, interestingly, with looking for weapons of mass destruction. If ASIO does not believe
you, it can keep you locked up for at least a week and can continue to interrogate you, and all under the ongoing threat of five years in prison for not cooperating in those circumstances.

This bill will enable the detention of teachers who have had terrorist suspects in their classrooms. It will enable the detention of journalists who have been investigating terrorist offences, people who happen to live next door to a terrorist suspect, or even 16-year-old students who are researching terrorism for school projects. As many have previously noted, this legislation goes much further than that in comparable jurisdictions, particularly the United States, the UK and Canada. It is worth noting, of course, that in those three countries there exists a bill of rights. I seriously doubt whether legislation of this nature within Australia could do what it proposes to do if we had a bill of rights in this country. We Democrats believe that the government must be vigilant in protecting the security of Australians but at the same time it must ensure that antiterrorism measures are properly targeted, and in our view the bill does not do that. Antiterrorism measures should be aimed at terrorists, not law-abiding citizens.

It is worth noting, too, that several members of the Labor Party have spoken very strongly on this very point. In his speech in the second reading debate in the House of Representatives, Mr Melham said:

Terrorist suspects must be identified, hunted down and arrested—but only terrorist suspects. Labor is determined to protect law-abiding Australians from grievous infringements of their rights.

Ms Tanya Plibersek echoed that, observing that in her view the legislation:

... still ignores the fundamental principle that in Australia we do not drag non-suspects in off the street for questioning. Remember that these people are not people who are suspected of crimes; they are people who are suspected of knowing something that might help ASIO.

Regrettably, the Labor opposition does not seem as concerned about this fundamental point now as it did previously, now that the deal has been struck with the government to pass the legislation. I regret that principle appears to have been sacrificed for politics in this case. Even at this 11th hour, I urge the ALP to hold to its previously espoused principles by supporting these amendments. The legislation ought not apply to non-suspects. I comment the amendments to the committee for consideration.

Senator Nettle (New South Wales) (10.21 a.m.)—For the record, the Australian Greens will be supporting these Democrat amendments. I will discuss our reasoning when we get to the next Greens amendment, which deals with the same issue.

Senator Ellison (Western Australia—Minister for Justice and Customs) (10.21 a.m.)—The government opposes these amendments and it does so on the basis that what the Democrats are purporting to do with these amendments is to change the system to a suspect-only regime. That is something which may be applicable in the criminal jurisdiction but, when you are dealing with security, you need to gather intelligence. That can often come from sources who are not suspects but who are associated with suspects in some form or another. You might be dealing with someone who might even have a relationship with a suspect and you need to get that information from the person. You need to ask them questions about what they are doing, because this is an intelligence-gathering exercise—a very serious exercise—in gaining intelligence, which goes to the heart of national security. We have said that throughout this debate and we have made that absolutely clear in the legislation that we have put forward and in relation to other legislation which has been
passed with regard to counter-terrorism measures.

We are about prevention as well as detection. Of course, you can only prevent if you have the necessary intelligence. Security operates on information, on intelligence. Therefore, it is very important that ASIO has the ability to question people who might be able to give information as to another person’s activities. Certainly, if you go to that person concerned, you might not get anywhere in any event with them but, importantly, the mere fact that they are being questioned might raise the alarm in other sectors which are involved in the threat which you are investigating. It is just a fact of dealing with national security that intelligence is essential. In trying to gather that intelligence, you need to be able to question people who are not necessarily suspects. We recognised the issues that brings with it and we have built in safeguards, as we have gone over at length in relation to this debate. We do not resile from the seriousness of this legislation in many respects. It touches on the rights of individuals and the security of the nation—you can really get nothing more serious than that. But we do say that if ASIO are to have the tools they need to do the job in serving the security interests of this country they need the ability to question people who are not necessarily suspects—people who could well be able to give them information which they might not realise is necessarily important but nonetheless is very important to our intelligence agencies. On that basis, the government cannot support these amendments.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (10.24 a.m.)—I do oppose these amendments and I do so on principle. There really is a very important principle involved here. I do not believe that ASIO should become a secret police force. The Labor Party has never believed that and I would hope this parliament would never accept amendments that would move that agency in that direction. That is, of course, the impact of these amendments that we are considering. I am sure that the Australian Democrats and the Australian Greens would be dead against making ASIO a secret police force. The truth is, if these amendments were to be carried, we would have taken a bigger step towards that eventuality—making ASIO a secret police force—than almost anything else the government has suggested from the earliest days of March last year.

I accept that the intention of these amendments is good. I absolutely accept that they are well motivated. But, despite what I think are the best of intentions, the amendments will not make this regime safer for the community or our democracy. In fact, they would confuse the role of ASIO and make ASIO take a very police-like approach to any information it receives about terrorist activity. It would confuse the roles of and the relationship between ASIO and the Australian Federal Police. It is essential that we in this committee understand the different roles of ASIO and the AFP. Police handle criminal matters and are part of the criminal justice system whereas ASIO deals with intelligence and does not collect information for the purposes of prosecutions or law enforcement.

This bill is not about obtaining prosecutions; that may happen through other processes. This bill is about—and, indeed, what ASIO should be about, specifically in relation to this bill—collecting intelligence to ensure public safety from terrorists. If these amendments were to become law, ASIO would have to undertake what is squarely a policing function. They would have to compile evidence and determine if someone was a suspect before they could request the issue of a questioning warrant. That initial assessment is the job of police professionals, not intelligence officers. The fact is that the per-
son being questioned may not even know the quality or the significance of the information that they possess. That is what we are dealing with.

The amendments would mean that ASIO could not question people who may know some critical information but are not necessarily suspects. That is the issue and that is the problem with the amendments. But having said that, it is also true to say, with any piece of legislation like this that deals with suspects and non-suspects—at least in the case of adults; those over the age of 18 years—that, because it might deal with non-suspects and because non-suspects may be questioned by ASIO, you have to ensure there are more than adequate safeguards and protections in place. I absolutely accept that principle, and that is certainly what the Senate and the Committee of the Whole have tried to achieve. But I think that when we look at all these amendments we have an absolute responsibility not to turn ASIO into a secret police force. That would be the worst possible outcome. I do not say that is an intended consequence of the amendments before the chair. I accept the good intention of the amendments and I accept the good motivation of the amendments but it is absolutely essential that this parliament always has uppermost in its mind the distinction that I am drawing. For those reasons the opposition would never countenance passing such amendments.

Senator BROWN (Tasmania) (10.31 a.m.)—What a parcel of poppycock! Let me reverse the patronising that comes out of what Senator Faulkner just said, the well-meaning but pie-eyed nonsense coming from the Labor Party, which has got into bed with the government on this legislation. Senator Faulkner says, ‘The police are there to arrest terrorists and terrorist suspects; this legislation is about dealing with those citizens who are non-suspects.’ Please tell that to somebody else. If you follow the logic of what Senator Faulkner is saying, then we have a piece of legislation here which turns ASIO into a force which is able to arrest and the logic is that you would end up with a force that is able to arrest and question only people who are not suspected of doing anything. That, to me, is the ultimate definition of a secret police force, with a police state being brought in. With this legislation there is no blurring. There is a seamless transition here which allows ASIO to question both those who are considered to be planning terrorist attacks and those who have nothing whatever to do with it who innocently happen to have some information. That is the whole problem with this legislation. That is why these amendments from the Democrats and Senator Nettle’s amendment on behalf of the Australian Greens are so essential. They are trying to curb ASIO from the open slather which is enabled under this legislation for them to go and arrest people whom they think might have information.

Let me get back to basics. This wonderful country of ours is not a police state, and there is nothing to prevent ASIO from going up to people and saying, ‘Look, we think you might have some information. Would you please give us that information?’ and the average Australian—I am certainly in this category—is going to say, ‘Yes, I would.’ ASIO can do that any day of the week, and anybody else can go and gather information from people by asking them. No, that is not what this legislation is about. This legislation is about those people who say no or who it is thought might say no or who might tell others that they have been questioned by an ASIO operative. This is very much about coercing people who are suspected of not being willing to give information into giving up that information. That is where the problem is.
The government and the Labor Party say it is all right to get innocent people in and have them put into this secret court with their rights removed and extract information from them on the basis that if they do not give it they will go to jail for up to five years. We are saying that if you have people who are engaging in terrorist activities that may well be okay, but when it comes to innocent Australians if you are going to put them in that process give them their legal rights. Labor says take away their legal rights, the government says take away their legal rights and, moreover, both parties say, ‘Let us remove this whole process out of the public domain and put it into a secret court system.’ Senator Faulkner says, ‘Labor’s arguing here that the police are there to deal with criminals. Basically, the thrust of this very law is to get at non-suspects’—innocent people—so he sees the thrust of this law as having secret courts for innocent Australians. What an extraordinary inversion of everything I thought Labor stood for! I can certainly understand the Howard government heading in this direction—it always has done—but when Labor gets in the saddle with it you have to wonder what the role of this parliament of ours is in defending people where this abrogation of their rights is concerned.

It is a very fancy concoction that Senator Faulkner came up with: let us have this secret police system, effectively, deal with innocent Australians—non-suspects. When he thinks about that he will realise that he has in fact outlined what is so wrong with this process. There is no line drawn here. There is nothing in this legislation which says ASIO can only get a warrant out on citizens under suspicion if this work has been done. It allows ASIO to get a warrant out on people who are non-suspects who may have information. They are not suspected of doing anything wrong; they have information which might be to do with other people who potentially are doing the wrong thing. It is very precious indeed of the Labor Party to join with the government to say, ‘The Greens and the Democrats have got it wrong,’ and that they want to protect those innocent citizens. The very thrust of this legislation is to grab those innocent citizens of Australia, remove their rights and put them into this secret court system. Tell that to somebody else.

Senator NETTLE (New South Wales) (10.37 a.m.)—These amendments and the following amendment by the Greens really do go to the core and the heart of what is wrong and what is rotten about this legislation. This legislation is far more draconian than what we have seen in other Western democracies. It is the sort of legislation that the CIA and MI5 would love to be able to enact, because this legislation deals with giving ASIO the power to lock up—for a week—innocent people. That is something that MI5 and the CIA would love to be able to do, but their governments, George W. Bush and Tony Blair, have said, ‘No, that is not acceptable; we’re not prepared to let those civil liberties go.’ But the Howard government and the Australian Labor Party have said, ‘No worries; bring it on. Innocent people—lock them up, we don’t care, that’s okay.’

That is not the sort of Australia that we want to be living in. That is not the sort of Australia that the Greens think is acceptable, and that is not the sort of Australia that I believe the majority of Australians want to be a part of. That is not the free and democratic society that people have fought world wars for and that people have argued for long and hard in the streets, campaigning for civil rights, liberties and political freedoms in this country. It is not to allow innocent citizens to be locked up and interrogated by ASIO for a week that those people for decades, for centuries even, in this country have been fighting for their freedoms and their democracies.
here. These amendments are the very core of this legislation, and of what is fundamentally wrong with the secret deal done by the government and the Labor Party—I will not call them the opposition I will call them the Labor Party, because we are not seeing opposition from the Australian Labor Party on this bill. This is a secret deal done by the government and the Labor Party to allow this country to have a secret police force.

Let us have a look at the international comparison—the overseas comparison. Let us have a look at the PATRIOT Act which was introduced into the United States. I would like to read from an article which appeared earlier this week in the *Washington Times*: ‘PATRIOT Act of 2001 casts wide net’. This is an article that looks at the impact of the PATRIOT Act in the United States—George Bush’s response to September 11 in terms of antiterrorism legislation. What has been the impact of that legislation since it came in in 2001? The Justice Department in the United States has done a report about the impact of that legislation. The article says:

Long-sought details have begun to emerge from the Justice Department on how anti-terror provisions in the USA PATRIOT Act were applied in nonterror investigations ...

What we are seeing here—and I will expand on this—is how the PATRIOT Act is being used, not for terrorists but for other people who are caught up in the net of the PATRIOT Act. To put that back in context, let us remember that what we are doing here, what the Labor Party and the government are proposing here, is the putting together of a bill that goes far wider than the PATRIOT Act in being able to bring in, detain and interrogate innocent people. You cannot do that under the PATRIOT Act. But the Labor Party and the government here think that is okay for Australia. The article in the *Washington Times* continues:

Overall, the policy now allows evidence to be used for prosecuting common criminals even when obtained under extraordinary anti-terrorism powers and information-sharing between intelligence agencies and the FBI. Senator Faulkner talks about wanting to ensure that the intention of this legislation is not about securing criminal prosecutions. That is the same argument that we saw in relation to the PATRIOT Act. Two years on, the report by the United States Justice Department tells us that that is exactly what is happening.

There are other examples. The Internal Security Act in Malaysia was introduced to allow people to have access to a lawyer—something that this government did not do when they introduced this piece of legislation—and the argument put forward at the time was that the Internal Security Act in Malaysia was about armed communist guerrillas. That was the argument put forward by the Malaysian government at the time to say that they needed that internal security legislation. Several years since the introduction of that legislation we are still seeing in Malaysia hundreds of people being detained under this legislation—and they are not armed communist guerrillas. In fact, I do not know of any armed communist guerrillas that have been caught in the Malaysian Internal Security Act. The people who are held now in the prisons of Malaysia under this legislation are the trade unionists, the civil libertarians, the political activists and the student activists who have worked on campaigns here in Australia and are now back in Malaysia. They are the people who have been caught by the Internal Security Act in Malaysia. And now we are hearing that in the United States under the PATRIOT Act exactly the same thing happens.

It actually does not matter what arguments the government brings up in this parliament now about who they intend to catch with this
legislation. The record, the clear facts of what happens with this style of legislation around the world, is that it is not used for those people whom, the government is arguing to us now, it wants to catch. It is not used for the terrorists. This sort of legislation, when introduced—and it does not matter where; it could be Western democracies like the United States—is used to catch people far outside the net. It is those people that the Labor Party purports to represent—the trade unionists, the progressive activists and the campaigners—who get caught up by this style of legislation. In those countries, you cannot lock up innocent people. This government and the Labor Party are proposing to be able to extend that power. We have not seen in overseas comparisons that ability to lock up innocent people.

Let us go back to what we are seeing in the United States. Key objections are about authorising FBI agents to monitor mosques. We have had a lot of discussion about what is going to be the impact of this particular legislation on the Islamic community. Senator Brown and I have read into the public record several times comments from the Islamic community about how this legislation is going to impact on them. I would like to read some comments from a civil liberties union in the United States. The American Civil Liberties Union said:

It’s clear that the problems of 9-11 were the result of not analysing information we had already collected. Creating more hay to search through the haystack is not an effective way to find the needle.

This is the message from the United States about the problems with the approach that they have taken to gather more information. It does not help us. There is no way that we can say that is how we are going to solve terrorism in this country or that is how we are going to solve terrorism around the world. It is not by bringing together more information and it is not by infringing on the civil liberties and political rights of innocent citizens around the world that we are going to solve terrorism. The Australian Greens have talked on many occasions in this chamber about the need to deal with the root causes of terrorism rather than the symptoms—that is, poverty and inequality, which this government does not speak up about in the international arena. I will not go into the discussion now, but let us just be reminded that gathering more information from innocent civilians is not what we need to do to get rid of terrorism in this country or anywhere else around the world.

Some of the objections that are being raised in the United States to the PATRIOT Act are not coming from outspoken civil liberties groups such as I quoted earlier; they are coming from Republican senators who are raising these doubts, these questions and these concerns about the implementation of the PATRIOT Act. They have been some of the strongest voices that have forced the Justice Department review, two years on after the PATRIOT Act, to have a look at who is being impacted on by this legislation. I quote again from the article:

... recent revelations showed that information gathered under the law—by secret warrant or compulsory disclosures—will be used for nonterrorist prosecutions as well.

Among other things the DOJ revealed that it obtained 113 secret emergency search or electronic-surveillance authorizations in the year after September 11, compared with 47 in the 23 years before that attack. The law lowered the standard for such intrusions from terrorism being ‘the purpose’ to being only ‘a significant purpose’.

Rather than this legislation ensuring that the surveillance and searches were focused on terrorism after September 11—with that dramatic increase to 113 searches in the year after September 11 compared with 47 in the
previous 23 years—terrorism has been wa-tered down, from being the main purpose to being just a significant purpose. That is what we are seeing with the impact of the Patriot Act. I think it is important that we remind senators here today that, in relation to the legislation they are proposing to enact in this parliament, the record overseas shows us that it is not being used to catch terrorists. The net is being thrown far wider, and it is the innocent people—the progressive trade unionists and social activists—who will get caught up in this legislation.

One of the things we were talking about yesterday was the fact that this legislation requires the prescribed authority to make determinations based on information provided to them by ASIO. In the United States, only one of the 15 requests to seize material without notifying the owners was refused. I do not know the figures—but I wonder, when ASIO requests the ability to go in to carry out a search and gather information, how many times the prescribed authority would say, ‘No, actually I do not think that is appropriate,’ when all they have before them is an argument by ASIO? I would be interested to know that information, if the Minister could enlighten us.

Let us talk a little bit about the community opposition we are seeing to this bill. As I mentioned, we are not seeing that from the so-called opposition in this chamber; instead we are seeing it from the community. I would like to quote from Steve Mark, who is from the International Commission of Jurists (Australian Section), when he appeared on the Insight program last week. Amongst the many comments that Mr Mark made on that forum, in describing the legislation he said:

What this does is allows not only for the ‘terror-ist’ or the suspected terrorist to be put in detention to be questioned, not arrested, and that’s exactly right and a very important point, these people are not arrested. It’s a tenant of English law and Australian law that you are not taken in to be questioned without being arrested or charged. This actually does away with that basic tenant of criminal law and what we end up with is a situation where anybody can be taken in that has nothing to do with the terrorist act and may have information. So we have teachers, nurses, doctors, social workers, members of the community that could actually be taken in because of information they might have.

That takes us back to what we are dealing with in these particular amendments. Mr Mark also said:

This legislation cannot be fixed. It must be abolished. The reality is that it deals with individual fundamental freedoms we have and without those freedoms we have a different type of society. It’s going too far.

He continued:

There is plenty of powers that already exist. I don’t think we need legislation at all. What this legislation does is it allows ASIO, as we’ve heard, a non-accountable body to pick people off the streets, theoretically with the help of the police, and put them incommunicado. Their spouses, children won’t know where they are for up to seven days. And even that can be extended.

That is a change to what the government is proposing now. (Time expired)

Senator GREIG (Western Australia) (10.53 a.m.)—If, according to Senator Faulkner, the worst possible outcome of intelligence mechanisms to deal with terrorism were for them to result in legislation that applied only to suspects and not to non-suspects, we would have to argue that the legislation in Canada is the worst possible outcome, we would have to argue that the legislation in Britain is the worst possible outcome and we would have to argue that the legislation in America is the worst possible outcome. If that were the case, you would have to seriously question why every legal organisation and civil liberties group in the country is calling for this parliament to
model our legislation on those overseas jurisdictions and not to progress the legislation that we have before us.

If, according to Senator Faulkner, having the legislation apply only to suspects and not to non-suspects is anathema and something that Labor would never support, I question why Mr Melham and Ms Tanya Plibersek, among others on the Labor back bench, have called for the very amendment that I am moving. No, the worst possible outcome would be to introduce legislation that applied to non-suspects in an environment where we did not have a bill or a charter of rights. The worst possible outcome would be arguing this legislation in that vacuum. I argue that the reason the United States, Britain and Canada cannot have the draconian legislation that is before us is that their citizens are protected by a bill of rights.

The government has confirmed, I believe, that terrorist suspects can be interrogated within the current criminal justice arrangements. Therefore, the main application of this legislation would really be to non-suspects. We are talking about neighbours, journalists, family members, teachers and so on. You would have to ask: why does the government believe that Australians, who clearly are committed to preventing terrorism in our community, would not come forward voluntarily and provide any information they might have to the authorities? If the government proposes to collect intelligence by dragging Australians in off the streets to interrogate them, again, we have to ask why it spent $20 million on a campaign encouraging them to provide information voluntarily.

If Labor’s fear is that the Democrat amendments before us at the moment would see ASIO become a secret police force—an argument I reject—then it stands to reason that the Democrats could rightly expect Labor’s support for our amendments to ensure that individuals detained under the act will be protected not only by use immunity but also by derivative use immunity being attached to the information that they provide. That would truly ensure that, with the legislation before us, ASIO would be an intelligence regime and not a secret police regime. Labor’s hypocrisy on this is galling.

By all means, let us have appropriate legislation to deal with terrorism. In his opening remarks, Minister Ellison described elements of my speech to the second reading debate. He said it was ‘incredulous’ that the Democrats would argue that legislation was not warranted. I never said that. My argument all along has been that appropriate legislation is warranted. The particular fundamental flaws of this legislation—most essentially around its application to non-suspects and the fact that it reverses the onus of proof—ensure that it is unacceptable to the Australian Democrats, unacceptable to credible legal organisations, unacceptable to every civil liberties group in the country and unacceptable to those countries that share comparable jurisdictions. No, the worst possible outcome is the legislation we have before us, and one of things we can do to alleviate that is to support the amendments before us.

Senator NETTLE (New South Wales) (10.57 a.m.)—I want to continue to let the Senate know about the community opposition to this legislation that we have heard. I again refer to the Insight program last week, on which Steve Mark from the International Commission of Jurists said:

We have supposedly a judge, or a retired judge that’s going to be present. Well I’m sorry, but you know, a retired judge or acting judge may not want to fly somewhere for a weekend detention with somebody. I suspect they’re going to have trouble getting their prescribed officers to actually attend. We’ve got a lot of practical problems with the legislation that I think are insurmountable.
And we are dealing with those now. He con-

continued:

But leaving those practical problems aside we

have the philosophical one. We live in a society

where we extol the virtues of a criminal legal

system where we have a law, which actually pro-
tects the individual against the excesses of gov-

derment. That’s what criminal law is all about and

if we start eroding the rights within criminal law,

we lose that differentiation and that means we

have a different type of society and I don’t know

we want to go there.

This comment reflects the opposition in the

community from the International Commis-
sion of Jurists. There is opposition to this

legislation, and it is coming from not only

the sorts of places that we might expect. I

want to inform the Senate of an article that

appeared in the Herald Sun—perhaps not a

newspaper known for its strong progressive

views or its defence of civil liberties—in

Melbourne. Appearing under the headline

‘Law too big for politics’, the article stated:

Before we rush to grant ASIO unprecedented new

powers, let us remember the Guildford Four and

the Birmingham Six.

They were innocent people wrongly accused of

terrorist crimes. The movie In the Name of the

Father told their tale.

The Guildford Four and Birmingham Six were

victims of an overzealous democratic nation’s

backlash against terror. The country was Britain

and the terrorists were the IRA.

But the parallel with Australia and the threat from

Islamist terror today is obvious.

So obvious, we should pause, this week, and

ask—does the Federal Parliament in Canberra

really know what it’s doing, as it contemplates

laws to radically expand the detention and inter-

rogation powers of the nation’s top security or-

ganisations?

The famous cases of the Guildford Four and Bir-

mingham Six involve the unjust imprisonment of

Irish people wrongly accused of plotting with the

IRA.

The miscarriages of justice happened because of

false confessions extracted during the early period

of their detention and interrogation by police.

You think this could never happen here?

Importantly, these abuses happened in a country,

Great Britain, that is not totally alien to Australia

in terms of our culture and legal tradition.

They were massive stuff-ups that were never in-
tended by the UK Parliamentarians who wrote the

laws on detention and interrogation of terror sus-
ppects.

Indeed, until the courts overturned the convic-
tions, most Britons probably believed they never

could have occurred.

Probably the key factor that made these miscar-
riages of justice possible was the climate of terror

induced throughout the UK in the early 1970s by

the IRA’s fierce campaign of carnage against the

civilian population.

God forbid that such a climate should ever hap-

pen here.

But if it did, could the new powers proposed for

ASIO be abused in a similar way?

Everyone agrees that the legislation before Par-

liament now will, if passed, give Australia the

toughest anti-terror regime in the world: tougher

than the United States and the UK.

In that situation, the debate we need to have be-

fore the legislation is passed has to be a debate

that is searching, intelligent and bipartisan.

Are we hearing such a debate from our federal

parliamentarians? Sadly not.

That was from the Herald Sun on Tuesday of

this week.

I think there are serious questions there

that need answering by the government and,
in particular, by the Australian Labor Party,
the so-called opposition in this chamber.

Why do they think it is appropriate that we

should have ‘the toughest anti-terror regime

in the world: tougher than the United States

and the UK’? They are the questions I would

like to hear answered by the minister and by

the Australian Labor Party in particular. Why

do they think it is appropriate that we should
introduce this tough regime that goes far further than overseas comparisons and that has been shown over decades when it has been introduced overseas to be used on innocent people, not on terrorists? Why do they think it is appropriate that we should have such legislation here in Australia? Why do they think it is appropriate to turn Australia into a country where such a law, they believe, should be acceptable?

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (11.04 a.m.)—I will just deal with a couple of issues that are before the committee at the moment. Firstly—and these are matters really for the minister to deal with—the committee may care to examine the detail of the United Kingdom and the Canadian legislation, which set up a regime of offences. But of course the threshold was extremely low. For example, in the United Kingdom it is an offence not to come forward to police with information. That means that, if the United Kingdom police force think you have information but you have not come forward, they can arrest and charge you.

I do think the committee needs to examine whether compulsory questioning regimes—and that is what we have here undoubtedly—are unprecedented in terms of Australian law. The truth is there are other organisations that can by warrant under current Australian law compel witnesses, not suspects, to provide information. That includes the Australian Securities and Investments Commission, the state crime commissions, royal commissions and the National Crime Authority—now of course the Australian Crime Commission. One of the issues for this parliament is this: why should the parliament give ASIC, the Australian Securities and Investments Commission, the power to compel people to provide information about corporate crime, with safeguards of course—and I think they are strong safeguards—and not allow such powers in relation to terrorism?

That is a threshold issue, a fundamental issue, for us to consider when we look at these enhanced powers for ASIO. I have said and will say again that from the outset the opposition has insisted that with enhanced powers to ASIO there must be key safeguards and adequate protections. That of course includes legal representation, a high-level judicial authority as the prescribed authority, a sunset clause, the provision that nothing a person says can be used against them and very strong review mechanisms in the act. They are the sorts of issues and balances that this parliament and this committee have to deal with.

Senator NETTLE (New South Wales) (11.08 a.m.)—Here we see another furphy from Senator Faulkner. I would never doubt Senator Faulkner’s understanding or knowledge of ASIC and the various royal commissions and questioning regimes that we have in this country, but it is a complete furphy to compare legislation allowing the questioning of innocent people with what we are seeing here. Please correct me if I am wrong, Minister Ellison, but nowhere in legislation does ASIC or any royal commission have the power to detain people for seven days for an interrogation and questioning regime. Yes, it is true that they can bring innocent people in and ask them questions and, where those people do not want to come in and answer questions, they can compel them to do so. But in no way should that be compared with what we are discussing here: the ability to detain those people and interrogate them for seven days. If Senator Faulkner is suggesting that we should give those powers to ASIC then he needs to put that proposal to the chamber. But, if that is not the case, it is simply not appropriate—and Senator Faulkner knows it is not appropriate—to compare
the powers of a royal commission or ASIC with what we are seeing in this legislation.

Senator BROWN (Tasmania) (11.10 a.m.)—We are dealing with a secret police operation here, not an operation—as with ASIC and royal commissions—where the full glare of publicity is brought to bear in an open and public democracy. We even saw the opposition go so far yesterday as to move that innocent people caught up in this process would face huge penalties—I think it was five years in jail—for releasing information about what had happened to them and where they had been. You do not find that with ASIC and royal commissions. The opposition was going so far on that matter that it took the government and the crossbench to knock out that amendment. We are dealing with two different things here. One is a secret operation. The other one has the checks and balances of public and media scrutiny.

Let us not forget the problem we have as far as the media is concerned. The amendment before us would protect the media from being caught up in the arrest process by ASIO wanting to get information. Journalists, whose whole business is to discover information and put it in the public domain in our society, are far more vulnerable to this legislation than other citizens. We have all seen the letter from Australian media interests which was sent to us severally on 7 May this year. I ask that that letter be incorporated into Hansard. I know that everybody has it.

Senator Faulkner—Which one is that?

Senator BROWN—The letter which was sent from the media organisations on 7 May this year. I seek leave to have that incorporated in Hansard.

Leave granted.

The document read as follows—
A written statement of procedures to be followed in the exercise of authority under any warrant has been included.

We remain concerned, however, that the Bill maintains provisions imposing a strict liability offence of up to 5 years imprisonment for a person who does not appear for questioning as required by a warrant, and prescribing a jail term of up to 5 years for a person who declines to give information or produce any record or thing as requested.

We hope the Senate will carefully review and modify the above issues.

Notwithstanding the above concerns, there remain two core issues of utmost concern to us:

(i) the burden of proof imposed upon suspected information holders; and

(ii) the conditions under which individuals are held.

These matters present a severe infringement of civil liberties generally. From our perspective, they will directly and adversely affect the work of journalists and our ability to report the news.

Language in the Bill still places the evidentiary burden on a person to prove that they do not have the information or record requested. This reversal of the burden of proof overturns decades of jurisprudence.

The Bill still contains provisions which enable detainees to be held incommunicado; that provide that individuals can be detained without access to legal representatives for up to 48 hours; and that limit the rights of detainees under questioning. It is imperative that we know the whereabouts of our correspondents at all times, and the conditions in which they are operating.

Such compulsory detention and isolation of people (not suspected of any wrongdoing) based merely on the fact that they may be able to provide some information in connection with an investigation of a possible terrorism offence is an extraordinary empowerment of a Government Agency. It represents a significant infringement of human rights not seen before in this country.

Passage of the Bill with these provisions intact will present a significant risk of Government interference in the operation of a free and open media in Australia.

We are not seeking differential treatment for journalists. The issues involved are fundamental to the rights of all individuals in a democracy.

We would like to be in a position to endorse enactment of this very important legislation. Accordingly, we urge that the Senate, when it debates and votes on this Bill, resolve the issues we have raised.

Sincerely,
Bruce Wolpe
Manager, Corporate Affairs
John Fairfax Holdings Limited

Warren Beeby
Group Editorial Manager
News Limited

Phil Williams
Acting Head of Policy
Special Broadcasting Service Corporation

Jack Herman
Executive Secretary
Australian Press Council

Joan Warner
Chief Executive Officer
Commercial Radio Australia Limited

Stephen Collins
Corporate Counsel
Australian Broadcasting Corporation

Julie Flynn CEO
Commercial Television Australia

Senator BROWN—Things have moved on a little since 7 May. I remind the committee that the letter comes from John Fairfax Holdings Ltd, SBS, the ABC, the Australian Press Council, Commercial Radio Australia Ltd, Commercial Television Australia and News Limited. Part of the letter says:
We remain concerned, however, that the Bill maintains provisions imposing a strict liability offence of up to 5 years imprisonment for a person who does not appear for questioning as required by a warrant, and prescribing a jail term of up to 5 years for a person who declines to give information or produce any record or thing as requested.

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It goes on to say:

The Bill still contains provisions which enable detainees to be held incommunicado; that provide that individuals can be detained without access to legal representatives for up to 48 hours ...

Under the Labor agreed amendment to this bill, that becomes seven days. The letter continues:

... and that limit the rights of detainees under questioning. It is imperative that we know the whereabouts of our correspondents at all times, and the conditions in which they are operating.

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... we urge that the Senate, when it debates and votes on this Bill, resolve the issues we have raised.

We are not resolving the issues here. We are having the Labor Party ensure that the prime issues of concern are, indeed, not resolved; they are cemented into this legislation. The Democrats and the Greens are moving here to amend this legislation so that all individuals in the democracy—to quote that letter—including journalists are not caught up in this process, and the opposition comes up with this specious argument that that would create a true secret police organisation. It is extraordinary stuff. Here is the opportunity for the opposition to prevent it becoming a secret organisation that gets at innocent individuals in circumstances such as we have never seen before in Australia, as Senator Nettle just outlined.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.16 a.m.)—I will not touch on things that I have covered before. We have covered well enough the reasons for this legislation and I do not wish to repeat what the government have said. But a number of different issues have been raised that need to be addressed, and I will do so briefly. In relation to the question of international precedence, the government reject any assertion that this legislation is out of step with international precedence. What we say is that, in developing this legislation, consideration has been given to provisions in the United Kingdom, Canada and the United States. The UK Terrorism Act 2000, the Canadian Antiterrorism Act 2001 and this bill all provide that a person may be detained and questioned for up to 48 hours. The UK Terrorism Act 2000 also contains a provision to allow for the further detention of persons for up to seven days in some circumstances. That detention is being considered at the moment in the United Kingdom with a view to extending it to 14 days. This bill is all about gathering intelligence, which we have reiterated time and
time again—that is, intelligence that is needed to deter acts of terrorism.

Of course this bill extends to people who are not suspected of being terrorists or of committing a terrorist act but who may have information that is relevant to the security threat that I mentioned earlier. This bill contains more safeguards than laws in other countries such as the United Kingdom and Canada. It contains a detailed warrant procedure that must be followed before a person can be detained and questioned and the procedure requires the agreement of the Attorney-General and a federal judge, federal magistrate or other authority. In other countries, the warrant procedures are very different. In Canada, a person may be detained for 24 hours before a warrant is sought. In the United Kingdom, a police constable may arrest a person suspected of being a terrorist without a warrant. In the US, the PATRIOT Act 2001 provides that a certified alien—that is, a non-citizen—may be detained for up to seven days if the Attorney-General certifies that the person endangers national security.

The Senate needs to remember that these are provisions in other jurisdictions overseas. In this bill we have a number of safeguards, including the role of the Inspector-General of Intelligence and Security, which I have gone over at length, the role the prescribed authorities play, and the warrant procedure, which I have mentioned. The government reject totally that, firstly, we have ignored overseas precedent in the drafting of this legislation. Secondly, the government reject that in some way overseas legislation in this area affords a greater protection of civil rights in those countries. I have pointed to some aspects of overseas laws that we would argue are more draconian than this bill.

I also want to touch on the area of innocent people. I remind the Greens that according to Australian law all people are innocent until proven guilty—something the Greens are conveniently forgetting. They have two categories of people here: an innocent person and then a suspect. If you are going to be correct in this issue, you should acknowledge that everyone in Australia is innocent of any crime or offence until proven guilty. What they are trying to do in a very misrepresentative way is say that there are two classes of people in Australia—inno

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only on a suspect basis but also for the purposes of intelligence gathering. The NCA, and more particularly the Australian Crime Commission, are about gathering intelligence in the prosecution of organised criminals in this country. There is no provision there for a period of detention of seven days for questioning, but I point out that that legislation has some very powerful provisions that relate to someone who does not answer—they can cop five years jail if they do not answer. If you try to say that you cannot compare that—and the Greens said that to Senator Faulkner when they said that was a furphy—let me just say that five years jail if you do not answer a question is no furphy. We have had that in the criminal law for some time and it has operated satisfactorily in this country for many years with strict safeguards and to the good of the community because of the job the NCA did in fighting organised crime and the job the Australian Crime Commission is doing in fighting organised crime.

What we are about here is deterring terrorism and fighting terrorism. We need the tools to do the business and that is what this is about. However, we also have a balance with that. I reject totally that we are out of step with precedents set overseas or that we are more draconian than the measures overseas. There are differences overseas which the Greens have not pointed to and they choose to ignore our provisions in relation to the criminal law and the point that Senator Faulkner made, and which I am making, in relation to the ACC.

When the Greens attack this legislation and try to say that it is an attack on innocent people, they have to remember that everyone in this community is innocent until proven guilty. This encompasses an exercise which may be directed at a person suspected of being a terrorist or a person who, although not suspected of being a terrorist, may have essential information which could lead to detecting or deterring terrorism.

Senator BROWN (Tasmania) (11.25 a.m.)—What an extraordinary intervention that was. The minister said that the Greens and the Democrats are trying to create two classes of people—the innocent and the suspect. The government and the opposition do not want two classes of people; they want all Australians to be suspects. That is what this legislation is about. Every Australian will become a suspect to this faceless ASIO and can potentially be brought before this faceless judge to be interrogated by this unqualified ASIO operative without legal representation. That is the problem. Surely the minister and the Labor Party can see that. That is the definition of a police state; all citizens are suspects. We believe in a democracy where all citizens are innocent and have their rights defended.

To develop the extraordinary admission that that is what the government is about, seeing everybody as suspects, it is clear that the age of fear is here. The Prime Minister, the Rt Hon. John Howard—and now the opposition has joined in—sees 20 million Australians as suspects. But to alleviate the need to explain this, because that ends up being impossible in a democracy, the minister cites the extravagances or incursions on freedoms that are occurring in other democracies. Senator Nettle gave a very good exposition as to why we should not be supporting this legislation. What is happening here is a process of leapfrogging.

Look at what has been happening in similar jurisdictions—and New Zealand has not been mentioned here. Behind this is a weight of legal representation from our secrecy and intelligence organisations which says, ‘Look what they’ve done in Britain.’ Forget about the Guildford Four and the Birmingham Six. They say we should look at what they did in
Britain and what they are contemplating. Let us forget that there is a court process in Canada. At least it is in the open there and is not subterranean like this legislation. They say, ‘If they can do it in court over there, let’s make it underground here.’ They say we should look at what they are doing to aliens in the United States and that that justifies us going some way towards that for all citizens in Australia.

I have not heard the opposition advocating the New South Wales arrangement. That is a Labor jurisdiction under the Carr government in New South Wales which has brought in the most extraordinary abrogation of civil rights we have seen in this country yet—the ability to hold people without a warrant and strip searches which involve children. In some ways that is election fodder. Fear is in the air and politicians can capitalise on fear. The government is now saying here today in defence of this legislation that every citizen should fear that they are a suspect. That is what is written into the minister’s words. The government is saying, ‘Let’s go one step further than other comparable democracies elsewhere in the world.’ We will leapfrog them and no doubt the intelligence agencies here will immediately signal this to their counterparts in the United States and Britain. They will be saying, ‘Now we’ve got away with this and our political representatives in the Australian parliament allowed us to go much further than your legislation, you can justify that when arguing in congress, in the House of Commons or in the legislature in Ottawa for going one step further still.’ It is a dangerous process. There are increasing voices—unfortunately, most of them are extraparliamentary—against what is happening here. That is why we are taking such a strong stand on it here today in Australia. Not only does it affect 20 million Australians—it is inimical to them—but it potentially has a flow-on effect internationally, and we are very well aware of that.

**Senator GREIG (Western Australia)** (11.30 a.m.)—Let us not forget that, in terms of questioning of detainees by ASIO, the onus of proof is reversed. So, contrary to the claim of the minister that all Australians are innocent until proven guilty, under this legislation you are effectively guilty until proven innocent—or at least guilty until you cannot prove anything, because it is up to the person being questioned to prove that they do not have the information that ASIO says they have. This is much like the bizarre situation where it was up to Saddam Hussein and/or his regime to prove that they did not have the weapons of mass destruction that America and others said they had.

That is one of the key fundamental objections by the Democrats to the legislation. The reversal of the onus of proof is a fundamental undermining and overturning of long-held established legal principles. So it is not true to say that all Australians are innocent until proven guilty because this legislation challenges that. This legislation questions that, and it flips over our legal understanding of citizenry and their being brought before questioning authorities.

If, as Labor says, we must take steps to ensure that ASIO does not and cannot become a secret police force then it is essential that, amongst other things, the onus of proof for detainees is not reversed. As I understand it, Labor has an amendment to address that, which is commendable. However, as Senator Faulkner made very clear in his speech in the second reading debate on this legislation, if the government were to oppose any opposition amendment that they present in this debate, Labor will not insist on it. So it is another example of the tokenistic response that Labor has to this debate the second time around. It is not the case that Australians are
innocent until proven guilty under this legislation. That is why so many Australians are alarmed by it.

Question negatived.

Senator NETTLE (New South Wales) (11.32 a.m.)—by leave—I move Australian Greens amendments (1) and (2) from sheet 2957 together:

(1) Schedule 1, item 24, page 9 (after line 19), after subsection 34C(1A), insert:

(1B) To avoid doubt, the Director-General must not seek the Minister’s consent to request the issue of a warrant under section 34D in relation to a person and the Minister must not consent to a request for the issue of a warrant under section 34D in relation to a person unless both the Director-General and the Minister are satisfied:

(a) on reasonable grounds that it is likely that the person will commit, is committing or has committed a terrorism offence; and

(b) the person is to be charged with a terrorism offence.

(2) Schedule 1, item 24, page 12 (after line 7), before subsection (1), insert:

(1A) To avoid doubt, the issuing authority must not issue a warrant under this section relating to a person unless the issuing authority is satisfied on reasonable grounds that it is likely that the person will commit, is committing or has committed a terrorism offence.

These amendments relate to the same issue that we have been discussing. I will not go through those arguments now. We have had the discussion about why innocent people should not be locked up and interrogated by ASIO. It is another opportunity for the Australian Labor Party to show their opposition to this bill.

Question negatived.

Senator GREIG (Western Australia) (11.33 a.m.)—I move Democrat amendment (2) on sheet 2923:

(2) Schedule 1, item 24, page 11 (after line 29), after subsection (3C), insert:

(3D) In consenting to the making of a request to issue a warrant authorising the person to be taken into custody immediately, brought before a prescribed authority immediately for questioning and detained, the Minister must, if the person is a citizen of an overseas country represented in Australia by a diplomatic mission, ensure that the warrant to be requested is to require the Director-General to contact that diplomatic mission as soon as practicable after the person has been taken into custody and advise it of the person’s name and that they are being detained for questioning under the Act.

(3E) However, subsection (3D) does not apply if the Minister is satisfied on reasonable grounds that advising the diplomatic mission of the person’s detention would be likely to pose a serious threat to national security.

This Democrat amendment relates to a foreign national potentially detained under the act, should it become law. As we debated the first time around in this legislation, we believe that that foreign national ought to have the right to ensure that their embassy is informed of the fact of their detention. This, we would argue, is consistent with article 36(1) of the Vienna Convention on Consular Relations, which deals with a person’s right to contact their consular post if arrested, committed to prison or to custody pending trial, or detained in any other way.

I think it should be acknowledged that article 36 has not been incorporated into domestic law pursuant to the Consular Privileges and Immunities Act like some other articles of the Vienna treaty. However, granting detainees the right to contact their em-
Bassy is clearly consistent with the spirit of the Vienna treaty. I draw the attention of senators to the preamble of the Vienna treaty which reminds us that peoples of all nations from ancient times have recognised the status of diplomatic agents and that the treaty was entered into:

Having in mind the Purposes and Principles of the Charter of the United Nation concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations...

This bill has been touted by the government as an important—even essential—antiterrorism measure, but the ultimate objective of all antiterrorism measures should be to maintain international peace and security. As I said in my speech in the second reading debate, a world in which human rights are respected and protected is a world better equipped to combat the threat of terrorism.

It is also important for Australia to work together with other countries in its efforts to combat terrorism. As the Vienna treaty recognises, diplomatic missions play an important role in the promotion of friendly relations amongst nations. The international community must take a united approach in dealing with terrorism, and if Australia detains a foreign national for interrogation relating to terrorism it should, we believe, advise the person’s embassy of their detention. Australia would expect the same from other countries if Australians were dragged away for interrogation by their intelligence agencies.

It should be noted that the amendment contains an important limitation to address security concerns, and rightly so. Specifically, if the minister is satisfied on reasonable grounds that advising the person’s embassy would pose a serious threat to Australia’s national security then the obligation to inform the embassy does not apply. That safety mechanism is contained within this amendment, and I commend it to the Senate.

Senator BROWN (Tasmania) (11.37 a.m.)—We may be coming to this but, for the record, I ask the government if it is still the case that persons detained under this legislation for the purpose of getting information cannot have the circumstances of their detention identified to their next of kin or some other person?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.37 a.m.)—There is no guarantee that the whereabouts of a person being questioned will be advised to the next of kin. It may or may not be advised, depending on the circumstances, but there is no guarantee that it will be in every case. While I am dealing with Senator Brown’s question, I can place on the record that the government opposes the Democrats’ amendment.

The government believes that great care must be taken in gathering this intelligence that we are talking about, and it is a fundamental principle that exposing or potentially exposing that intelligence to foreign governments, which might not have interests which align with Australia’s, could be prejudicial. Notifying a foreign government of questioning of a foreign national under this regime may, in some circumstances, compromise our intelligence and security arrangements. It is the government’s view that the warrant process is workable and sensible, and that contacting the person’s relevant diplomatic mission is unnecessary. I note that Senator Greig says he has that safeguard in place. It is our view that there should be no provision that allows for that contact, for the reasons that I have mentioned.

Senator BROWN (Tasmania) (11.39 a.m.)—The reason I asked the earlier question was to establish if such a facility was extended to Australian citizens, and clearly it
is not. If there were some means of listing which countries have a relationship on a positive basis with Australia as against those for which we think informing their embassies could be inimical to Australia’s interests, I could look at this amendment on behalf of the Greens. But we would not support the amendment under these circumstances either.

Question negatived.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.40 a.m.)—by leave—I move government amendments (13), (14), (17) to (22), (27), (28), (42), (43), (49) to (51), (53) to (56) and (58) to (60) on sheet RA231.

(13) Schedule 1, item 24, page 10 (line 18), omit “produce; and”, substitute “produce.”.

(14) Schedule 1, item 24, page 10 (lines 19 to 23), omit paragraph (3)(d).

(17) Schedule 1, item 24, page 11 (line 36) to page 12 (line 6), omit subsection (5).

(18) Schedule 1, item 24, page 12 (line 11), omit “; and with subsection 34C(5) if relevant”.

(19) Schedule 1, item 24, page 12 (line 16), omit “offence; and”, substitute “offence.”.

(20) Schedule 1, item 24, page 12 (lines 17 to 21), omit paragraph (c).

(21) Schedule 1, item 24, page 12 (lines 33 to 35), omit “a specified period of not more than 48 hours starting when the person is brought before the authority”, substitute “the period (the questioning period) described in subsection (3)”.

(22) Schedule 1, item 24, page 13 (lines 1 to 7), omit subsection (3), substitute:

(3) The questioning period starts when the person is first brought before a prescribed authority under the warrant and ends at the first time one of the following events happens:

(a) someone exercising authority under the warrant informs the prescribed authority before whom the person is appearing for questioning that the Organisation does not have any further request described in paragraph (5)(a) to make of the person;

(b) section 34HB prohibits anyone exercising authority under the warrant from questioning the person under the warrant;

(c) the passage of 168 hours starting when the person was first brought before a prescribed authority under the warrant.

(27) Schedule 1, item 24, page 16 (lines 18 to 24), omit paragraphs (4)(a) and (aa), substitute:

(a) a person being detained after the end of the questioning period described in section 34D for the warrant; or

(28) Schedule 1, item 24, page 21 (after line 25), at the end of Subdivision B, add:

34HB End of questioning under warrant

(1) Anyone exercising authority under a warrant issued under section 34D must not question a person under the warrant if the person has been questioned under the warrant for a total of 8 hours, unless the prescribed authority before whom the person was being questioned just before the end of that 8 hours permits the questioning to continue for the purposes of this subsection.

(2) Anyone exercising authority under a warrant issued under section 34D must not question a person under the warrant if the person has been questioned under the warrant for a total of 16 hours, unless the prescribed authority before whom the person was being questioned just before the end of that 16 hours permits the questioning to continue for the purposes of this subsection.

(3) Anyone exercising authority under the warrant may request the prescribed authority to permit the questioning to continue for the purposes of subsection (1) or (2). The request may be made in the absence of:

(a) the person being questioned; and
(b) a legal adviser to that person; and
(c) a parent of that person; and
(d) a guardian of that person; and
(e) another person who meets the requirements of subsection 34NA(7) in relation to that person; and
(f) anyone the person being questioned is permitted by a direction under section 34F to contact.

(4) The prescribed authority may permit the questioning to continue for the purposes of subsection (1) or (2), but only if he or she is satisfied that:
(a) there are reasonable grounds for believing that permitting the continuation will substantially assist the collection of intelligence that is important in relation to a terrorism offence; and
(b) persons exercising authority under the warrant conducted the questioning of the person properly and without delay in the period mentioned in that subsection.

(5) The prescribed authority may revoke the permission. Revocation of the permission does not affect the legality of anything done in relation to the person under the warrant before the revocation.

(6) Anyone exercising authority under a warrant issued under section 34D must not question a person under the warrant if the person has been questioned under the warrant for a total of 24 hours.

Release from detention when further questioning is prohibited

(7) If the warrant meets the requirement in paragraph 34D(2)(b), the prescribed authority must, at whichever one of the following times is relevant, direct under paragraph 34F(1)(f) that the person be released immediately from detention:
(a) at the end of the period mentioned in subsection (1) or (2), if the prescribed authority does not permit, for the purposes of that subsection, the continuation of questioning;
(b) immediately after revoking the permission, if the permission was given but later revoked;
(c) at the end of the period described in subsection (6).

Subsection 34F(2) does not prevent the prescribed authority from giving a direction in accordance with this subsection.

(42) Schedule 1, item 24, page 28 (after line 3), at the end of section 34NA, add:
(10) To avoid doubt, paragraphs (6)(b) and (8)(e) do not affect the operation of section 34HB.

(43) Schedule 1, item 24, page 29 (after line 5), after subsection (4), insert:
(4A) A person commits an offence if:
(a) the person has been approved under section 24 to exercise authority conferred by a warrant issued under section 34D; and
(b) the person exercises, or purports to exercise, the authority by questioning another person; and
(c) the questioning contravenes section 34HB; and
(d) the person knows of the contravention.

Penalty: Imprisonment for 2 years.

(49) Schedule 1, item 24, page 32 (lines 32 and 33), omit “(whether in connection with the warrant or another warrant issued under section 34D)”, substitute “in connection with the warrant”.

(50) Schedule 1, item 24, page 33 (line 2), omit “any of those warrants”, substitute “the warrant”.

(51) Schedule 1, item 24, page 33 (lines 9 and 10), omit “any of those warrants”, substitute “the warrant”.

(53) Schedule 1, item 24, page 33 (line 33), omit “such a”, substitute “the”.

CHAMBER
The government proposes here an alternative regime to the current proposals relating to the questioning provisions. This is one of the three major changes that the government has proposed. A warrant would now allow a total of 24 hours questioning in eight-hour blocks over a maximum period of seven days—that is, 168 hours. There are a number of other changes to the regime. The main ones are, firstly, that the proposed amendment provides for the issue of one warrant allowing for a total of 24 hours questioning only, rather than the existing regime that allows for the possibility of rolling warrants. Secondly, the proposed amendment provides for a questioning regime that allows questioning in eight-hour blocks, rather than each warrant being for a period of 48 hours during which questioning can take place for any period provided it is consistent with questioning protocols.

While warrants are issued by the issuing authority for a total period of 24 hours, the prescribed authority will control the number of eight-hour blocks during which a person may be questioned under each warrant. Initial questioning under a warrant is for eight hours. This can be extended twice for further blocks of eight hours each, up to a total of 24 hours. Any extension of the questioning period must be permitted by the prescribed authority, who must be satisfied that there are reasonable grounds to believe that continuing would substantially assist the collection of intelligence and that the persons questioning are conducting the questions appropriately. This permission may be revoked. These are important safeguards. Similar to the current regime, the amendment also contains offence provisions in the event that it is established that authority under a warrant is inappropriately exercised. Those are very careful amendments which go to achieving a balance in relation to this questioning period.

There is a third aspect of this proposal, and that is that a person cannot be questioned for a total of more than 24 hours. The entire period, however, in which a person can be detained for questioning to occur can extend over a period of no more than seven days—that is, 168 hours—because the amendment allows for dead time in questioning blocks. But a person must be released immediately after this period has expired or after the prescribed authority has revoked or not provided permission for the questioning to continue. In effect, this means a person can be detained under one warrant for a total of 168 hours as opposed to the rolling warrants situation which could total 168 hours. This amendment is in addition to existing safeguards in the bill.

Among other things, the bill provides that at all times questioning would take place before a prescribed authority. Depending on the circumstances, a prescribed authority may be a former judge of a superior court, a current judge of a state or territory supreme...
or district court, or a president or deputy president of the Administrative Appeals Tribunal. We have gone through that at length but I remind the committee as to the judicial status of the prescribed authority. A person also has the right to complain about their treatment under a warrant to the Inspector-General of Intelligence and Security or the Commonwealth Ombudsman. There are also offences in the bill for officials who contravene the safeguards. These are important provisions. A number of aspects of the bill—for example, proposed section 34D—deal with the time when questioning starts, but no doubt in the ensuing debate we will go through all those details. I commend these amendments to the Senate.

Senator BROWN (Tasmania) (11.46 a.m.)—This is another part of the objectionable legislation relating to people who are known to be innocent but from whom information is wanted. I ask the minister: is there any written impulsion on ASIO or the other intelligence organisations to look at the alternative of simply asking a person whether they have the information or phone number they want? How is that process sorted out before we get into the position where somebody, through police action, is forcibly carted away and held secretly in detention under the provisions of the warrant system we are now dealing with? The minister has outlined that you can be held secretly for a week, questioned intensively by this unqualified interrogator for 24 hours, in three blocks of eight hours or in single blocks of four hours, without a break, without the intervention of your legal representative, and indeed without a legal representative being there at all. Hidden in what the minister has just said is the provision for it to go beyond 168 hours—that is, a week.

The next question I put to the minister is: at what stage do ASIO operatives get in the Federal Police to arrest a person? Is there a need to assess whether that person might not give the information or indeed would willingly give the information if only they were asked? How do you sort that out? At the other end of this process—we will get to the middle, I am sure, in this debate—what is the absolute time limit on somebody being questioned if the faceless judge gives permission without regard to their legal rights and in this secret situation? Is there an upper limit of time after which the person must be released, regardless of what ASIO or the faceless judge thinks?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.48 a.m.)—There is no provision for extending the 168 hours. The absolute time limit for one warrant is 168 hours—that is, seven days—and that cannot be extended. Any other period of questioning or detention would have to be the subject of another warrant. In relation to ASIO simply asking someone whether they can provide a telephone number, that is always open; they can ask people for that information and whether they can be of assistance. Importantly, proposed section 34C(3)(b) states:

The Minister may, by writing, consent to the making of the request, but only if the Minister is satisfied

... ... ...

(b) that relying on other methods of collecting that intelligence would be ineffective ...

That is an important aspect because we are talking about the requesting of warrants. There firstly has to be satisfaction by the minister that they have not exhausted other methods. I mentioned the ACC earlier. Certainly, before the ACC can use those powers, they have to demonstrate to the board, for instance, that these special powers are the only way to get the information. This is in other legislation and it is replicated here in the fact that the minister has to be satisfied.
that there is no other means of gaining the intelligence.

Senator BROWN (Tasmania) (11.50 a.m.)—That is interesting because again we are dealing with this legislation without protocols. The government does not see fit to have draft protocols put to the committee, so we must assume that no protocol will apply to the ministerial discretion, but I ask the minister: what are the parameters for determining whether other means have been looked at? Could you spell those out to the committee? By denying my supposition, the minister has actually confirmed it. On a series of rolling or seriatim warrants, how long can a person be held under this legislation if a prescribed authority—the judge involved—were to keep issuing warrants?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.51 a.m.)—I am just having a look at that last question at the moment. On the issue of ministerial discretion, it is stated very clearly in the legislation that the minister must be satisfied that ‘other methods of collecting that intelligence would be ineffective’. When you are dealing with a ministerial discretion the protocols will not cover that, for a start, and I would argue that, in any event, there is no need for them to, because it has been spelt out fairly clearly that the minister has to be satisfied that ‘other methods of collecting that intelligence would be ineffective’. The only way you could drill down into further detail is to say to what standard of proof the minister would need to be satisfied—how he would be satisfied.

Across the board in Commonwealth legislation, it is not normally spelt out where you have ministerial discretion. In fact, there are many instances of ministerial discretion which do not have that level of detail that we have here, which is spelt out in the legislation itself—that the minister has to be satisfied that ‘other methods of collecting that intelligence would be ineffective’. Senator Brown has raised the issue of why we do not spell out further this discretion—the criteria for the exercise of it. The government’s view is that it is spelt out. What is more, it is in the legislation, not in a protocol, and really you cannot take it much further than what you have already in the legislation. It is much more particularised here than in many other pieces of legislation in the Commonwealth jurisdiction. I am not saying that it should not be particularised. It should be and it has been because of the importance of this, but the onus is then on the minister, and of course the minister is accountable to the parliament. Senator Brown looks as though he will comment on this matter. Whilst he is doing that, I will get the answer to the other question he raised.

Senator BROWN (Tasmania) (11.53 a.m.)—I certainly will comment on it. This is not usual legislation; this is legislation in which we know that 20 million Australians are suspects, because that is what the argument was just a moment ago, according to the government. Earlier on, the minister was arguing that it was offensive for me to be saying that there are judges and then there are judges; they are not all the same, they are not all beyond reproach. We have a self-selecting situation here in which those judges who are less worried about civil, political and legal rights are less likely to be involved in this process than those who have an enormous concern for them. Ditto for politicians.

I asked the minister: what are the parameters for determining whether a warrant and the other processes are legitimate? By crikey, you would want to think that every other possible alternative had been looked at and considered, not just by ASIO but also by the minister, in coming to the point where an innocent Australian is secretly carted off the
street for seven weeks for interrogation. But the minister says, ‘There is no protocol; we have established that,’ and, I think, is indicating that it is going to be wide open to the minister—that is, the government of the day—to determine who of the 20 million Australian suspects is selected in this process. It is very dangerous. I ask the minister: is the minister of the day—and we are presumably including future governments—above political bias in making this decision?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.56 a.m.)—There are a couple of issues. The first is if the maximum period of seven days can be extended. As I said, it cannot. A fresh warrant would have to be issued. I think it is important that we remind the committee at this stage of the process of issuing that warrant. Firstly, ASIO must seek the consent of the Attorney-General to apply to an issuing authority for a warrant. In order for that consent to be obtained or granted, the Attorney-General must be satisfied:

(a) that there are reasonable grounds for believing that issuing the warrant ... will substantially assist the collection of intelligence that is important in relation to a terrorism offence; and

(b) that relying on other methods of collecting that intelligence would be ineffective ...

So there are some hurdles there for the Attorney-General to negotiate in agreeing to that application by ASIO. Of course, the bill provides additional safeguards for young people between 16 and 18. A warrant will only be able to be issued in relation to a young person if the Attorney-General is satisfied that they have committed, will commit or are committing a terrorism offence. So there is an additional criterion in relation to those people aged between 16 and 18. The issuing authority may only then issue a warrant if it has been requested in accordance with the proper procedure—that is, the procedure I have outlined; it goes via the Attorney-General—and it is satisfied:

(a) that there are reasonable grounds for believing that ... the warrant ... will substantially assist the collection of intelligence that is important in relation to a terrorism offence ...

That warrant can relate to the detention of a person in order for them to be questioned, or to request that the person appear before a prescribed authority for questioning—we have dealt with what the role of the prescribed authority is in relation to the questioning that takes place. But when you look at the issuing process, it is not a streamlined one. It is one where ASIO has to satisfy the Attorney-General, who then consents to the application. It then goes to the issuing authority who, in turn, has to be satisfied.

If you just had the detention of someone for seven days, by the very nature of that process there would be time taken in satisfying that criteria. If you have had a detention of seven days, I would put it to the committee that there would have to be a gap of some time before a fresh warrant could be obtained. Senator Brown will jump up and say, ‘What is to stop them from applying during the seven days for a fresh warrant?’ I think that would be very difficult because you would have to be satisfied that it was necessary and that the means at the disposal of ASIO, namely the current warrant, was not appropriate and was not able to fulfil their needs. You would not know that until the end of the time of detention. So my strong point here is that the very nature of the procedure of the issuing of the warrant is one which provides that protection. I mentioned ministerial discretion and the question of the minister’s discretion being subject to judicial review. That is reviewable, I am advised, under section 39B of the Judiciary Act. So any exercise of discretion by the minister is
subject to judicial review, which is an added safeguard.

Senator BROWN (Tasmania) (12.00 p.m.)—What we have here is wide ministerial discretion when it comes to civil liberties—WMD on civil liberties. I go back to a situation which I think will arise during the course of the detention of people under this legislation and I ask the minister how ministerial discretion would work in this circumstance. A person who is thought to be involved in a terrorist organisation or to have information about terrorists and to be in contact with them, wittingly or otherwise, is arrested and detained for questioning under the provisions of this legislation. ASIO submits very strongly that the disappearance of this person will lead to her or his contacts wanting to get in contact with him or her again and that a phone call coming from those contacts is going to lead to the discovery of an actual terrorist plotter. So their mobile phone is being detained with them or indeed they are arrested in their own house with ASIO operatives and the faceless judge there, which is possible under this legislation, and there is an all-important phone call to come which is going to give connection to a terrorist plotter. Under those circumstances, is there not going to be a rolling warrant issued here? Would you, as the person with ministerial discretion, not issue another warrant?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.02 p.m.)—When you look at the situation of the issuing of the warrant, what I stated earlier was that the minister has to be satisfied that the warrant will substantially assist in the collection of intelligence that is important in relation to a terrorism offence and that relying on other methods of collecting that intelligence would be ineffective. In that exercise of jurisdiction, you would have to have in mind what was going on in relation to the questioning under the current warrant and what progress was being made. As I said earlier, that would prove difficult if you had not reached the conclusion of the questioning, because it does provide for those blocks of questioning and a maximum time for detention. In the exercise of your discretion, you have to go through this afresh and ask if there are other means, and the other means are: have you exhausted the current warrant? Of course you have not because there is still time to go, and it may be that the questioning will still bear the result that ASIO was about. I think it is really pre-empting to a great extent the outcome of the questioning under that current warrant.

The decision of the minister is reviewable and, if a fresh warrant was issued whilst there was one in operation, one would think that the scrutiny of the minister’s decision would be all the more intense, because you do have a warrant in place. I cannot pre-empt hypotheticals to the committee. I cannot dictate as to what an outcome would be. I can only say that, under the proposal in the way that it is set down here, there is a detailed process and detailed criteria for the minister and I think that a current warrant in existence makes the exercise of the discretion in fact all the more subject to scrutiny. I think that is as far as I can take it in relation to Senator Brown’s question, because I cannot comment on the hypothetical case as to what I would do or not do and what the Attorney-General would do or not do. I think that is as far as I can take it in relation to his question.

Senator BROWN (Tasmania) (12.05 p.m.)—So there we have it: it may not even be that the questioning of the suspect for their information is what is going to lead to the next warrant; it may simply be that the detention of that person will lead to the flushing out of others. They can answer all the questions but they can still be detained on a series of rolling warrants, one after the other, and there is no limit to that process.
The situation will arise where ASIO is going to successfully be able to say to the minister that this is a serious situation, the minister is not in a position to have any independent investigation of the matter and a person could be kept for weeks in secret and out of contact under this legislation because ASIO thought that would, in some way or other, flush out other people. Remember that the person who is being kept can be innocent of the reasons for ASIO holding them. It is not just a matter of who is being questioned; it is a matter of intelligence gathering that utilises a person and the detention of a person to facilitate intelligence gathering. That is wide open under this legislation.

The minister says the ministerial discretion is appealable. Could the minister describe a situation of appeal here: a person being held has come to the end of seven days, ASIO is seeking a fresh warrant and has got that before the minister, the person does not know about it and they do not have any legal advice or if they do their legal advisers do not know why they are being held and they have no knowledge that a new warrant is about to be issued. How on earth is somebody going to appeal in that process? Could the minister outline how that happens and what the time lines on that appeal process are?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.08 p.m.)—To finish off the earlier answer, I am advised that generally, and certainly it has been my experience, you can get before a judge pretty much within 24 hours. There is no hard and fast rule as to that but generally an application of this sort would, I imagine, get you before a judge within that time period.

Senator BROWN (Tasmania) (12.10 p.m.)—How do you do that if you have no legal representation and you have no knowledge of the law? Sure, you have read that you can appeal to the High Court. How do you do that if you do not know, and you have no legal adviser there to tell you, what the process is? Where is the guarantee in this legislation that a person is counselled on their rights and the reasons they have under this legislation to make an appeal—there is no legal adviser there—and then have the appeal instigated? This is nonsense, just nonsense. The government knows it and the opposition knows it too. We have a situation
where people’s rights are suspended, including their right to legal advice. It might sound nice for the minister to say, ‘You can go to the High Court on this.’ Can you really? You are held secretly in a place, nobody knows where you are, you have no legal advice and there is a faceless judge there who is not necessarily going to think well of you as a person because you are caught in those circumstances. How on earth are you going to make an appeal to the High Court?

I pointed out yesterday that people can, and will be, put in blackmail situations inherently. The minister says, ‘It’s not going to be under coercion.’ What happens when ASIO start telling you about extramarital relationships they know you are having or business or taxation arrangements that you have? There is a range of things that they know, because they have been watching you, that you do not want brought out into the open. People’s ability to access the legal system, particularly if they have no legal advice, and their will to do so collapses. We have a situation where the talk coming from the minister does not hold water. It is simply vacuous. The more vulnerable the person, the more hopeless the situation. We are advocating the defence of the vulnerable and the innocent.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.13 p.m.)—I will quickly deal with that aspect of legal representation. Of course the person has access to a lawyer of choice. Of course, if that person does not have a lawyer or an idea of whom to contact, the prescribed authority can arrange that, as I have indicated. What I have said—and Senator Brown has chosen to ignore it—is that the prescribed authority advises the person when that person appears before the prescribed authority as to the right to a lawyer and as to the question of review. I mentioned that just a moment ago. That is something that is essential. I think I mentioned that it is repeated every 24 hours—this right to legal representation. The person says, ‘Look, I want a lawyer, but I do not know who to get.’ The prescribed authority says, ‘I can get you one.’ That lawyer is obtained and the person can then make an application that can be dealt with very quickly by either a High Court or a Federal Court judge. I think that Senator Brown is not representing the process accurately.

Senator BROWN (Tasmania) (12.14 p.m.)—I want to point out that in this whole process the minister has repeatedly put forth a defence of this legislation which is simply not there—it is invalid. When the minister says that people will have access to legal representation, he is ignoring the fact—and we established this yesterday and everybody here knows it—that people are going to be held without legal representation and interrogation is going to take place, in the first instance and potentially throughout the whole seven days of detention, without legal representation, because that is not guaranteed anywhere in this legislation. This is the minister who is talking about the mettle of guaranteed rights and yet he is holding up a bill which is a sieve and we are looking at those holes—that is the difference. It is through those holes in this legislation that the rights of Australians are draining away.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.15 p.m.)—I too have very serious concerns with what the minister has said in the chamber about these particular matters. I want to be clear on that and I am going to deal with this at a later stage. The opposition will be proposing amendments to the 168-hour period. That 168 hours of course starts when the person is brought before a prescribed authority under the warrant. You can call it 168 hours or seven days by another name. As far as the opposition is concerned, that maximum period should be 72 hours, or
three days by another name, and I will be moving amendments at a later stage to address that issue.

However, I want to come to the issue that is currently being debated before the committee. I think it is absolutely clear—it is certainly my understanding—that, in relation to the warrant period, at the conclusion of that warrant period a person is either charged or released. I am not going to make the government’s argument for it; I have made it clear. I think the seven-day period is too long. The opposition believes it should be three days. Those amendments currently are not before the committee; they will be at a later stage in this debate. I take it at face value and I have accepted the spirit with which the government has made changes in relation to the detention regime—that is, the issue of there being one warrant and not, if you like, rolling warrants, which is being canvassed. I am absolutely clear on this. I do think we have to have this clarified and I suspect we cannot do that at this point in this committee debate but, if we can get it clarified satisfactorily in a positive way, I will be satisfied. I want to take the committee to the conclusions of the Joint Committee on ASIO, ASIS and DSD in relation to this matter. I want to read a very small amount of that report into the Hansard record. The committee drew the following conclusions in relation to this key issue of the length of time a person could be detained or questioned:

2.38 The provision for indefinite detention proposed in the legislation is an issue of some concern. A person who has not been charged with an offence should not be detained for an indefinite period of time.

2.39 The committee therefore proposes to introduce a maximum limit for detention of 7 days (168 hours). Therefore, a person could not be detained for longer than 7 days under the committee’s amendment.

The committee draws another conclusion, and I will include it for the completeness of the record:

2.40 In relation to ASIO’s powers to seek warrants, ASIO indicated that the Director-General may only seek a warrant ‘if the Attorney General consents to this.’ The EM in relation to proposed subsection 34C(5), states that ‘if the Director-General is seeking a further warrant in relation to a person who has already been detained under two consecutive warrants, the Director-General must seek the warrant from a Deputy President of the AAT.’ It is not explicit that, in seeking a further warrant, the Director-General has first requested the need for a further warrant from the Attorney General. This should be made explicit in the Bill.

Let me go to recommendation 3 of the committee, which I believe—and I say this in good faith—the Attorney-General has depended on to come forward with this current provision. The opposition is going to try and amend the current provision from seven days to three days. But the Attorney-General has depended on recommendation 3 from the report of the Joint Committee on ASIO, ASIS and DST, which says:

2.41 The Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 be amended so that the maximum period of detention of a person is no more than 7 days (168 hours), and at the expiry of that period a person must be charged or released.

I am satisfied that that is the government’s intention, but I do not believe that the explanation the minister has given the committee on this is adequate. This is a matter that is best dealt with in the same way we have dealt with the issue of the sunset clause. I am trying to be constructive so that this thing moves along. I am totally satisfied that the intention that has been outlined to the committee is not the Attorney’s intention. I am totally satisfied that the basis for the period that has been determined by the Attorney—and it is not a question of me agreeing with
it—was the recommendation in the joint parliamentary committee report. Minister Ellison really needs to seek some further advice on this. That would be the best way of us dealing with it because we have the minister’s statement as it stands in the Hansard record, and I am very doubtful that that is an accurate reflection of the situation.

**Senator Ellison**—Yes, it is.

**Senator Faulkner**—I am asking for it to be checked. That is reasonable, isn’t it?

**Senator Ellison**—I know it has been checked—as opposed to the intention?

**Senator Faulkner**—It is an easy matter for us to ensure through an amendment, if there is a lack of clarity, what the situation should be. I think you will find that the Attorney-General depended on the recommendation of the joint parliamentary committee in relation to this matter. It is not my job to talk about the spirit of what the government intends to do. But, as I say, it is something about which the opposition intends to move amendments. I think it is quite clear that, at the end of the 168-hour period, a person is either charged or released. I do not want to get bogged down on this, because I think this can be sorted out.

Senator Brown and, more particularly, Senator Nettle have requested that another matter be dealt with at a later stage, which is an issue in relation to the sunset clause. Given that there are opposition amendments to be moved, at least on the length of detention, I think this fundamental issue ought to be sorted out before we come back to it. I think that is a sensible way of dealing with it because it would actually save time for the committee. So I request that of the minister, through the chair. That might be a sensible way of dealing with this. We only have a short time for debate for further committee consideration. I am quite satisfied that this will be able to be sorted out. I think my understanding is correct.

I stress again, for the sake of the record and because I do not want to be misinterpreted on this, that I will be progressing the opposition’s amendments in relation to reducing that period from 168 hours to 72 hours. But the other matter needs to be considered because, in the absence of further amendment to the bill or further information in the explanatory memorandum, the statements that the minister makes in the committee stage in response to questions have certain standing. That is why I want to be absolutely sure that this is clear, and I do not think it is accurate and clear as it stands, and I do not want to say any more about it than that.

**Senator Ellison** (Western Australia—Minister for Justice and Customs) (12.26 p.m.)—I believe the advice that I have given to the committee is accurate. Nonetheless, due to the factors that Senator Faulkner has raised, it is very important with a bill of this sort that comments which are made in the committee stage are clear. I move:

That government amendments (13), (14), (17) to (22), (27), (28), (42), (43), (49) to (51), (53) to (56) and (58) to (60) be postponed.

**Senator Faulkner** (New South Wales—Leader of the Opposition in the Senate) (12.27 p.m.)—The PJC report was very clear—whether it was for one warrant, rolling warrants or multiple warrants—that that was the period of maximum detention. I do not want to mince words on this, and that is why it is best to have this sorted out. We could spend hours and hours, as you can appreciate, debating this issue without any certainty about it. My understanding is absolutely clear on this issue, but I accept that the best way to deal with it is the way that we dealt with the questions that were outstanding in relation to the sunset clause. The
sensible way for this committee to work is to lay that aside and to come back to it when we are able.

Senator BROWN (Tasmania) (12.28 p.m.)—I think so, too, but we have had a long debate and I am concerned that we are not going to receive a satisfactory response from the government. I thank Senator Faulkner for his contribution because it has helped to clarify the matter, and it is the way I think as well. I would move an amendment that a person may not be held for more than 168 hours and that, at the expiry of that time, the person must be either charged or released. I want to put that on the table because, if we do not get satisfaction from the government, we will move to clarify the situation by having that simple amendment in the bill in black and white.

Question agreed to.

The TEMPORARY CHAIRMAN (Senator Watson)—Senator Faulkner, I presume you will not be moving your amendments until we resume?

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.29 p.m.)—In the spirit of the way we are dealing with this, it would not be sensible for me to move that the 168-hour period be reduced to 72 hours. Let us get the threshold issues sorted through and take it from there.

Senator GREIG (Western Australia) (12.29 p.m.)—The Democrat amendment (6) was dependent upon the success of previously debated amendment (2) which failed, so I shall withdraw amendment (6). I seek leave to move Democrats amendments (4), (5) and (7) on sheet 2923 together.

Leave granted.

Senator GREIG—I move:

(4) Schedule 1, item 24, page 14 (line 32), at the end of subsection (1), add:

; (h) subject to sections 34TA, 34TB and 34U, the person’s right to contact a lawyer of choice at any time during the questioning period.

(5) Schedule 1, item 24, page 14 (line 32), at the end of subsection (1), add:

; (i) the person’s right to an interpreter on request.

(7) Schedule 1, item 24, page 17 (lines 26 to 30), omit paragraph (c), substitute:

(c) anyone holding the person in custody or detention under this Division must, if the person requests, give the person facilities for contacting:

(i) any person whom the person is permitted to contact pursuant to paragraph (a); or

(ii) the Inspector-General of Intelligence and Security or the Ombudsman to make a complaint orally under a section mentioned in paragraph (b).

Democrat amendment (4) seeks to ensure that a person detained for questioning under the act is advised of their right to a lawyer as soon as they are brought before the prescribed authority. Section 34E is aimed at ensuring that a person who is detained is advised of important information as soon as they are brought before the prescribed authority. Amongst these matters the person must be advised of their right to seek a remedy from a court relating to the detention. It does seem strange for there to be an obligation to inform a person of this right without any obligation to inform them that they can access a lawyer to assist them in exercising that right.

Access to legal advice has been one of the primary issues of concern in relation to the bill. It was an issue that was raised in most of the submissions that came before the committees inquiring into this legislation. The Labor Party has indicated that it would not
accept significant restrictions on a person’s right to a lawyer, and that has resulted in the government’s substantial amendments on the issue. Given the cross-party acceptance that a person’s right to a lawyer is imperative in these circumstances, I would hope that the government and the opposition would acknowledge the importance of the person being informed of that right so they are able to exercise it.

The lack of any obligation to inform a person of her or his right to a lawyer is just another example of how nonsuspects particularly are entitled to less protection after the regime than are suspects under the criminal law. In order to exercise the right to a lawyer it is fundamental, therefore, for a detained person to be aware of that right. The prescribed authority should have an obligation to inform them accordingly. Again, I call on the opposition in particular to support this amendment, an amendment that we moved previously under the first round of this legislation. Indeed, I would argue that it would be inconsistent with Labor’s stated position on access to legal advice to oppose this particular amendment.

Democrat amendment (5) simply seeks to ensure that a person detained for questioning under the act is advised of their right to an interpreter as soon as they are brought before the prescribed authority. In order to exercise that right to an interpreter, it is important that a person is aware of that right similarly for legal representation.

Finally, Democrat amendment (7) is a minor amendment which addresses one small aspect of the practical arrangements themselves for detention. The amendment seeks to make it clear that a person detained under the act must be provided with facilities to contact a family member or any other person whom they are permitted to contact pursuant to the warrant. In its present form subsection 34F(9) requires that the person must be given access to facilities for contacting the inspector-general or the Ombudsman for the purposes of making a complaint under the bill should they have one. This amendment simply extends that requirement to facilitate contact with other persons specified in the warrant.

While it is arguable that the obligation to provide facilities for contacting family members is implied by the current terms of the act, this amendment seeks to put that obligation beyond doubt so that there is no ambiguity. The fact that there is an obligation to provide facilities to contact the inspector-general or the Ombudsman but not to contact persons specified in the warrant does raise some doubt about the existence of an implied obligation. Clearly, the right to contact a family member or other people specified in the warrant is pretty meaningless unless the person is actually provided with the facilities that they need in order to make such a contact. We Democrats believe that this should be an expressed obligation rather than an implied one, and that is the content of amendment (7). I encourage senators and the committee to consider Democrats amendments (4), (5) and (7), which we believe go some way to enhance the rights of those detained in the detention regime that we are currently giving consideration to.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.35 p.m.)—I think Senator Greig does make a strong case in relation to Democrat amendment (4). I think it is an important amendment that has been put forward. It will ensure that a prescribed authority notifies a person being questioned of their right to contact a lawyer of choice. Again, I think it is a useful safeguard to improve the operation of the act. I think that the effect of the amendment, if it is passed, will be to make
section 34U on the involvement of lawyers work more effectively.

Section 34U(1) is dependent on a person knowing that they are entitled to a lawyer. I think the amendment that Senator Greig proposes ensures that a person is told about that entitlement. As far as the opposition is concerned, that is logical. It is a matter that should not be controversial. I think it is a sensible step forward and a sensible safeguard and it will have the support of the opposition. When these questions are put, to facilitate the passage of Democrat amendment (4) I ask that perhaps Senator Greig’s amendment (4) be put separately to amendments (5) and (7).

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.37 p.m.)—The government has no problem with Senator Faulkner’s suggestion. I will briefly address Democrats amendments (4), (5) and (7), as moved by Senator Greig. In relation to the right to a lawyer, I think we have canvassed that enough. We have made it very clear what the government’s position is and we do not believe that that needs any amendment. In relation to the right to an interpreter, certainly there is provision for an interpreter. We have agreed that an interpreter will be provided for the person being questioned if necessary. The bill also provides that an interpreter may be provided at the request of the prescribed authority or at the request of the person being questioned, unless the prescribed authority has reasonable grounds to believe that there is no need for an interpreter. The government have made it clear that a person is entitled to an interpreter if one is required and that questioning will cease until the interpreter is present, if the prescribed authority determines that an interpreter should be present. The provision does not exclude the person being questioned from requesting that an interpreter be present.

The Democrats’ proposal, however, appears to be designed to enable a person to insist on an interpreter as a matter of right, even if it is clear that such a request is simply a delaying tactic. That is the main issue with this amendment. I can understand that the Democrats are concerned about someone having an interpreter, as are the government. We have a provision for that. What we are concerned about is that this proposal by the Democrats could be usurped by someone who wants to demand an interpreter as a right simply as a delaying tactic. We believe that there should be some regulation of that. The prescribed authority certainly should have some say in that. We do not believe that it should be available to a person who, for instance, has a perfect command of the English language. Quite obviously, there is a potential for it to be abused.

Amendment (7) deals with permissible contacts. The government has already moved an amendment to allow the prescribed authority to give a direction permitting a person to contact an identified person. Such persons include someone who has a particular legal or familial relationship with the person. Again, we believe that this is adequately covered. On that basis, the government would oppose Democrats amendments (4), (5) and (7).

The TEMPORARY CHAIRMAN (Senator Cook)—The question is that Democrat amendment (4) on sheet 2923 be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—The question now is that Democrat amendments (5) and (7) on sheet 2923 be agreed to.

Question negatived.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.41 p.m.)—by leave—I move opposition amendments (4) and (5) on sheet 2953:
(4) Schedule 1, item 24, page 18 (lines 13 and 14), omit the note.

(5) Schedule 1, item 24, page 18 (lines 30 and 31), omit the note.

The right of a person to be presumed innocent of a criminal offence until a court has determined beyond reasonable doubt that the person is guilty of that offence is a basic principle of common law. However, under section 34G of the ASIO bill, as it stands, the person who is being questioned bears an evidential burden to establish that they do not have information relating to a terrorism offence. So, by reversing the onus of proof, the ASIO bill potentially undermines a common-law principle. It is also of concern that these provisions would unduly impact on vulnerable detainees, including those with language difficulties and, for that matter, 16- and 17-year-olds. By removing the requirement for the authorities to build a prima facie case against a detainee and shifting the burden of proof onto the person held in detention, the reverse onus may violate the principle of the right to be presumed innocent until proven guilty. But, given that whatever is said cannot be used against the person themselves, this potential violation is of course diminished.

Notwithstanding the fact that it is within the ambit of knowledge of the person being questioned to determine whether or not they have information relevant to an investigation, the burden should remain with the prosecution to prove the elements of the offence and the existence of the requisite intention. The amendments that are now before the committee have the effect of amending proposed section 34G to remove the evidential burden placed on the person who is appearing for questioning under the warrant to show that that person does not have the information sought, or possession or control of the relevant record or thing. This is consistent with the Senate committee recommendation. I commend the amendments to the Senate.

Progress reported.

AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY AMENDMENT BILL 2003

Second Reading

Debate resumed from 18 June, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator MURRAY (Western Australia) (12.45 p.m.)—I wish to speak briefly to the Australian Prudential Regulation Authority Amendment Bill 2003. The main purpose of the bill is to change the leadership and governance of the Australian Prudential Regulation Authority arising from the recommendations contained in the report of the HIH Royal Commission. I make it clear that the Democrats support the bill. Nevertheless, we believe it requires amendment in a couple of respects, and I will be taking those amendments on the voices later in proceedings.

Every Democrat senator has at one time or another called for an end to jobs for the boys. Wherever appointments are made to the governing organs of public authorities, whether they are institutions set up by legislation, independent statutory authorities or quasi-government agencies, the processes by which these appointments are made should be transparent, accountable, open and honest. One of the main failings of the present system is that there is no empirical evidence to determine whether the public perception of jobs for the boys is correct, as these appointments are not open to sufficient public scrutiny and analysis. It is still the case that appointments to statutory authorities are left largely to the discretion of ministers with the relevant portfolio responsibility. There is no umbrella legislation that sets out a standard procedure regulating the procedures for the
making of appointments. Perhaps most importantly there is no external scrutiny of the procedure and merits of appointments by an independent body.

Democrats have put up amendments designed to compel ministers to make appointments on merit on well over 20 occasions over the last few years and every single time Labor and the coalition have combined to block reform. So why do we keep doing it? We do it because it is a principle that should be accepted. We are committed to ensuring that appointments to the governing organs or public authorities are based on merit and that the processes by which these appointments are made are transparent, accountable, open and honest. An independent body should be given the responsibility of scrutinising government appointments against a set of established criteria.

This system works well in the United Kingdom after Lord Nolan headed the 1995 Nolan commission and managed to persuade the UK government to accept that appointments should be based on merit. This process will go a long way to ending the privilege and patronage associated with government appointments. Lord Nolan set out key principles to guide and inform the making of such appointments: a minister should not be involved in an appointment where he or she has a financial or personal interest; ministers must act within the law, including the safeguards against discrimination on grounds of gender or race; all public appointments should be governed by the overriding principle of appointment on merit; except in limited circumstances, political affiliation should not be a criterion for appointment; selections on merit should take account of the need to appoint boards that include a balance of skills and backgrounds; the basis on which members are appointed and how they are expected to fulfil their roles should be explicit; and the range of skills and backgrounds that are sought should be clearly specified.

In response to the committee’s recommendations, the United Kingdom government subsequently created the office of Commissioner for Public Appointments, which has a similar level of independence from the government as the Auditor-General, to provide an effective avenue of external scrutiny. We have in fact used the Nolan committee’s recommendations in our amendments for the last five years because they are tried and tested. Meritorious appointments are the essence of accountability. Until this notion of jobs for the boys or girls is nipped in the bud, there is not that much moral difference between our system and the political patronage that is prevalent in countries where nepotism and favouritism run rife. In the bill before us I have circulated amendments on sheet 2968, of which I will seek to have amendments (1) to (3) moved together. We seek to insert a section requiring that a code of practice be determined for nominations or appointments in respect of the appointment of full-time executive members to replace APRA’s current non-executive board, the purpose of the group being essentially to resemble a regulatory commission structure. It is recommended that the process of appointments be based on merit and have independent scrutiny, transparency, openness and probity. The bill in its current form has no provision at all for this process.

In my opinion it would be negligent to ignore this matter, especially on such a topical issue. We do need to establish a workable system to ensure that appointments on merit always occur. This amendment does that. The public needs to be reassured that there is an adequate system of transparency and independence where favours are not exploited and mates are not rewarded. In making those remarks, of course I cast no aspersions on the
likely people who are going to be appointed and cast no aspersions on the ministers who will make those judgments. I trust that they will exercise the care they should. Nevertheless, I am arguing that the process needs to be transparent on its face. We all know that political patronage is corrupt and corrupting. In another minister’s hands you might not get the same outcome you may get in the hands of somebody who is trustworthy. We think political patronage needs to be reined in.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.51 p.m.)—The Australian Prudential Regulation Authority Amendment Bill 2003 implements important recommendations of the HIH Royal Commission in respect of governance arrangements for the Australian Prudential Regulation Authority. The government does not support Senator Murray’s amendments. The bill already establishes parameters for the appointment of APRA members and, in particular, section 17(1) of the bill requires that an APRA member be ‘qualified for appointment by virtue of his or her knowledge or experience relevant to APRA’s functions and powers’.

The bill also directly addresses the issue of possible conflicts of interest in selecting APRA members. For example, section 17(2) of the bill provides that a person may not be appointed as a member of APRA if they are employed by a body regulated by APRA. Finally, the processes outlined in the amendments could delay the appointment of APRA members for many months. This could delay the implementation of an enhanced corporate governance structure for APRA which was an important objective of the HIH Royal Commission’s recommendations. I thank honourable senators for agreeing to expedite the passage of the bill thus enabling it to commence on 1 July 2003 and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator MURRAY (Western Australia) (12.53 p.m.)—by leave—I move amendments (1) to (3) on sheet 2968:

(1) Schedule 1, item 20, page 8 (lines 10 to 22), omit section 17, substitute:

17  Procedures for merit selection of APRA members

The Minister must by writing determine a code of practice for selecting and appointing APRA members and acting APRA members which sets out general principles on which selection and appointment is to be made, including but not limited to:

(a) merit, including but not limited to appropriate superannuation industry knowledge;
(b) independent scrutiny of appointments;
(c) probity, including but not limited to:
   (i) preclusion of a person for selection and appointment as an APRA member if the person is a director, officer or employee of a financial body regulated by APRA;
   (ii) preclusion of a person for selection and appointment as an APRA member if the person is a director, officer or employee of a financial body which is not regulated by APRA, if the absence of any conflict of interests cannot be or is not established; and
(d) openness and transparency.

(2) Schedule 1, item 20, page 8 (after line 25), after subsection 18(1), insert:
(1A) In making an appointment in accordance with subsection (1), the Governor-General is to have regard to the merit selection processes described in section 17.

(3) Schedule 1, page 9 (line 7), after “may”, insert “”, subject to section 17”.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

**Third Reading**

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.54 p.m.)—I move:

That this bill be now read a third time.

Bill read a third time.

**ACTS INTERPRETATION AMENDMENT (COURT PROCEDURES) BILL 2003**

Second Reading

Debate resumed from 18 June, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Bill read a second time.

**Third Reading**

Bill passed through it remaining stages without amendment or debate.

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

Second Reading

Debate resumed from 16 June, on motion by Senator Kemp:

That this bill be now read a second time.

Senator O’BRIEN (Tasmania) (12.55 p.m.)—The opposition supports the Maritime Legislation Amendment (Prevention of Pollution from Ships) Bill 2003. We in opposition have consistently supported improvements in the regulation of maritime safety. We are all obliged to ensure that adequate standards established internationally are set in concrete in Australia. However, as Mr Ferguson told the other place, our opportunity to demonstrate bipartisan support in this important policy area has somewhat been limited under the Howard government because of its policy of inactivity.

The Howard government has a dismal record with respect to the ailing Australian shipping industry. Changes made by this government have always been at the margins and almost always in response to international action or in response to a disaster. There is therefore no leadership at a national level. Policy work initiated by this government unfortunately is virtually nonexistent and it is telling in the industry day by day. There is no record from the government of active encouragement and interest in the Australian shipping industry—or, in fact, in having one. Until recent times Australia, as we appreciate, has always been at the leading edge of maritime policy development and reform and an active participant in organisations such as the ILO and the IMO. The problem is that under the Howard government that important leadership role has been undermined and we no longer command the same respect in the international maritime industry—be it in government, employer or union circles.

Under the Howard government the Australian fleet—as is well known in the Australian community, not just in our coastal towns and cities but also in inland Australia—has unfortunately been hung out to dry. We have a government that not only is going out of its way to undermine the Australian shipping industry but is putting our environment at risk and undermining our capacity as a na-
tion to defend itself and to give proper assistance to the regions.

The bill seeks to amend four acts and to repeal the Bass Strait Sea Passenger Service Agreement of 1984. I go firstly to the amendments to the Protection of the Sea (Civil Liability) Act 1981 and the Protection of the Sea (Oil Pollution Compensation Fund) Act 1993. Passage of this bill will—rightly so—significantly increase the amount of compensation payable in respect of damage from ships by oil spills. There is a two-tiered international scheme to provide compensation for pollution damage from persistent oils discharged from oil tankers. Persistent oils are oils that do not evaporate readily such as crude oil, fuel oil, heavy diesel oil and lubricating oil. The first tier of the international scheme is set out in the civil liability convention. It applies a strict liability on tanker owners for damage resulting from the escape or discharge of persistent oils. The liability is generally limited depending on the size of the tanker.

The second tier of the scheme is set out in the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage—the fund convention. I note that that convention established the International Oil Pollution Compensation Fund in order to supplement compensation when the full amount is unable to be obtained from the tanker owner. The IOPC fund is rightly financed by a levy on parts of the industry. The current limit for an owner of a 40,000-tonne tanker is approximately $42 million. The current limit for the IOPC fund is approximately $320 million less the amount contributed by the owner. This bill applies a significant increase to those limits consistent with the International Maritime Organisation resolution. As a result, the liability for an owner of a 40,000-tonne tanker will rise from $42 million to $63 million and the combined maximum will now be $480 million as against $320 million.

Labor clearly supports these changes, not because they strengthen the role of the maritime industry but because they make sure that, when damage is done to our environment, there is the capacity to cover the clean-up costs and to correctly fine those responsible for inflicting that damage on our pristine coastline. It is vitally important that these provisions are updated to ensure they continue to provide for reasonable compensation for oil damage. It is also important that they are kept at a significant level to deter careless behaviour.

Labor strongly endorses policy action to require that polluters pay the maximum payment for any damage caused. While the International Maritime Organisation and workers organisations such as the International Transport Workers Federation work hard to enforce international standards, we have a situation where, as I have clearly stated on a number of occasions, not all operators comply. That is un-Australian and it is unacceptable to any decent community.

It is for that reason that historically Australia has sought to comply with most international obligations, but in recent years the Howard government has actively gone out of its way to encourage many operators in our region to operate on noncompliant registers. This is just plain wrong with respect to what is right for Australia, not only in decent employment conditions but also in defence and environmental terms—issues which are of major national importance and in Australia’s national interest. The correct role of the government, on behalf of the Australian people, is to protect the Australian public and its territories.

The objectives of schedules 1 and 3 of the Maritime Legislation Amendment Bill are: firstly, to expand the definition of plastics so
that there is an absolute prohibition on the disposal from ships into the sea of incinerator ashes from plastic products which may contain toxic or heavy metal residues; secondly, to allow garbage disposal placards which are required to be displayed on a ship to be written in Spanish as an alternative to the existing requirement of English or French; and, thirdly, to convert penalties that are currently expressed in monetary terms to the equivalent in penalty units, which is something that has been attended to on an ongoing basis in a range of transport bills, and especially maritime bills, over recent years.

These provisions go forward today with the clear support of the opposition. That support is given because we are internationally driven to increase the protection afforded to our ocean environment. The provision for the Spanish language as an alternative to English or French has been endorsed by the IMO. The changes to penalties are only a technicality and actually make it easier to amend the value of penalties in various acts.

I now go to the amendment to the Trade Practices Act, schedule 2 of the bill, which will amend part X of the Trade Practices Act to make it clear that stevedoring operators are not permitted to collude when setting stevedoring charges. This amendment clarifies for the ACCC a concern about earlier amendments to the act.

Finally, I go to the repeal of the Bass Strait Sea Passenger Service Agreement Act. Schedule 3 of the bill will repeal the Bass Strait Sea Passenger Service Agreement Act, which no longer has any application. So it is simply a tidying-up exercise. Labor supports the repeal of the act as all requirements in the agreement have been met. The opposition has confirmed this with the office of the Tasmanian Minister for Infrastructure to make sure that there are no difficulties between the Commonwealth and the state governments. I commend the bill to the Senate.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.03 p.m.)—Apart from not accepting Senator O’Brien’s remarks re the nature and the depth of the Howard government’s interest in this matter, I also commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

INTELLECTUAL PROPERTY LAWS AMENDMENT BILL 2002

Second Reading

Debate resumed from 16 June, on motion by Senator Kemp:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

MURRAY-DARLING BASIN AMENDMENT BILL 2002

Second Reading

Debate resumed from 16 June, on motion by Senator Kemp:

That this bill be now read a second time.

Senator O’BRIEN (Tasmania) (1.05 p.m.)—The Murray-Darling Basin Amendment Bill 2002 amends the Murray-Darling Basin Act 1993 to give effect to an agreement between the Commonwealth, New South Wales and Victoria on new arrangements for sharing water made available to the River Murray catchment. The Murray-Darling agreement was made in June 1992.
between the Commonwealth, New South Wales, Victoria and South Australia and replaced the River Murray waters agreement. The state of Queensland became a party to the agreement in 1996.

The agreement concerns the management of the basin’s land, water and environmental resources. In short, this bill gives effect to the Murray-Darling Basin amending agreement signed by the Prime Minister and the premiers of New South Wales, Victoria and South Australia in June 2002. The basis of the amending agreement is a deal between the Commonwealth and the governments of New South Wales and Victoria to allocate an additional 70 gigalitres per annum in environmental flows for the River Murray. This deal is also designed to deliver improved environmental outcomes for rivers in the Kosciusko National Park.

The New South Wales and Victorian Labor governments have agreed to a staged return of 28 per cent of average natural flows to the Snowy River. To do this, these two Labor governments have committed $300 million to the task. A key element of the arrangement is the absence of adverse consequences for irrigators’ water entitlements, South Australia’s water security, water quality or existing environmental flows.

The Murray-Darling Basin covers one million square kilometres and comprises about 14 per cent of Australia’s continental landmass. It extends across four states and includes Australia’s three longest rivers: the Darling, the Murray and the Murrumbidgee. The basin incorporates 75 per cent of Australia’s irrigation and supports 40 per cent of Australia’s agricultural production. The health of the basin is critical to the Australian economy and the prosperity of the regional communities that depend on it. About one per cent of Australia’s farmland is under irrigation, yet it accounts for 26 per cent of the value of agricultural production and 96 per cent of the water used in rural Australia. The extraordinary growth of the Australian wine industry, which is now exporting $2.5 billion worth of product a year, has been driven by irrigation.

The building of irrigated agriculture in the basin is largely the result of the building of the Snowy Mountains scheme. It must be remembered that it was the Labor Party that had the vision in the 1940s to make this a reality. Of course, for vision like that there is only one party to look to, and that is the Australian Labor Party. It was Ben Chifley, as Treasurer and later as Prime Minister, with advice from Bill McKell, who created the Snowy scheme, which in turn allowed Australian and immigrant farmers with initiative to grow crops under irrigation where once those pieces of land were all but useless. Hand in hand with this project was Ben Chifley’s assisted immigration program, which delivered not only workers to the scheme but a boost to the postwar economy of Australia, a home to tens of thousands fleeing the destruction in Europe and a lasting positive impact on Australian society as a tolerant and open nation able to respect people of all cultures and religions. How sad it is to watch the way in which the Prime Minister, with the loyalty of the Liberal deputy leader, has worked to undermine the tolerance in our community. How much sadder to see the Treasurer speak of tolerance only as a political device to differentiate himself from Mr Howard now that his loyalty and patience have been so sorely tested. But these are issues for another debate.

Just as the Curtin and Chifley governments, based on the economic need and science of the day, delivered the Snowy scheme to the people of Australia and all the good things that came with it, so it is in that same tradition that Labor, under Simon Crean, displays a vision for our rivers and our na-
tion. In this year’s budget reply speech, Simon Crean announced a new deal to save the River Murray. A Crean Labor government will deliver 450 gigalitres of environmental flows within the first term, enough to keep the mouth of the Murray open; it will deliver 1,500 gigalitres in environmental flows within 10 years, the minimum required to restore the health of the river; it will create Riverbank to fund the river’s restoration and make an initial capital injection of $150 million; and it will establish the Environmental Flow Trust to manage environmental flows.

That fourth point is very important. The establishment of the Environmental Flow Trust is proof that Labor knows that there is more to saving the Murray than simply putting more water into it. Labor knows that the water must be managed within the river—sent to the right parts of the river and at the right time—to ensure that we get the maximum environmental return for that water, and this will be the task of Labor’s Environmental Flow Trust. Labor understands the intersection between water property rights, sustainable agriculture and delivering environmental flows.

Our opponents claim that, for them, water is a key third term agenda item. In their 2001 election document, entitled ‘Putting Australia’s interests first’, those opposite claimed that they would ‘ensure the protection of the legitimate property rights of farmers’. They also said:

There must be a clear understanding that compensation should be paid where individuals give up property rights ...

Of course, that is no revelation regarding compensation—it is a constitutional surety. They go on to say:

The Coalition will ensure that the next COAG meeting addresses definitions of property rights, including water rights, and mechanisms to deliver just compensation for the loss of these rights.

Two COAG meetings have come and gone since this bold statement. In April 2003, water was talked about but no ground was made. In November, the premiers realised that Mr Anderson was not interested in moving the public policy agenda forward and, attempting to draw some leadership from the Prime Minister on this issue, asked that Mr Anderson not be present at that meeting. All through 2002 and into this year, we have had it hinted and then bluntly stated by this government that competition policy payments to the states would be in jeopardy if the states did not fund the Howard government’s election promises on water rights. In effect, this government’s solution to the most difficult of problems is to take money out of the system—the standard big stick—and take the ‘blame the states’ approach so favoured by the tories. Contrast this with the approach taken by Simon Crean and Labor.

Labor have done the hard yards on policy development when it comes to saving our rivers, Labor have the money on the table and Labor have the track record of working with the states, which are pivotal to any outcome to deliver environmental flows to our rivers and certainty to our farmers. Labor know it can be done because we have done it before. It must be remembered that when Simon Crean, as Minister for Primary Industries and Energy, developed the national drought policy seven of the states and territories were in conservative hands. But they signed up to the plan because it was the right policy for the nation and Simon Crean negotiated in good faith.

We can contrast Labor’s record on dealing with the states with that of this government. Where Simon Crean was able to build a national drought policy, this government—largely due to the ineptitude of the Minister for Agriculture, Fisheries and Forestry, Mr Truss—has been unable even to negotiate reforms to the current exceptional circum-

CHAMBER
stances system with the states. Where we can build a scheme from nothing, the minister can only play politics with the worst drought in 100 years. And where Simon Crean could—and certainly can in the future—work with the state governments to deliver for our rivers and for the certainty of farmers, this government can only threaten competition payments to the states unless they kick the can for the Howard government’s promises. Clearly this debate is beyond Mr Truss and beyond Mr Anderson. The Prime Minister must take leadership on this issue and work cooperatively with the states where his ministers have failed so miserably to date.

Many—and I include among them the leader of the once great National Party—fail to understand why Labor would want to save the Murray. Two words would sum it up: sustainable agriculture. Labor knows that the Murray-Darling Basin accounts for 75 per cent of Australia’s irrigation and supports 40 per cent of Australia’s agricultural production and that the one per cent of agricultural land under irrigation delivers 26 per cent of the value of agricultural production. On this most critical of issues the Howard government are all over the place. The National Party, through Mr Anderson, have expressed a view about water trading, Senator Heffernan another. This is, I suppose, symptomatic of two things: their lack of a rigorous work policy on water and the deeper tension that exists between the Liberal and National parties—tensions that we saw flare in this chamber during yesterday’s discussion on the report into the Wheat Marketing Amendment Bill.

Unlike the Howard government, Labor are united in our desire to deliver healthy working rivers and therefore a sustainable future for farming families who rely on irrigation. That is why Labor, and only Labor, bring to this debate the vision to save the Murray and the method with which to do it. Labor support the bill and commend its passage.

Senator LEES (South Australia) (1.15 p.m.)—I would like to say at the outset that the Murray-Darling Basin Amendment Bill 2002 is a very important piece of legislation. It amends the Murray-Darling Basin Act 1993 and represents an agreement between the various states and the Commonwealth—and between the states themselves—as well as implementing the corporatisation of the Snowy Hydro.

Very importantly, the bill establishes a process to recover environment flows, in this case mainly for the Snowy River. It will return to the Snowy River some 28 per cent of its natural flow over a 10-year period at an estimated cost of around $300 million. The two states have again cooperated, with that cost to be shared between the two state governments. It also establishes additional mechanisms for water accounting and notification as well as for consultation and modelling with respect to the Murray-Darling Basin Commission.

There are a number of conditions. Firstly, allocations of water to the environment must not adversely impact on irrigators. Secondly, allocations must not adversely impact on South Australia, which I am very pleased to note. Thirdly, the commercial viability of the Snowy scheme will be maintained. Fourthly, water for environment flows will be sourced principally from verified water savings. Lastly, water for environment flows cannot be consumed—it must flow through the river system to the sea.

While this bill is about returning flows mainly to the Snowy River, it is also about returning some flows to the River Murray. It addresses the environmental degradation—that is, the long-term consequences of the Snowy Mountains Hydro-Electric Scheme and all the irrigation associated with it. The
scheme was built at a time when, I believe, we did not have an adequate understanding of the environment into which we were putting these very large volumes of water. While it was mainly intended for industrial purposes—for use as hydro power—the impact of the changes to the water regimes and the use of water has been very significant.

This bill is of particular significance because it sets out a model of how to achieve environment flows over a long period. It gives rise to the development of a strategy to recover environment flows for the River Murray—beginning with 70 gigalitres and hopefully moving to at least the 1,500 gigalitres that need to be left in the river at the point where the Murray River joins the Darling River. It indicates that water reform will only proceed if money is injected into the reform process by state and federal governments. This is a very important point because, rather than just millions of dollars, I think we are going to be talking in the billions of dollars. It is estimated that it could be around $1.5 billion just for that first 1,500 gigalitres of environment flows.

I do have a few concerns, which I will list very quickly. Firstly, I am concerned that, as we move to finding this water, governments will be tempted to simply buy water on the market. While there is no problem with doing some of that, clearly it becomes very risky if those also interested in buying water realise that it is in fact the government that it is planning to acquire this water—costs will escalate enormously. Also, as has just been mentioned by Senator O’Brien, it is not just a matter of letting water flow down the rivers—either of them. If we really want to improve the habitats—particularly looking at restoring ecosystems and riverine habitat—we have to look at issues such as the temperature of the water, channel maintenance and flushing flows, particularly for the River Murray, the health of the Coorong and the health of wetlands such as Chowilla.

We need to look at issues right down as far as the eastern Mount Lofty Ranges and at those tributaries which for the first time, in many cases, have stopped flowing this summer. That had very little to do with the drought and more to do with excessive extraction. Up and down the river, we have to look at fish spawning and at specific degraded habitats. I would point to the report recently released on the death of the old red gums and the huge amount of devastation—not 20 per cent, but 60, 70 or 80 per cent in places—particularly in places like Chowilla. It is going to take a lot more than simply finding the environment flows. It is going to be a management process. It is going to mean, in many cases, that when we finally do have rain we will have to try and top up the small floods to get them out over the banks and into those wetlands. It is going to be a long-term process and time is certainly of the essence.

I note that there is very little mention of property rights and compensation. Water reform will stall entirely if these issues are not addressed. There is very little here that addresses how we are going to pay in the longer term for the repair of the landscape. We could look at levies or at a consumer pays system—in other words, substantially increasing the cost of water—but one way or another we are going to have to come to terms with the fact that this is going to be a very expensive operation.

As I said, the history of the Murray-Darling is one of water being extracted for agriculture, building on the back of the water that was stored for the Snowy hydro scheme. It was simply assumed that the rivers would remain healthy with what was left in them. Unfortunately, we now know that there is little, if anything, left. In fact, we cannot
even meet entitlements at the moment. But we are still taking more water out. The Clare Valley pipeline is going ahead as we meet today. While it is needed for the small towns in the Clare Valley, we surely should not be allowing additional irrigation to proceed. We should not be opening up new irrigation schemes at a time when we have such enormous stresses on the whole Murray-Darling Basin.

This is not a scheme that is going to be using water that is bought from anywhere else; it is supposedly, according to SA Water, new water, available water—water that is at the moment within SA's entitlement. I argue very strongly that it is not and that South Australia does not have any spare water. Last year and this year are a very good example of that. Not only do we have the problem for the Murray of taking more water out, and taking it right out of the Murray catchment—in other words, there will be no chance of any seepage, leakage or anything coming back into the river—but that entire volume of water will be lost to the Murray.

The problem is also what it is going to do to the Clare Valley. Salinity is already a problem in pockets of the valley—a very significant problem in one area. We are putting into that valley, along this pipeline, quite salinised water, particularly at the moment. It effectively in parts does not have anywhere else to go. So I believe we need to take a fresh look at this pipeline, at the impact on the Murray as well as the impact on the viticulture in the Clare Valley.

When I visited there last week, they were already putting out the initial spacings and measurements for enormous numbers of plantings all along where this pipeline is going to go. Initially, the pipeline was never intended for irrigation, but SA Water is out there selling water, actively encouraging growers, who in some cases are now going to have to go and look for extra plantings to use it. They have even talked to places like Martindale Hall, which is a historic property that has no vines on it at the moment, about putting in vines—'You will have the water. How about you invest in some vines and make some money?' They are even looking at putting in grapevines.

I close by saying that, while we do see some positives in this bill, every time we seem to take a couple of steps forward we have a couple of steps backwards facing us as very bad decisions are made in other parts of the river. While I commend this bill to the Senate, I call on the government to take a closer look and for the Commonwealth to take some far stronger action when it sees states making decisions that will not only harm their own patch—in this case the Clare Valley, I believe, will be significantly harmed by extensive, unpolicied use of this water—but certainly harm the Murray-Darling Basin for everyone.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.24 p.m.)—I thank honourable senators for their comments and commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

Sitting suspended from 1.24 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Foreign Affairs: Travel Advice

Senator FAULKNER (2.00 p.m.)—My question is directed to Senator Hill, representing the Minister for Foreign Affairs. Can the minister confirm information now on the public record through submissions made to
the Senate Foreign Affairs, Defence and Trade Committee that the Howard government received no less than nine warnings of a terrorist threat to Australians, including interests in Indonesia, between September 2001 and the Bali bombings in October 2002? Is the minister aware that at least three of these warnings—namely, a written ONA report of September 2001, a verbal ONA report direct to the Minister for Foreign Affairs in June 2002 and a written ASIO report in July 2002—warned explicitly of terrorist attacks in Bali and made specific reference to nightclubs, hotels and airports? In light of these very explicit intelligence agency warnings, why then did the Minister for Foreign Affairs fail to change the public warnings about travel to Bali, which continued to state throughout this period: ‘tourist services in Bali operating normally’?

Senator HILL—The government does rely on experts to settle warnings to tourists, and it does so on the basis of the best advice of other experts within the bureaucracy, within our intelligence services, who obviously make assessments on information that is available to us and also have the opportunity to peruse the assessments of experts in other agencies. Taking all that into account, travel warnings are settled and publicly released, as they were for Indonesia during the course of the year in question. I think everyone knew that there was a heightened state of alert within Indonesia, and I can remember speaking on a number of occasions of the intended attack by Jemaah Islamiyah within Singapore, which was believed to have been intended to include Australian targets.

I can remember one speech in particular in which I talked about an arc of instability within South-East Asia and the role being played by Jemaah Islamiyah, the association of it and other terrorist organisations within the region and the particularly worrying aspect that there appeared to be associations between such organisations and al-Qaeda emanating from the Middle East. These were matters that were being discussed on the public record, as I have just indicated, and there is no secret in that regard. It seems to me that there has been nothing revealed in the last few days that goes beyond the assessments that were made by Mr Blick when he did his study of these very same issues after the attack in Bali. Basically, the warnings that were given were appropriate to the very generalised intelligence that was available on that subject.

Senator FAULKNER—Mr President, I ask a supplementary question. Can the minister confirm that, despite ONA’s written warning on 27 September 2001 that Bali and Lombok were important symbolic targets for terrorists, the Minister for Foreign Affairs simply decided to alter the resulting travel advice to read that Australians should ‘consider deferring all holiday and normal business travel to Indonesia, excluding Bali’?

Given that the Minister for Foreign Affairs carries the ultimate responsibility for deciding on the content of travel advisories, how does Minister Downer explain that he took no action on the clear warning from ONA and in fact explicitly excluded Bali from the advice against travel?

Senator HILL—We have been over these matters many times in the past, and if it is the wish of the opposition, despite there being an independent assessment by the expert Mr Blick, to redo it yet again then no doubt we will redo it yet again. But I remind the Senate that our travel advisory for Indonesia was reviewed and reissued several times during the year 2002, including on four occasions between the 18 and 19 June briefing and the Bali attacks. It was upgraded on 12 July to include the following specific language:

Bombs have been exploded periodically in Jakarta and elsewhere in the past, including areas
frequented by tourists. Further explosions may be attempted.

It was upgraded again on 10 September 2002 to include the following specific language:

In view of the ongoing risk of terrorist activity, Australians should maintain a high level of personal security ... (Time expired)

Howard Government: Economic Policy

Senator HUMPHRIES (2.06 p.m.)—My question is to the Leader of the Government in the Senate, Senator Hill. Will the minister inform the Senate how the Howard government’s responsible economic management has helped relieve the financial burden on Australian families? Is the minister aware of any alternative policies?

Senator HILL—I thank the honourable senator for the question because there has been more good news for Australian families. Late yesterday the Commonwealth Bank and the ANZ Bank both announced cuts to their fixed interest home loan rates. Home buyers can now obtain home loans at fixed interest rates below six per cent—fixed interest rates that are now at their lowest point in 20 years. This translates into significant savings for Australian home owners.

Australian families have enjoyed sustained low interest rates under the Howard government. Of course, we remember Labor’s record of economic incompetence, which led to record high interest rates that devastated so many Australian families and crippled so many small business operators. We will never forget that, under Labor, home interest rates soared to a high of 17 per cent. In the darkest days of Labor’s high interest rates regime, Australians with an average home loan of $150,000 were being hit with a monthly interest rate bill of $2,125. Compare that to today, when there is a variable interest rate of 6.5 per cent, and the alternative interest rate bill is $812. Under the Liberals, as opposed to Labor, the home loan cost has been reduced from over $2,000 a month to under $1,000. That is a saving of more than $1,300 a month to Australian families.

That is the sort of benefit that this government’s responsible approach to managing the Australian economy can bring. This government has delivered a strong economy, where businesses are prepared to invest and to employ more Australians. We have delivered six budget surpluses and record job levels. We have delivered low interest rates and also a low-inflation environment which has benefited both employers and workers. We have done this at the same time as reducing Labor’s appalling legacy of $96 billion worth of debt. We remember Senator Cook—who unfortunately cannot be with us today—one of Labor’s senior economic ministers, who told us that the budget was in surplus when it was actually $10 billion in deficit. We should remember that every measure we took to tackle that mountain of debt has been opposed by the Labor Party.

So now, after seven years of sitting idle in the opposition benches, what is the Labor Party’s alternative? Not surprisingly, looking to their history, it is to spend more money: to spend more on Medicare, on health, on the environment and so it goes on. Where is the money coming from? It is coming from putting up taxes and borrowing more again—exactly what it did before, which led to that disastrous situation of 17 per cent interest rates for ordinary Australian families. After seven years in opposition, Labor has learnt nothing. They have no policies to deliver sound economic management, only policies to spend more and more, and end up in the same mess as they ended up in before. The contrast after seven years remains stark. The alternative is the government that tackles the difficult economic issues, that delivers low interest rates, low inflation, high job rates and is an alternative to Labor—spend more,
borrow more, and 10 more to the bankruptcy courts. *(Time expired)*

**Defence: Properties**

**Senator CHRIS EVANS** *(2.11 p.m.)*— My question is also directed to Senator Hill, the Minister for Defence. Can the minister confirm that the government recently sold the Australian Defence College at Weston Creek in the ACT for $28 million, having spent $28 million on buildings and infrastructure on this site over the last three to four years? Can the minister also confirm that the Commonwealth is now committed to paying $60 million in rent over the next 20 years to lease back the site it had previously owned, on top of which it will continue to pay all upgrade and all maintenance costs? Can the minister now explain how taxpayers benefit from spending $28 million on a site valued at about $15 million and selling the property for just $28 million, only to lease it back at a cost of $60 million?

**Senator Ian Campbell**—You’re a hypocrite!

**The PRESIDENT**—Order! Senator Campbell, will you withdraw that remark.

**Senator Ian Campbell**—I withdraw it.

**Senator CHRIS EVANS**—Minister, doesn’t this reinforce the Auditor-General’s conclusion of two years ago that such sale and lease-back arrangements do not make economic sense and are to the detriment of Australian taxpayers?

**Senator HILL**—What unfortunate timing for the Labor Party to talk about responsible economic management, when they have just been reminded of their record in government—a Labor government that left a debt of $96 billion. This was the way the Labor Party did business—a Labor government that, when it went out of office, left $10 billion of deficit.

**Senator Faulkner interjecting**—

**Senator HILL**—I understand that this is a bit embarrassing for Senator Faulkner. From that background of economic mismanagement, the Labor Party now comes in here and seeks to attack us on our economic management—economic management that has delivered record low interest rates and record high employment—

**Senator Chris Evans**—You have had two minutes and haven’t answered the question.

**Senator HILL**—This is the point, Senator Evans—benefits that have come from sound economic management that have delivered low interest rates, low debt and high employment.

**Senator Chris Evans**—Mr President, I rise on a point of order going to relevance. The minister has been going for two minutes. The question is specific about the sale of defence properties. The minister has not addressed his remarks to that at all. These are his responsibilities. I ask you to call him to order under the relevance rule and answer the question about the sale of Weston Creek Defence College.

**The PRESIDENT**—The minister has three minutes to complete his answer and I am sure he will get to the point shortly.

**Senator HILL**—It is all part of the answer. The answer is that this government does not believe in holding property simply for the sake of holding property. It regards it as economic management. In some instances, the sound economic choice is to retain the capital; in other instances, the sound economic choice is to dispose of the capital and, in some circumstances, pay a recurrent cost of if the property is to be used by a Commonwealth agency. We operate on an economic formula that has been worked up with the Department of Finance and Administration to determine whether the rate of return leads to the decision that the property should be sold or the property should be retained.
The bottom line to all of this, which is the point I was seeking to make, is the record of this government. The record is that we have been able to achieve such enormous economic benefits for the Australian people. We have been able to achieve that, because we have taken the right economic decisions, and we have taken them, in the instance of the sale of property, because we have adopted a formula that gives us guidance on the economic benefits or not.

Senator Chris Evans—You haven’t attempted to explain it. Have a go.

Senator Hill—That is the point I am telling you. Under the formula that has been adopted and that has delivered all these benefits to the Australian people, it was decided that it would be a better economic outcome if the property were sold rather than retained, and so the decision was made.

Senator Chris Evans—Mr President, I ask a supplementary question. After that rather unusual response from the minister, I want to draw him back to the question, which was about the Australian Defence College at Weston Creek. Can the minister provide an explanation as to why, having spent $28 million on capital improvements on a site valued at over $15 million, we then sell that property for $28 million and arrange to lease it back and pay $60 million in rent? I want him to explain to the Senate and the Australian taxpayer how that makes good economic sense to Australians. Why have we lost so much money in this arrangement and on what basis would we enter into such a ludicrous financial arrangement?

Senator Hill—What I have said, and I repeat it, is that the Labor Party are hardly in a position to judge what is a ludicrous financial position. I suppose they would say that, given the deal they did on Centenary House, where they have caused the Australian taxpayer to pay far over the value of the asset, that is the way that we should operate as well. Is Senator Evans saying that the Australian taxpayer should miss out both ways—firstly, because of incompetent economic management, Labor would drive up interest rates and lead to the disaster of their previous administration; and, secondly, they would take a bit more back from the taxpayer to help pay for the internal administration of the Australian Labor Party? Is that the alternative that the Labor Party, after seven years in opposition, are putting to the Australian people? If that is the alternative they are putting, it demonstrates again that they have learnt nothing from their time in opposition and will stay there for a long time yet. (Time expired)

Australian Labor Party: Centenary House

Senator Mason (2.17 p.m.)—My question is to the Special Minister of State, Senator Abetz. Is the minister aware of any new developments in relation to the lease on the Labor Party owned Centenary House? Specifically, will he give details of the recent subleasing of the top floor? Does this new arrangement represent value for money for the Commonwealth? Will the minister inform the Senate how much taxpayers’ money is being wasted on this Labor Party rip-off?

Senator Abetz—I thank Senator Mason for his very timely question and congratulate his committee on its incisive questioning at the recent Senate estimates hearing and especially on the role played by Senator Brandis in that regard. Previously I informed the Senate that L.J. Hooker Commercial was advertising a sublease at Centenary House on the ANAO’s behalf. As senators are aware, the original leasing arrangements for this Labor property were undertaken by the then Labor government. The lease has allowed Labor to gouge an unjustifiable rent out of Australian taxpayers since 1993. Labor contrived a 15-year lease with a minimum nine
per cent rent increase per annum. This means that, as at September this year, taxpayers will be paying $871 per square metre into Labor coffers.

I can inform the Senate and Senator Mason that the top floor of Centenary House has now been sublet. And what was the best commercial rate for the sublease on the top floor—the best floor—of Centenary House? It was a mere $314 per square metre. That is right, the best market price that they could get was only $314 per square metre, yet the Australian taxpayer is still being forced by Labor to pay $847 per square metre, or 270 per cent above the actual market rate. This means that in 2003-04 ordinary taxpayers will have to pay $3.5 million more than they should for Centenary House. Over 15 years of the lease, Labor’s sleazy and unconscionable rental rort will cost taxpayers $36 million above market rates.

Senator Mason asks, ‘Does this represent value for the Commonwealth?’ No, it does not. It is a Labor Party rip-off, as described by Senator Mason in his question. No-one can argue that this rental deal is fair, that it is reasonable or that it is proper. But do Labor care? No, they do not. Each and every attempt to renegotiate the lease to get a better deal for taxpayers has been stonewalled by the Labor Party. Why would they do that? Perhaps it is the ever-shrinking union membership base that they are confronting. But I think the answer is somewhat simpler: sheer unadulterated greed.

Senator Cook, who is absent, Senator Faulkner, Senator Ray, who also is absent, and Senator Bolkus were ministers in that Labor government when this rort went through. What have they had to say about this? Absolutely nothing at all. Where is Mr Crean? He is always happy to talk about the battlers, except when those battlers are being ripped off by the Labor Party. Mr Crean says that he is policy focused. So what is his policy on Centenary House? Mr Crean seems to be taking the Beazley small target approach on this one. The Australian people are angry at Labor’s rort. What Labor needs to do is to pay back the money that rightfully belongs to the Australian taxpayer. This is a test of integrity, character and, dare I say it, leadership. We know that Mr Beazley never had the ticker to fix it. The question now is whether Mr Crean has the integrity. (Time expired)

Defence: Properties

Senator MARSHALL (2.22 p.m.)—My question is to Senator Hill, the Minister for Defence. Can the minister confirm that Defence has now sold and leased back six separate properties? Minister, isn’t it true that as a result of these arrangements Defence is now locked in to 20-year leases, under which taxpayers will pay over $960 million in rent to remain in properties they previously owned? Hasn’t the Auditor-General noted that the Commonwealth stands to lose millions of dollars under such sale and lease-back arrangements, recommending a more thorough analysis of the actual costs incurred by taxpayers? Why did the government sell the six properties for $440 million and then pay more than twice that to rent them back for the next 20 years?

Senator HILL—Obviously our economic advisers said it made good economic sense, and our economic advisers have got the runs on the board—record low interest rates, record high employment, low inflation and good outcomes for the Australian people. It is, of course, absolutely simplistic to add up the interest rates over the next 20 years and then to apply the figure against the capital sale price and reach a simplistic outcome. You need to determine the value of money and determine which is the best way to go—to keep or to sell the asset. We do not make
an ideological choice in that regard; we take advice from economic managers who have the runs on the board. We make those decisions and we deliver good outcomes to the Australian people. That is what we are all about.

Contrast that with Labor: Labor hold the property, they borrow more and more money, they put taxes up and they accumulate a debt of $96 billion. When they are finally thrown out of office, they hand over a deficit of $10 billion when they claim they were actually in surplus. That is the sort of economic mismanagement that this country suffered through 13 years of Labor government. What is more important is that they delivered such bad outcomes to people—record high unemployment, record high interest rates and a great deal of misery—that were directly related to economic incompetence. Of course, the Labor Party do not come up with any policies that talk about savings and sound economic management. The only policies—and there is scant detail in that regard—that they can now come up with involve the same old recipe: you borrow more to try to buy your way back into government. When you run out of borrowing capability, you put taxation up as well, you drive small business into the ground, you achieve record high unemployment rates and families suffer the agony of record high interest rates. That is the misery that is delivered by Labor’s alternative. When Labor come up with some sensible, rational economic policies, perhaps they might be justified in re-entering the economic debate. But, until they at least make an attempt to do so, I would suggest that they forget this line of questioning, because all it does is invite a reminder of what an appalling effort Labor made in managing the Australian economy over 13 years.

Senator HILL—I suppose there is an ideological divide. We actually encourage Australians to invest their capital, create wealth and bring benefits to their families. We think that that is a reasonable aspiration and, when it is achieved, it is a reasonable outcome. If the other side of the ledger means lower taxes, low interest rates and higher employment then taxpayers are better off as well. It is actually possible to benefit the community and encourage them to invest, and benefit the taxpayer through overall prudent economic management of the Commonwealth’s asset base. It can be achieved. It has been demonstrated it can be achieved by the record of this government. As I said, I suggest the Labor Party go back and start thinking about what might be some alternative economic policies, and then they might legitimately enter this debate.

Iraq

Senator BARTLETT (2.27 p.m.)—My question is directed to Senator Hill, the Minister representing the Prime Minister and the Minister representing the Minister for Foreign Affairs. Is the minister aware of the recent UNICEF report released last month that showed that the number of Iraqi children who are severely malnourished and in danger of death has almost doubled as a result of the war to around 7.7 per cent, and that one in 10 children are in need of immediate treatment for dehydration? Will the government provide a significant increase in the funding it has provided to meet the immediate and urgent humanitarian needs of the children of Iraq?
Senator HILL—I saw reports of the UNICEF statement and I have seen subsequent reports of UNICEF investing in programs that are designed to alleviate that suffering. I am also aware that, of the significant funding that the Australian government is putting into Iraq for humanitarian and reconstruction benefits, a significant proportion of that is being applied through major international agencies, including UNICEF. As a matter of interest, the last figures I saw showed that on a per capita basis Australia’s contribution to the reconstruction of Iraq and meeting short-term humanitarian needs was better than most other donors. We believe that the government is playing its part in this regard. The Australian people are playing their part through the Australian government. If there is a capability and a need for us to provide further funding, I am sure that that would be addressed by the Department of Foreign Affairs and Trade through the AusAID program. I will draw the detail of the honourable senator’s question to the attention of Mrs Gallus, who administers that program for the Minister for Foreign Affairs.

Senator BARTLETT—Mr President, I ask a supplementary question. I thank the minister for his answer. Doesn’t the minister agree that, given that Australia was one of the few nations involved in causing the significant disruption in Iraq that has led to an increase in children’s ill health, doesn’t the government have an obligation to provide more resources and funding than other countries in the world who were not involved in this destruction? If the government is genuine, as the minister has said, in addressing these urgent needs, why has the minister—

The PRESIDENT—Order! The Senate will come to order! Senator Bartlett, I believe you should withdraw that remark and continue with your question.

Senator BARTLETT—Thank you, Mr President. I withdraw that remark. Given that the Australian government was one of the few nations that caused the disruption that has led to an increase in children’s ill health, doesn’t the government have an obligation to provide more resources and funding than other countries in the world who were not involved in this destruction? If the government is genuine, as the minister has said, in addressing these urgent needs, why has the minister—

The PRESIDENT—Order! Senator, it is a long question and the time for asking it has expired.

Senator BARTLETT—I beg your pardon, Mr President. On a point of order, I was interrupted repeatedly in asking it and that is why it took longer.

The PRESIDENT—But when you were interrupted the clock was stopped. It was a very long question.

Senator BARTLETT—Mr President—

The PRESIDENT—I am President—

Senator BARTLETT—Given that the Australian government—
Senator BARTLETT—With respect, Mr President, you could not hear me because of the noise from the rabble on your right who were not pulled up during my question, and the clock was not stopped whilst I had to re-ask my question after the—

The PRESIDENT—I can assure you, Senator, the clock was stopped. I have checked with the Clerk. The clock was stopped. I will give you the opportunity to—

Honourable senators interjecting—

The PRESIDENT—Order! I will give you a very brief opportunity to conclude your question so that the minister can answer.

Senator BARTLETT—Thank you very much, Mr President. Given that the minister has said the government is serious about addressing this issue, why did the government vote against a motion in the Senate this morning calling for this very action to occur?

Senator HILL—I totally reject the premise to the question, that the fault is on the part of those who have liberated the Iraqi people and given them the opportunity not only of freedom but also of a better standard of living. I think the honourable senator fails to appreciate the state of malnutrition and disadvantage of the Iraqi people, particularly children, before the war because of the abuses of Saddam Hussein, who had diverted so much of the potential wealth of that country to his own personal advantage. I suggest he take a trip and look at the 66 palaces that Saddam built for himself in Baghdad and compare that with the lives of ordinary Iraqis. If you talk about the disadvantage of Iraqis, of course I am not even looking at those whose bodies are being excavated now from the mass graves from his abuse or at those who were bombed by Saddam’s chemical weapons. But having said that, we are giving over $100 million and if necessary—(Time expired)

Defence: Properties

Senator HOGG (2.34 p.m.)—My question is to Senator Hill, the Minister for Defence. Can the minister confirm that Defence is forecast to reap over $560 million from asset sales during 2002-03? Minister, isn’t it true that most of the sales are being rushed through between March and June in order to meet this target? Doesn’t the rushed sale of assets seriously compromise the Commonwealth’s financial interests? Can the minister provide an absolute guarantee that he has acted to ensure that all Defence asset sales during 2002-03 are in the best financial interests of the Commonwealth?

Senator HILL—Nothing is being rushed through. The government has a policy that it should utilise its capital assets in the most efficient economic way, and in some instances the determination is made that they should be disposed of because you will get a better return through such disposition. When that occurs—and, as I said, we adopt formulae, which I think were actually used by the previous government as well but they have probably been improved and refined since then—and when a decision is made to dispose of a property, there is then a comprehensive study as to how the highest price can be realised. Sometimes that requires rezoning or remediation work in case it was a factory, for example. We take whatever steps are needed to maximise the return because, as I said, we are sensible economic managers and very proud of it. When we are able to dispose of assets, where it is unnecessary for the Commonwealth to hold those assets, to give a better return to the Australian people we do so, and the timing of the end of the financial year does not really make a lot of difference in that regard. Our goal is to maximise our return because that maximises the benefit to the Australian people, which is what we are all about.
Senator HOGG—Mr President, I ask a supplementary question. Can the minister confirm that Defence will pay over $470 million to consolidated revenue on 30 June as proceeds from its asset sale program? Does the minister consider that a fire sale of Defence property late in the financial year is an appropriate way to prop up the budget bottom line? Minister, if properties are to be sold, aren’t taxpayers entitled to demand that the Commonwealth receives a price that truly reflects the value of the asset?

Senator HILL—Yes, a fire sale would be irresponsible. Selling at less than market value would be unwise. What is the best test of market value? What somebody is prepared to pay for the asset. So you make a calculation on whether holding the asset or selling the asset gives the Australian taxpayer the best return and you take that course of action. We have a formula within which some of the money is reinvested in Defence assets and some of it goes back to the taxpayers through the budget as a whole. Out of that budget as a whole we get funded some $14-odd billion a year to run Defence. It can work and you can run it efficiently and you can get benefits to the Australian people—in terms of low interest rates, high employment, low inflation—and we have shown that we can deliver those outcomes and will continue to do so.

Senator IAN MACDONALD—I thank Senator Harris for that question. I know Senator Harris, as a North Queenslander, has been very much involved in some recent meetings up that way about irradiation of bananas and other tropical fruits. Senator Harris will be aware that there are some irradiation plants registered in Australia after having gone through the very strict assessment process under the Environment Protection and Biodiversity Conservation Act. Senator Harris would also know that these irradiation plants have to be registered and approved by the state authority. The one at Narangba in North Queensland has obviously gone through a fairly strict assessment process by the Queensland government.

Senator Harris, you have asked me what irradiated foods have come into Australia. I will take that part on notice to get you a full answer because obviously I do not have that sort of detail on me. I do understand that currently imports of herbs and spices, herbal infusions such as herbal teas, and a range of nuts—peanuts, cashews, almonds and pistachios—subject to irradiation are imported into our country. I understand that Food Standards Australia New Zealand does require that any foods in Australia having irradiated product in them are labelled so consumers can understand that they are using food that has indeed been irradiated.

Senator Harris, by way of information, you would probably be aware, coming from the north, that some tropical fruits were permitted for irradiation. They include breadfruit, carambola, custard apple, lychee, longan, mango, mangosteen, papaya and rambutan. Bananas, as I understand it, have not yet been dealt with although again, Senator Harris, you and I are both aware that SureBeam Australia is looking at doing something in the north. I understand there is some concern in the north. Whether that concern is properly founded or not is something that I am no

Health: Irradiated Food

Senator HARRIS (2.37 p.m.)—My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry. What testing is done at present to detect irradiated food and food ingredients being imported into Australia? Are all imported foods and food ingredients tested to check whether they are irradiated? Minister, if a food is detected that has been irradiated, what is the fate of that food?
expert on and cannot make any comment on at this stage.

As always, anything that is done in Australia with food is done under the very strictest of conditions, taking into account all relevant scientific and other evidence that is available. There is some belief or some school of thought that says irradiation is better because you have less chemical residue in food and that is good for people. Whether that is the most telling consideration in this area I am not quite sure. I am not an expert. Senator Harris, that is the information I can give you at this stage, assuring you again that any irradiation of food in Australia is very carefully assessed. I will defer to the appropriate minister—it may well be Senator Patterson as much as Mr Truss—on just what that list is. When I have that list I will make it available to you.

Senator HARRIS—Mr President, I ask a supplementary question. I thank Senator Ian Macdonald for his answer. My understanding is that food is not directly tested for irradiation at point of import; however, if food has a considerably low bacteria count, it may be checked for irradiation. Would the minister get information from the department as to whether that is correct and provide that to the chamber? I thank the minister for taking the other part of the question on notice.

Senator IAN MACDONALD—I will take that supplementary question on notice as well and try to get Senator Harris some further information. I am not sure how they detect irradiated food that does come into Australia. There is a regime in place of course and under Australian food laws we do require that irradiated product is labelled. I will see what I can find out for you.

Sport: Antidoping

Senator LUNDY (2.43 p.m.)—My question is to the Minister for the Arts and Sport, Senator Kemp.

Government senators interjecting—

Senator LUNDY—I knew he would be pleased. Does the minister recall that the CEO of the Australian Sports Commission, Mr Mark Peters, on 28 May 2003 told a Senate estimates hearing that in his view there were no sports that were not compliant with the national sporting organisation’s antidoping assessment requirements? Can the minister now confirm that he and the Australian Sports Commission were then aware that the sport of cycling had failed to comply with the antidoping assessment requirements in March 2003 and that the minister was also aware that the ASC had failed to sanction or withhold funding to the sport of cycling despite having an obligation to do so? Is the ASC’s failure to act in such a circumstance a direct breach of the government’s policy of zero tolerance as outlined in the government’s Tough on Drugs in Sport program?

Senator KEMP—A special thank you to Senator Lundy for the question.

Senator Ian Macdonald—The first one in 18 months.

Senator KEMP—Yes. I think it is particularly good that the shadow minister for sport is taking an interest in sport. It is a thing to be commended, colleagues, not a thing to be jeered at. Senator Lundy, your question illustrates the problem that when you believe in nothing you will fall for anything. Let me make a number of points. One is this government—

Senator Faulkner interjecting—

Senator KEMP—Senator Faulkner, I do not think that Senator Lundy needs to be protected by you. Mr President, this government has had a very proud record in tackling drugs in sport. We have effectively brought in a world-class policy for tackling drugs in sport. In fact, I commend Jackie Kelly, the former Minister for Sport, and Senator Vanstone for the work they did in bringing in
a Tough on Drugs policy. Ours is an outstanding record; it is one that this government is particularly proud of. I think many other countries in the world have looked closely at the Australian example and have sought to follow that example.

Let me go back to Senate estimates. I do remember Mark Peters making those comments and I do remember that those comments have been endorsed by the CEO of ASDA, Mr John Mendoza. The point I would make to you, Senator Lundy, is that you have to be very careful about misusing documents which may have been leaked to you. You have to be very careful because those matters, as you know, have been investigated. You have tried to get some press on this issue and you have failed to get some press on this issue. Senator Lundy, I think that your efforts to undermine confidence in this area are to be completely deplored. You should read closely the evidence that was given at that estimates committee by Mr Mark Peters. You should read closely the evidence that was given by Mr John Mendoza and you should be very careful about misusing leaked minutes which may or may not have been given to you.

Senator LUNDY—Mr President, I ask a supplementary question. I have to say that I am intrigued by the minister’s response. Does the minister also recall that in the same Senate estimates hearing on 28 May 2003, Mr Peters said, ‘We are the final arbiters on actions against national sporting organisations’? Is it not true that by failing to ensure the compliance of NSOs, the ASC is undermining the effectiveness of antidoping processes of which Australia is, as you say, a world leader? Finally, doesn’t this failure mean that the Howard government is not taking seriously its commitment to implement the World Anti-Doping Code before the Athens Olympics in 2004? Answer the question.

Senator KEMP—Can I make the point that, in her response, Senator Lundy answered the question by indicating that Australia leads the world with its antidoping policy. Senator Lundy, that is our policy and that is what is being achieved. Mr President, can I also mention that we are very honoured to have in the gallery Jason McCartney from the North Melbourne Football Club. I would like to say how much we admire the courage that he has shown and how moved we have been by the comments that he has made on this issue. We are particularly proud of the example that he has shown to all Australians. Thank you, Jason.

Immigration: Detainees

Senator BARTLETT (2.49 p.m.)—My question is to the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs. Is the minister aware of the decision today by the full bench of the Family Court that indefinite detention of children is unlawful and a breach of the Convention on the Rights of the Child? Instead of wasting more taxpayers’ dollars on appealing this decision—as the government is so want to do—will the government finally recognise that keeping children in detention is incredibly harmful and let these children free?

Senator ELLISON—I am aware today that there was a decision handed down by the majority of the full court of the Family Court, which allowed the appeal brought on behalf of two children in immigration detention. The majority of the full court of the Family Court found that its welfare jurisdiction extended to the protection of children in immigration detention. The majority of the full court of the Family Court found that its welfare jurisdiction extended to the protection of children in immigration detention notwithstanding the provisions of the Migration Act. The court also found the welfare jurisdiction and injunction powers conferred upon the court by the Family Law Act enabled the court to make orders for the welfare of and in the best
interests of the children, the subject of these proceedings.

The court also found that such powers extend to the making of orders directed to the minister for immigration and, if a trial judge finds that the continued detention of the children is unlawful, then the court has the power to order the release of the children. The department’s lawyers are currently considering the decision and the minister for immigration will be seeking advice on whether to seek special leave from the High Court to appeal this decision.

Senator BARTLETT—Mr President, I ask a supplementary question. Rather than continuing to consider wasting taxpayers’ money on appeal, why does the government not recognise the obvious fact that detention of children is incredibly harmful and allow them to go free? Why should a court which specialises in ensuring that the welfare of children is given maximum attention be prohibited from having any powers in this area?

Senator ELLISON—As I said, this is a majority decision of the full court of the Family Court and, of course, decisions of that court have been appealed to the High Court. What the minister is proposing to do is thoroughly reasonable. The department is looking at the decision and will pursue an avenue of appeal if it is appropriate. To simply say that you should not appeal—that you should simply accept the decision of the Family Court—really ignores the fact that it was a majority decision.

Education: University Funding

Senator CARR (2.52 p.m.)—My question without notice is to Senator Alston, the Minister representing the Minister for Education, Science and Training. Is the minister aware of the assertions of the minister for education that all Australian universities will be better off under his funding package and that this specifically includes regional universities? What then is the minister’s response to the Vice-Chancellor of the University of New England, who has identified a funding shortfall of $1.5 million by 2005 and has publicly claimed: ‘UNE will be worse off following this budget, not better. We will be going backwards’? Isn’t this proof that regional universities will in fact be worse off under Dr Nelson’s proposed changes to higher education funding?

Senator ALSTON—It is an interesting logical deduction to say that, because one person from one regional university expresses a view that the opposition jumps to identify with, somehow that proves that all regional universities will be worse off. It is a ridiculous proposition. It is really just a smokescreen to disguise the fact that they have not yet tackled this particular area of policy, despite the fact that Mr Crean seems to have got up as the policy preferred alternative. It is quite ironic in many ways. We certainly recognise the unique contribution that regional universities and regional campuses make to regional Australia. They provide easier access to higher education for students from rural and regional areas.

Senator Crossin—Why do you have to read this?

Senator ALSTON—So you can take it down. I don’t want you to miss any of it.

The PRESIDENT—Minister, ignore the interjections and address your remarks to the chair.

Senator ALSTON—Thank you, Mr President. The higher education reform package contains a number of initiatives that will assist regional universities and regional campuses. An additional loading will be incorporated into the funding of student places, which will be allocated according to a campus’s regionality as determined by its size and its distance from a mainland capital city—an increase of $122.6 million over four
In 2004 the government will provide an additional 210 nursing places to regional campuses, rising to 574 places by 2007—an increase of $40.4 million over four years. From 2004, Commonwealth accommodation scholarships will be available to specifically assist financially disadvantaged students and Indigenous students from regional and rural areas who have to leave home in order to study. Commonwealth education costs scholarships will provide $2,000 per year for up to four years to assist with education costs. Rather than simply seizing on the remarks of one person who made a general, sweeping statement that somehow he thinks his university is likely to be worse off—

Senator Carr—It’s a she.

Senator ALSTON—She—I am taking Senator Carr’s word for it, which I normally don’t do. Senator Conroy has warned me repeatedly against taking anything Senator Carr says at face value, and I value his advice on that matter. In this instance, if Senator Carr assures me that we are talking about a she, I will use that terminology. The fact remains that a general piece of rhetoric is no substitute for serious policy analysis. The unfortunate part about Senator Carr’s whole approach in this area seems to be that he is not prepared to tackle the hard issues. Labor’s only solution seems to be to throw more money around—not their money, our money—rather than look at the real challenges ahead and the real benefits available to students from increased student places and an increase in HECS payments, designed to facilitate more places and to make students overwhelmingly better off because they will be paying around a quarter of the total cost of access. The end result, of course, is that all we get is sniping. That is a very sad reflection, but I think it is a pretty accurate one of where you are after seven years. You have a long way to go, and this is a very good place to start getting serious about policy.

Senator Carr—Mr President, I ask a supplementary question. If it is only one vice-chancellor who has been able to identify that they will be worse off at their university, when will the government release the detailed analysis of the individual university finances under the proposed Commonwealth course contribution scheme? How many other regional universities will be financially hit in the same way as the University of New England?

Senator ALSTON—I simply counsel Senator Carr that, rather than taking a general, sweeping statement from one vice-chancellor from one regional university, he should go and do the hard yards. He should dig down and see—

Senator Carr—When will you release the data?

Senator ALSTON—What Senator Carr is saying is, ‘I can’t do it until I get the detailed data,’ yet he is perfectly happy to run off one vice-chancellor who makes a sweeping statement. That is not the way you tackle policy issues. Go away and do your homework and it might make a bit more sense.
the proposed free trade agreement with the United States. These documents were security classified cables from Washington, which the government does not believe it would be in the public interest to table. If, as the government claims, the PBS is not being discussed as part of the free trade agreement with the United States, why would security classified documents about this matter exist and how can the government justify withholding information from the Australian public about threats to their access to affordable and essential medicines?

Senator PATTERSON—I take this opportunity to say that the greatest threat to the affordability of the PBS is Senator Nettle and her cohorts on the other side. That is the threat to the PBS, and the Australian public ought to know about it. We asked the parliament and then the Senate to approve a modest increase in the Pharmaceutical Benefits Scheme which would get us about $1.04 billion—I think that is the figure—over a four-year period. And guess what? In the last 18 months, there have been three medications—two of them are already on the PBS and one is looking to be approved—that would have actually consumed 0.7 of that $1.04 billion. One of them costs over $50,000 per person per year, another one costs $26,000 per person per year and the other one costs about $25,000 per year.

We want to be able to put those medications on the PBS. We want you to rethink that modest increase in the Pharmaceutical Benefits Scheme so that we can continue to give the Australian public, at the rate of $3.50 person if they are on a health care card or $23.10 if they are not on a health care card, medication that sometimes is worth $6,600 a month. That is what Glivec costs, and we recently put it on the list. I know Senator Brown is itching to jump up and take a point of order—itching. There he goes!

Senator Brown—Mr President, I rise on point of order. The minister is obviously aware that she is not answering the question. I draw your attention, Mr President, to the fact that she is not answering the question, which was to do with the classification of documents to do with the PBS and the United States. She should be directed to answer the question.

The PRESIDENT—Order! I cannot direct the minister to answer the question. There is no point of order.

Senator PATTERSON—I am answering the question because what it shows is the passion on our side to maintain the PBS and the sustainability of the PBS. That is the passion that we have. The other side do not care and do not comprehend that the PBS is under threat because of their behaviour. When they wanted to introduce a copayment we agreed; we thought it was sensible and fiscally responsible to have a sustainable PBS. Of course we want a sustainable PBS. Senator Nettle asked question after question in estimates about the FTA, threatening that we were not going to protect the PBS. The greatest threat to the PBS is the failure of the people on the other side to agree to a modest increase in copayment which will mean that we have sustainability.

Senator Brown—Mr President, I rise on a point of order. There is now just over a minute left of the four minutes of the minister’s answering time. She has not any stage addressed or ventured towards addressing the question that Senator Nettle put to her, and she should do so.

The PRESIDENT—Senator, you have 1½ minutes left and I ask you to return to the question.

Senator PATTERSON—I have answered the question because I have said how strongly we are committed to the preservation and the sustainability of the PBS. Of
course we will make sure that the PBS is protected. You are not involved in that because you are not in government—thank heavens! If I thought the Greens would ever be in government I might pack up and go in a cardboard box somewhere. If the other side are concerned about it, what they could do about the sustainability of the PBS is agree to support the modest increase in the copayment so that we can actually afford the sort of medication we have just put on: Glivec at $50,000 per person per month, for which people on a health care card pay $3.70 and people not on a health care card pay $23.10. It is a fabulous system. We will protect it. Why don’t you do something about assisting us?

Senator NETTLE—Mr President, I ask a supplementary question. The primary question was about the free trade agreement with the United States. If, as the minister has indicated in her answer, this government is so committed to ensuring that the PBS is not on the negotiating table, why have they not been prepared to categorically rule out that that is the case? And why has the department of health seconded an individual with expertise in the area of the Pharmaceutical Benefits Scheme to attend both of the negotiations that have happened between Australia and the United States on the free trade agreement? Can the minister explain to the Senate why there are security classified cables from Washington that relate directly to the matter of the Pharmaceutical Benefits Scheme and the free trade agreement and why the government believes that it is not in the interests of the Australian people for this information to be made available in the public realm?

Senator PATTERSON—Our goal is to protect the Pharmaceutical Benefits Scheme, one of the best systems in the world. The Labor Party, the Greens and the Democrats and the other minor opposition people have not assisted us in protecting the Pharmaceutical Benefits Scheme to be able to put on medications, as I have said a number of times, that are worth thousands of dollars—$26,000—per person. Senator Nettle was in estimates. She asked questions. We told her why that person was on there. She is shaking her head; she was told. I advise Senator Nettle to go back and re-read the estimates, because the officials there gave a very clear indication about what we were going to do in terms of the Pharmaceutical Benefits Scheme and the discussions on the FTA.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Defence: Properties

Senator CHRIS EVANS (Western Australia) (3.05 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Defence (Senator Hill) to questions without notice asked by Senators Evans, Marshall and Hogg today relating to Defence property sales.

The minister was unable to provide any detailed response to those questions and unable to provide any defence to the accusations levelled at Defence that a fire sale of defence properties has been occurring, driven by their need to find the $500 million required of them to be put into consolidated revenue this financial year. In the case used today of the Australian Defence College at Weston Creek we have another appalling example where the government has sold off a Commonwealth asset at a low price and entered into a lease-back arrangement where we will pay millions of dollars to lease back the property we owned until recently.

As I said, we have spent $28 million of taxpayers’ money in the last three or four years on capital improvements to the Weston Creek site, a very valuable five-hectare prop-
tery in Canberra. Under the government’s sale of property principles, we then sold that property for $28 million—only recovering what we have spent on it in the last three or four years—but we are going to spend $60 million renting back that property. This is the Australian Defence College, where we train our senior officers. It is a central part of Defence Force training, but we have sold the property at a low rate and we are going to spend twice as much to rent back that property over the next 20 years. We are still responsible for keeping the premises up to standard—the maintenance et cetera—but we have this ludicrous proposition where the Commonwealth is spending millions of dollars to rent back properties it owned until recently.

In total, of the six or seven properties that Defence have sold in the last year or so, they have reaped $440 million in revenue from those sales, but we are going to spend $960 million renting them back over the next 20 years. This is the economic logic that Minister Hill tried to defend in question time. This is madness. As the Auditor-General’s office have pointed out, this is a crazy decision. It is driven by the budgetary position of this government. They have insisted that Defence, in return for money put into Defence for increased defence expenditure, return a dividend to the Commonwealth through forced property sales. This year they have been required to provide $560-odd million in property sales as revenue back to the Commonwealth. They were even going to sell Russell headquarters, the Defence Headquarters of Australia. Finally, after a bit of public pressure, the government dropped that ludicrous proposition. Even they realised that selling the equivalent of the Pentagon made no sense at all.

But everything else is up for sale. As a result, the government is forcing Defence to sell these properties. They have to sell them by the end of the financial year to meet the government’s budget bottom line. In the last little while, we have seen over $400 million worth of property being rushed to sale in the last couple of months of the financial year. Up until March this year, Defence had received only $180,000 worth of revenue from their property sales so far. But they still say they are on track to reach the $560 million target by the end of the year. The vast majority of the properties are going to be sold in the last days of the year at bargain basement prices because it is a fire sale to meet the budget bottom line that Defence has to return to Finance.

As a result, Australian taxpayers are going to be paying coming and going. They are not getting value for the sale and they are going to have to pay more, year after year, to rent the buildings back. These are not surplus buildings or properties in most instances. These are properties that Defence are going to use for the next 20 years. This is our Defence College; this is where we train our senior officers. But we have a situation where Defence have been forced to sell at low prices and then rent back. It is economic madness, it is at a huge cost to the Australian taxpayer and it is another sign of the terrible financial management that is occurring inside Defence. There is a qualification on their accounts from last year, but they have been driven by this government to fund the budget bottom line by selling Defence properties for whatever they can get in order to get the revenue in by the end of the financial year. This fire sale is costing Australian taxpayers millions of dollars. It also means we will be paying rent for the next 20 years. (Time expired)

An incident having occurred in the gallery—

The DEPUTY PRESIDENT—You are out of order, Sir!

CHAMBER
Senator BRANDIS (Queensland) (3.10 p.m.)—Mr Deputy President, I heard Labor senators during question time, and now we have heard Senator Evans, talk about a lease scandal and an overvalued asset and refer to the Australian National Audit Office. I thought, and I think all government senators thought, that at last they are going to fess up to the real lease scandal in Canberra today, and that is the sorry story of Centenary House. It is the 10th anniversary this year of the Centenary House lease. Let me remind the Senate what the terms of that lease are. The terms of that lease provide that the landlord of Centenary House—that is, John Curtin House Ltd, which is wholly controlled by the Australian Labor Party—escalates the rent by a minimum of nine per cent per year, every year for 15 years, regardless of market conditions.

Over the last several years, in questions in estimates pursued by Senator Ian Campbell and more recently by me, we have heard evidence that this commercial lease is unique in Australia. There has never been such an uncommercial lease disguised as a commercially viable lease in the history of Australian commercial property. Now, as was disclosed in estimates three weeks ago, we learn that the top floor of Centenary House—approximately 25 per cent of the gross lettable floor area—has been subleased to an engineering firm called Kellogg Brown and Root Pty Ltd for a rental of $314 per square metre per annum. As the Audit Office testified at Senate estimates, that is the market value of that tenancy. It is the best floor of Centenary House, by the way, so it could be expected to achieve the maximum rent achievable in the market. The market value is $314 per square metre per annum. But do you know how much the taxpayer, through the Audit Office, the head tenant, will be paying from September this year—the 10th anniversary of the lease? The taxpayer will be paying $871.07 per square metre per annum. Senator Abetz, in an answer to a question from Senator Mason, said it was $847 per square metre per annum. It is in fact $871.07 per square metre per annum. So this year the taxpayer, through the Australian National Audit Office, will be paying—

Senator Ludwig—Mr Deputy President, I rise on a point of order. Senator Brandis is not dealing with the matter that is currently before the chair. Senator Brandis knows that quite well. If Senator Brandis wants to debate the issue of Centenary House then he can do it at some other time or somewhere else. The matter before us is in relation to the Defence portfolio. Senator Brandis knows that there is no defence for Senator Hill. If Senator Brandis does not want to talk about that then he should indicate clearly that Senator Hill has no defence.

Senator BRANDIS—Mr Deputy President, the question before the chair at the moment is that the Senate take note of Senator Hill’s answers. The question is not that the Senate take note of Senator Evans’s questions but that the Senate take note of Senator Hill’s answers. In answering Senator Evans’s questions, Senator Hill directly and specifically referred to the Centenary House lease. So I speak in taking note of Senator Hill’s answers. I speak to that part of Senator Hill’s answer. Mr Deputy—

The DEPUTY PRESIDENT—Senator Brandis, I have not ruled on the point of order yet. I call Senator Ludwig.

Senator Ludwig—In reply to that, it is still a matter of relevance that has to be brought. There is no relevance with Senator Brandis’s replies in respect of the answers given by Senator Hill. Senator Brandis knows that and he has no defence to that. He should be brought to order to deal with the answer given by Senator Hill.
The DEPUTY PRESIDENT—Senator Brandis, I will rule on the point of order. I draw your attention to the motion that is before the chair to take note of the answers asked by the opposition in question time today. I ask you to be relevant to that answer.

Senator BRANDIS—I will be relevant to the answer, Mr Deputy President. I will address myself to that part of the answer because it is that part of the answer which I wish to take note of in which Senator Hill referred to the Centenary House lease. In the 2003-04 year, the Australian taxpayer will pay in rent $5,485,127.70.

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

Senator Ferguson—You’re very sensitive about this, Joe! We’ve touched a nerve!

The DEPUTY PRESIDENT—Senator Ferguson, I refer you to a letter that was circulated today by the President in respect of interjections. It would make good reading for you. I call Senator Ludwig.

Senator Ludwig—My point of order is that Senator Brandis is not dealing with the relevant answer that Senator Hill could have given Senator Evans and which he did not. Senator Brandis is dealing with the irrelevant parts of the answer Senator Hill gave. It was not on point; it was not responsive to the question raised by Senator Evans. It was an addition and not the relevant part of the question. My point is on relevance. Senator Brandis is not relevant to Senator Hill’s answers today.

The DEPUTY PRESIDENT—Senator Brandis, I might help you out. I have sought the advice of the Clerk, and that might allow us to get on with this rather than go backwards and forwards. The Clerk advises me that your speaking to the motion must be relevant to the question and the answers—the material that was in the question that the minister was required to answer. The fact that the minister might not necessarily have been relevant is not the issue here. You must be relevant to both parts.

Senator BRANDIS—Mr Deputy President, with great respect you are wrong. The motion before the chair is that the Senate take note of the answer. The answer that was given by Senator Hill was given without objection as to relevancy or on any other basis being taken by any opposition senator nor was it ruled to be irrelevant by the person then in the chair, the President. So everything that Senator Hill said in his answers must be taken to have been relevant. It is now too late in the day for a different Presiding Officer to revisit answers not objected to on the ground of relevancy at the time. Hence, if the answers must be taken to be relevant, I cannot be irrelevant in taking note of part of that relevant answer.

The DEPUTY PRESIDENT—Senator Brandis, I am not ruling retrospectively on the proceedings that took place between 2 p.m. and 3 p.m. in this chamber. I am asking you to be relevant to the issue that is now before the chair, which is the motion that was put by the opposition in taking note of the answers and the relevant material that was addressed in those answers by the minister.

Senator BRANDIS—Mr Deputy President, the material in the answers—

The DEPUTY PRESIDENT—Senator Brandis, this is not a debate now. I have asked you to be relevant to the matter.

Senator BRANDIS—I abide by your ruling. Let me approach it differently. In the answers to the questions—

The DEPUTY PRESIDENT—Senator Brandis, could I just clarify one thing: are you now seeking to debate the matter with the chair or are you continuing your part of the debate?
Senator BRANDIS—I abide your ruling absolutely, Mr Deputy President.

The DEPUTY PRESIDENT—Please continue, Senator Brandis.

Senator BRANDIS—Senator Hill was asked questions about the value of commercial leases in Canberra. Criticism was offered of the government in relation to the Defence College. I want to illustrate by way of comparison with that another commercial lease in Canberra because I want to make a point in conclusion in comparing the two leases. I speak now to the specific lease concerning which Senator Hill was asked the question and I want to make a comparison between that lease and the Centenary House lease. As I said earlier, the rent that is being paid by the ANAO in the 2003-04 year of $5,485,127.70 exceeds—

Senator Ferguson—Don’t do it, Joe!

Senator Ludwig—It’s a poor effort!

The DEPUTY PRESIDENT—Senators Ludwig and Ferguson, Senator Brandis is entitled to be listened to in silence. I refer Senator Ferguson again to the memo that was circulated by the President. It is very interesting reading. Senator Brandis, you are entitled to be heard in silence.

Senator BRANDIS—Thank you for your protection, Mr Deputy President.

The DEPUTY PRESIDENT—I will protect you against your colleagues any day.

Senator BRANDIS—The rent that will be paid in 2003-04 exceeds the maximum estimate of the true market rental of Centenary House by $3,503,776.70 per annum. That was the evidence to Senate estimates by Mr Coleman from the Auditor-General’s office. In the next fiscal year alone, the amount by which the real value will be exceeded by the nominal value of the lease is—(Time expired)
in its efforts to sell and lease back Australia’s defence headquarters at Russell offices in Canberra. This was a victory for common-sense as the sale would have been the equivalent of the US administration selling the Pentagon to the private sector. However, just as it looked like the government had come to its senses over this policy and program, it has turned again and continues to press on with other sale and lease-back deals.

The latest example, that of the defence college, again makes a mockery of the Howard government’s guidelines for asset sales which are supposed to ensure that the government’s financial interests are protected at all times. The government has sold this property for $28 million despite having spent that much on redevelopments at the site since 1999 alone. According to the current Canberra property market, the land itself stands to be worth $15 million. Taxpayers now have to pay $60 million so that Defence can continue to use the college facilities—the same facilities that it used to own. In a classic example of how wasting taxpayers’ money is of no concern to the Howard government, Defence will still have to fork out for all maintenance and upkeep costs of the site. Where are the benefits in this deal?

Property investors are rubbing their hands together with glee at the prospect of getting a piece of the defence property fire sale action. They do not know what the Commonwealth stands to gain from the fire sale but for them it is basically a licence to print their own money. On the other hand, taxpayers have cause to be alarmed. Labor demands that the government call an immediate halt to its costly sale and lease-back program until an independent audit of the program examines the long-term viability of each project. Taxpayers ought to be assured that for the government to continue with this program the economic outcomes will be to their benefit and not to their costly detriment, as the situation seems to be for those properties already sold and leased back.

On top of this, the whole program is shrouded in secrecy. While none of the information is classified, it is not provided openly to the public. There is no transparency and there is no accountability to the public. The defence department does not provide a comprehensive list of the properties it has for sale; it does not provide a sale price and it does not issue a lease-back price. However, one division within the defence estate is provided with all these figures, so why then are these statistics not publicly available? Surely the Australian taxpayer has a right to know how much they stand to lose by this government’s program. The minister may argue that if a member of the public so desired to find this information they could do so, but surely it is in the public’s best interests for the minister to enable them to do so in an easier and more accessible way.

Senator JOHNSTON (Western Australia) (3.27 p.m.)—Once again we have heard everything. We are left gobsmacked that the Labor Party could come into this chamber and seek to provide instruction on economic management. The ideological petticoat of these economic vandals is clearly on display for everybody to see. They would much rather have billions of dollars of capital tied up in land sitting there useless, doing nothing other than taking up taxpayers’ hard earned dollars.

It is clear that if there was a choice between having land working for the government and the taxpayer, and having it sitting idly around so that it is controlled by bureaucracy, ideologically the Labor Party would love to just sit on it and build an empire on it. Quite staggeringly, but understandably, Labor does not understand for one second that what we have done here is to take an asset that was sitting there idle and
we have turned it into something quite valuable. This year we are going to realise $519 million for the Australian taxpayer through the sale of these defence properties.

When we talk about the credibility that the opposition bring to this chamber, let us go back and look at the platform from which they are launching their criticism of this government’s record. When they had 13 years at the steering wheel we had 12 per cent unemployment; with us it is five per cent. Some farmers were paying interest rates of 30 per cent for their plant and equipment.

Senator Ludwig—Mr Deputy President, I rise on a point of order. My point of order is relevance. We have now descended into the interest rates for farmers. It is a long way from defence establishments and the leasing of defence establishments.

The DEPUTY PRESIDENT—There is no point of order.

Senator Johnston—When you want to lecture us about a so-called fire sale, I will tell you about the fire sale that we lived through for 13 years under you guys. Some people were paying interest rates of 30 per cent. Today they pay five per cent. We lived through the recession we had to have—and you guys want to tell us about economic management and you want to say it is a fire sale. You have not got a clue on how to run a booze-up in a brewery. The international comparison currently of our record of economic management shows we are the envy of the OECD nations. We are the best performed economy internationally. Our growth figures speak for themselves. When we took over from you, we had a $90 billion debt to sort out.

The DEPUTY PRESIDENT—Senator Johnston, I do not think you should be referring to ‘you’, ‘you guys’ and the like.

Senator Johnston—When we took over, the then government left us with $90 billion worth of debt. They are sitting there laughing and smiling, but the Australian taxpayer had to go and pay that back. These are the sorts of things that, in the opposition, you just cannot relate to. You cannot relate to the fact that people actually have to go and pay this sort of money back. When we initiate a very sensible, wise act of good government in realising and utilising these defence assets, the opposition cannot come to terms with it.

The utilisation of this land—which was, as I have said, sitting idle—is next year going to yield $659 million, having already in this year produced over $200 million. These dollars at this time and in this climate are obviously and clearly of great advantage to our Australian defence forces. To try to beat this up as some sort of fire sale is a classic example of an opposition that has absolutely no credibility whatsoever when it comes to any issues concerning economic management.

Senator Ludwig (Queensland) (3.32 p.m.)—I wish to take note of the answers given by Senator Hill on Defence establishments today. Senator Brandis proffered no defence of Senator Hill’s statements at all. In fact, Senator Brandis, even with prompting, did not seem to be able to keep to the topic itself. It leaves Senator Hill with very little protection in relation to this issue. Senator Johnston’s lacklustre performance also allowed Senator Hill’s defence to be no defence. Here are some of the reasons there is no defence for Senator Hill.

The minister needs to explain why taxpayers are being asked to pay an additional $1.1 billion in defence logistics when they are clearly forcing them to spend that money on properties they used to own. Let us use one as an example. Take, for instance, the Defence Plaza located in Pitt Street, Sydney. The government sold this property and shoved the money gained into consolidated
revenue, not back into the Defence Force. The revenue then has to come out of the pocket of the defence department because they are expected to pay for the lease of the property they owned—a neat trick. If we look at this lease to see what they then have to pay, the first year of a 10-year lease cost Defence over $8.5 million. Written into the lease was an indexation arrangement of three per cent over two years, totalling an additional $258,000 on the leasing arrangement, which then had to be found, with an expected increase every two years.

You would think that it would stop there. But they are being asked to put their hand in their pocket again because there is an agreement to review the rent based on market value on 1 July this year. Of course, we are talking about market value in Sydney. It was not going down at last report. The defence department is then simply in a world of hurt after this review, with the rent being linked to market value and being ratcheted up. The government is selling critical defence properties to hold up the budget line. That seems to be the only legitimate reason, but neither Senator Johnston nor Senator Brandis would even put up a defence so we are left to surmise that that is the only defence—and it is no defence. Senator Hill knows better than that. Senator Hill avoided the question completely and wanted to talk about other issues.

Our troops are committed to defending our country. They could have used this money for better webbing. They could have used this money for things like a fibre-optic cable jointing machine to fix the fibre-optic cable that they use, because they do not have a jointing machine. I hope Senator Hill understands what a fibre-optic cable jointing machine is. If you do not have one, you cannot join cable that has been broken, so if the defence department then try to use it for signals, to be able to communicate, they cannot. Look at something simple like webbing.

What we have is of old design that needs updating. They could use that money to update the webbing.

I suppose the Prime Minister yesterday took the opportunity to congratulate the men and women of the Defence Force for a job well done. Of course Labor shares that sentiment, but what we would like this Howard government to do is not only stand by them and applaud and thank them for their duty but also give them something in return—provide them with the means and the ability and ensure the defence budget is not hacked apart. Labor is not prepared to accept that moneys from the sale of defence properties should go to consolidated revenue whilst our troops have to spend their own money to access their own webbing or materials or other things to support the defence department. Senator Hill should take heed of that and ensure that there is proper webbing, that there are fibre-optic jointing machines, that there is sufficient provision of materiel for our troops.

Of course, when asked the question on why moneys from the sale of defence properties do not return, this is the answer that you should have given, but you failed to be able to provide it from the other side. The Special Minister of State, Senator Abetz, said that the money will be spent on social opportunity benefits and in social areas. The minister said, ‘We as a government will continue to pursue the line’—(Time expired)

Senator FERGUSON (South Australia) (3.37 p.m.)—We can be sure of one thing, and that is it will take more than a fibre-optic jointing machine to get the Labor Party to communicate with each other again. We have seen over the past week just exactly how disjointed they are. I would suggest that perhaps the Labor Party could see Senator Hill to see whether you can get one of these fibre-optic jointing machines and maybe you will
be able to communicate faction to faction—and perhaps we can even give one to Mr Beazley and Mr Crean so they can talk to each other. I am surprised that Senator Ludwig did not get up to say that I was not being relevant—but still.

Only about two minutes into this debate, the Labor Party must have realised that they had decided to tackle the government on the totally wrong issue. When you start to think about talking about economic management and the way we handle our assets in Australia, the only people with a clean record are the coalition government, and the only people who have a record that cannot be considered clean right now are the Labor Party. We had the sight of Senator Marshall getting up and saying he wanted to take note of the answers given by Senator Hill when in fact he came in with a prepared document that was written before he came into the Senate—before Senator Hill even gave the answers. That is how much he was taking note of the answers.

We had Senator Ludwig, because he was being pressured on a very sensitive point with the Labor Party by my colleagues Senator Brandis and Senator Johnston, rise to take points of order in order to try to draw the subject matter away from where the Labor Party is most sensitive. Senator Marshall, in his taking note of answers, said this—and I carefully wrote it down: ‘Surely the public has a right to know how much this lease-back arrangement is going to cost the taxpayer.’

I can tell you how much one of those leasing arrangements costs the Australian taxpayer. It costs them 240 per cent above market value, it has a nine per cent increase each year, and that lease-back arrangement is from the Australian taxpayers to the Labor Party. Here they are trying to lecture us and Senator Hill’s department about the sale of a defence property where we are trying to put some of the capital that is tied up in the defence property to good use in the Australian economy—not good use to the Labor Party, not good use to the Liberal Party, but good use to the Australian taxpayer—and Senator Marshall says ‘Surely the public has a right to know.’

The public has a right to know—and this should be made more public—the lease arrangement that was gained by the then Labor government back in 1992 or 1993 and is supported by the current Labor opposition. The lease arrangement was put in place by the Keating government to make sure that the Labor Party coffers were filled to the tune of some $36 million over the lifetime of that lease—15-year lease with a nine per cent increment every year. If we are going to talk about credibility in economic management, about truthfulness in economic management and what is best for the Australian people and the Australian taxpayer, look no further than the leasing arrangements on Centenary House, which this Labor Party supports and which is dudding the Australian taxpayer to the tune of an enormous amount each and every year for a total 15 years.

Senator Ludwig says this government has no credibility. What sort of credibility does the Labor Party have when you sit there and continue to support this rorted lease, this nine per cent increase every year, when all the Labor Party has to do is ring up the government and say: ‘We got it wrong. We are screwing Australian taxpayers for an enormous amount of money. It is going into our Labor Party coffers and we want to renegotiate that lease because we realise it is totally out of kilter with the marketplace arrangements that are governing Canberra’s rental properties today.’ The Labor Party should be ashamed of itself. It should cease trying to criticise the good economic management of this government which has seen the Austra-
lian taxpayers in a better situation than they have been in for more than 20 years.

Question agreed to.

COMMITTEES

Reports: Government Responses

Senator HILL (South Australia—Leader of the Government in the Senate) (3.42 p.m.)—I present five government responses to committee reports as listed on today’s Order of Business, as well as the government’s response to the final report of the Finance and Public Administration References Committee entitled Rebooting the IT agenda in the Australian Public Service. In accordance with the usual practice, I seek leave to incorporate the documents in Hansard.

Leave granted.

The documents read as follows—

SENATE FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE REPORT: DEPARTMENTAL AND AGENCY CONTRACTS

GOVERNMENT RESPONSE TO RECOMMENDATIONS 1-17

The Government is committed to transparency and accountability in Commonwealth contracting, a commitment attested to by the robust accountability framework under which Financial Management and Accountability Act 1997 (FMA Act) agencies operate.

The Government recognises the important role that the Senate Order on departmental and agency contracts (the Order) plays in this framework. Accordingly, it agrees that it will comply with the spirit of the latest amendment to the Order proposed through Recommendation 17 of this report (subject to the Senate’s passing of this amendment) under the same terms contained in its response to the original Order of 20 June 2001 and the subsequent amendment of 27 September 2001. In particular, it will comply with the spirit of the Order on the basis that:

- agencies will use the Department of Prime Minister and Cabinet guidelines on the scope of public interest immunity (in Government Guidelines for Official Witnesses before Parliamentary Committees) to determine whether information regarding individual contracts will be provided;
- agencies will not disclose information if disclosure would be contrary to the Privacy Act 1988, or to other statutory secrecy provisions, or if the Commonwealth has given an undertaking to another party that the information will not be disclosed; and
- compliance with the Senate order will be progressive as agencies covered by the Financial Management and Accountability Act 1997 refine arrangements and processes to meet the requirements.

Consistent with the response to Recommendation 11 of this Report, the Government does not support the extension of the Order to cover Commonwealth Authorities and Companies Act 1997 (CAC Act) bodies from 1 January 2004. The Government has taken this position as CAC Act bodies operate under a completely different legislative and governance framework compared with their FMA Act counterparts, with this arrangement endorsed by the Parliament through the enactment of a separate legislative framework for these bodies in the form of the CAC Act.

Following are the Government’s responses to the individual recommendations of the Report:

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<td>1</td>
<td>The Committee recommends that agencies include all government contracts in contract listings, including procurement contracts, lease arrangements, sales contracts, certain grants and funding agreements, certain employment contracts, demand-driven con-</td>
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The scope of contracts detailed by the Committee is consistent with that set out in the Australian Government Solicitor advice—‘Contracts’ for the purposes of the Senate Order on Government Agency Contracts, and related matters which the Department of Finance and Administration (Finance) provided to agencies, and with other advice provided by Finance.
tracts with an expected whole-of-life value of at least $100,000 and other arrangements that might be deemed to be contracts at law.

2 The Committee recommends that agencies with large numbers of similar types of contracts (for example, agreements under a particular piece of legislation) record a generic entry for this type of contract in their contract listings, including a notation setting out the nature of that type of contract in general terms.

The Committee recommends that

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<td>2</td>
<td>The Committee recommends that agencies with large numbers of similar types of contracts (for example, agreements under a particular piece of legislation) record a generic entry for this type of contract in their contract listings, including a notation setting out the nature of that type of contract in general terms.</td>
<td>The Committee recommends that agencies with large numbers of similar types of contracts (for example, agreements under a particular piece of legislation) record a generic entry for this type of contract in their contract listings, including a notation setting out the nature of that type of contract in general terms. The Committee recommends that agencies with large numbers of similar types of contracts (for example, agreements under a particular piece of legislation) record a generic entry for this type of contract in their contract listings, including a notation setting out the nature of that type of contract in general terms. The Committee recommends that agencies with large numbers of similar types of contracts (for example, agreements under a particular piece of legislation) record a generic entry for this type of contract in their contract listings, including a notation setting out the nature of that type of contract in general terms. The Committee recommends that agencies with large numbers of similar types of contracts (for example, agreements under a particular piece of legislation) record a generic entry for this type of contract in their contract listings, including a notation setting out the nature of that type of contract in general terms. The Committee recommends that agencies with large numbers of similar types of contracts (for example, agreements under a particular piece of legislation) record a generic entry for this type of contract in their contract listings, including a notation setting out the nature of that type of contract in general terms. The Committee recommends that agencies with large numbers of similar types of contracts (for example, agreements under a particular piece of legislation) record a generic entry for this type of contract in their contract listings, including a notation setting out the nature of that type of contract in general terms. The Committee recommends that agencies with large numbers of similar types of contracts (for example, agreements under a particular piece of legislation) record a generic entry for this type of contract in their contract listings, including a notation setting out the nature of that type of contract in general terms. The Committee recommends that agencies with large numbers of similar types of contracts (for example, agreements under a particular piece of legislation) record a generic entry for this type of contract in their contract listings, including a notation setting out the nature of that type of contract in general terms.</td>
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<td>5</td>
<td>The Committee recommends that paragraph (9) of the order be amended to align the twelve-month period covered by each set of listings with the end of the calendar and financial years. This would mean that listings would cover the previous twelve months ending on either 31 December or 30 June, as the case may be.</td>
<td>Agree</td>
</tr>
<tr>
<td>6</td>
<td>The Committee recommends that reporting under the order continue at six-monthly intervals. The Committee requests that the Auditor-General suggests to the Committee that the frequency of reporting under the order be changed to once every twelve months rather than twice-yearly, when the Auditor-General considered that this was appropriate.</td>
<td>Agree</td>
</tr>
<tr>
<td>7</td>
<td>The Committee recommends that agencies develop systems and processes that allow for continual additions to contract listings as new contracts are entered into or amendments to existing contracts made.</td>
<td>Disagree</td>
</tr>
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<td>8</td>
<td>The Committee recommends that paragraph (1) of the order be amended to provide for ministers’ letters to be tabled by not later than two calendar months after the last day of the financial or calen-</td>
<td>Agree</td>
</tr>
<tr>
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<td></td>
<td>The Committee recommends that bodies subject to the Commonwealth Authorities and Companies Act 1997 (the CAC Act) extend the DOFA commercial confidentiality best practice guidance to all new contracts entered into from 1 January 2003.</td>
<td>Noted CAC Act bodies will be provided with Finance’s Guidance on Confidentiality of Contractors’ Commercial Information, which they have the option to use at their own discretion.</td>
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<td></td>
<td>The Committee recommends that the Auditor-General write to bodies subject to the Commonwealth Authorities and Companies Act 1997 (the CAC Act), suggesting that they apply to all new contracts entered into from 1 January 2003 the DOFA commercial confidentiality best practice guidance.</td>
<td>Noted The Government considers that, given its responsibility for Commonwealth Government Procurement policy, it was more appropriate for Finance to prepare this correspondence. As such, Finance will write to CAC Act bodies providing Finance’s Guidance on Confidentiality of Contractors’ Commercial Information and informing them of Recommendations 9, 10 and 11 of Departmental and agency contracts.</td>
</tr>
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<td></td>
<td>The Senate order for the production of lists of departmental and agency contracts be extended to cover CAC Act bodies from 1 January 2004.</td>
<td>Disagree The Government is not in favour of extending the Order to CAC Act bodies as they operate under a completely different legislative and governance framework compared with their Financial Management and Accountability Act 1997 counterparts. This arrangement was endorsed by the Parliament when it enacted a separate legislative framework for these bodies in the form of the CAC Act. In particular, these bodies: are separate legal entities from the Government (with authorities being separate bodies corporate subject to unique enabling legislation and companies governed by their individual constitutions); and commonly operate with financial independence from the Government.</td>
</tr>
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</table>
|        | The Committee suggests that the Department of the House of Representatives comply with the Senate order for the production of lists of departmental and agency contracts. If the Senate agrees with this suggestion, the Committee recommends that its suggestion be conveyed to the Speaker of the House of Representatives by the President of the Senate. | Noted This is a matter for the Senate and the House of Representatives.
<table>
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<th>Number</th>
<th>Recommendation</th>
<th>Response</th>
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</thead>
<tbody>
<tr>
<td>13</td>
<td>The Committee recommends that the Auditor-General and the Department of Finance and Administration discuss with ASIO and ASIS options for compliance with the order.</td>
<td>Agree</td>
</tr>
<tr>
<td></td>
<td>Finance and the ANAO have commenced discussions with ASIO and ASIS regarding options for compliance with the Order. Finance will write to the Committee Secretary to advise of the outcome of these discussions.</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>The Committee recommends that paragraph (2(b)) of the order be amended to include the following additional information: contract commencement date; duration of the contract; the relevant reporting period; and the twelve-month period relating to the contracts.</td>
<td>Agree-in-principle</td>
</tr>
<tr>
<td></td>
<td>Finance and the ANAO have commenced discussions with ASIO and ASIS regarding options for compliance with the Order. Finance will write to the Committee Secretary to advise of the outcome of these discussions.</td>
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<td></td>
<td>For future listings agencies will be required to include the contract commencement date. However, as there are different ways to interpret what is meant by “duration of contract”, agencies will be required to report the end date of contracts. This will enable the duration to be determined. The title of listings will also include the reporting period (and twelve-month period relating to the contracts) for example, the title of a listing relating to the period 1 January 2003—31 December 2003 will include wording to the effect of 2003 Calendar year listing covering contracts relating to the period 1 January 2003-31 December 2003. The inclusion of this additional information will be prospective, relating to contracts entered into and listings uploaded since the tabling of this Government response.</td>
<td></td>
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<tr>
<td>15</td>
<td>The Committee recommends that the Australian National Audit Office, in consultation with the Department of Finance and Administration, develop guidelines for the content, presentation and format of contract listings that will ensure the provision of comprehensive information about contracts in a user-friendly template.</td>
<td>Agree-in-principle</td>
</tr>
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<td></td>
<td>In line with their responsibility for Commonwealth Government Procurement policy, Finance, in consultation with the ANAO, is in the process of developing a guide for agencies on complying with the Order, which will include a standard template for the presentation of agency information to comply with the requirements of the Order. As agencies have already established systems for capturing and reporting the necessary information to comply with the Order, they have the option to utilise the template at their discretion.</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>The Committee recommends that paragraph (7) of the order be amended to provide for consideration and report on the second year of operation of the order by the Finance and Public Administration References Committee.</td>
<td>Noted</td>
</tr>
<tr>
<td>17</td>
<td>The Committee commends its recommendations to the Senate. If accepted, the Committee recommends that the order passed by the Senate on 27 September 2001 be amended to read as follows:</td>
<td>Noted</td>
</tr>
<tr>
<td>Number</td>
<td>Recommendation</td>
<td>Response</td>
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<tr>
<td>7</td>
<td>Departmental and agency contracts</td>
<td>1. There be laid on the table, by each minister in the Senate, in respect of each agency administered by that minister, or by a minister in the House of Representatives represented by that minister, by not later than 2 calendar months after the last day of the financial and calendar year, a letter of advice that a list of contracts in accordance with paragraph (2) has been placed on the Internet, with access to the list through the department’s or agency’s home page.</td>
</tr>
</tbody>
</table>
|        | 2. The list of contracts referred to in paragraph (1) indicate:  
|        |   a. each contract entered into by the agency which has not been fully performed or which has been entered into during the previous 12 months, and which provides for a consideration to the value of $100,000 or more;  
|        |   b. the contractor, the amount of the consideration, the subject matter of each such contract, the commencement date of the contract, the duration of the contract, the relevant reporting period and the twelve-month period relating to the contract listings;  
|        |   c. whether each such contract contains provisions requiring the parties to maintain confidentiality of any of its provisions, or whether there are any other requirements of confidentiality, and a statement of the reasons for the confidentiality; and  
|        |   d. an estimate of the cost of complying with this order and a statement of the method used to make the estimate.  
|        | 3. If a list under paragraph (1) does not fully comply with the requirements of paragraph (2), the |
letter under paragraph (1) indicate the extent of, and reasons for, non-compliance, and when full compliance is expected to be achieved. Examples of non-compliance may include:

a. the list is not up to date;
b. not all relevant agencies are included; and
c. contracts all of which are confidential are not included.

4. Where no contracts have been entered into by a department or agency, the letter under paragraph (1) is to advise accordingly.

5. In respect of contracts identified as containing provisions of the kind referred to in paragraph (2)(c), the Auditor-General be requested to provide to the Senate, within 6 months after each day mentioned in paragraph (1), a report indicating that the Auditor-General has examined a number of such contracts selected by the Auditor-General, and indicating whether any inappropriate use of such provisions was detected in that examination.

6. In respect of letters including matter under paragraph (3), the Auditor-General be requested to indicate in a report under paragraph (5) that the Auditor-General has examined a number of contracts, selected by the Auditor-General, which have not been included in a list, and to indicate whether the contracts should be listed.

7. The Finance and Public Administration References Committee consider and report on the first and second years of operation of this order.

8. This order has effect on and after 1 July 2001.

9. In this order:
   “agency” means an agency within
GOVERNMENT RESPONSE TO THE
SENATE RURAL AND REGIONAL
AFFAIRS AND TRANSPORT REFERENCES
COMMITTEE REPORT:
‘The Incidence of Ovine Johne’s Disease in the
Australian Sheep Flock—Second Report’

Preamble
The Government has considered the ‘The Incidence of Ovine Johne’s Disease in the Australian Sheep Flock—Second Report’ of the Senate Rural and Regional Affairs and Transport References Committee and is pleased to provide the following response. The Government would like to acknowledge the efforts of the Committee in preparing its second report that seeks to address a range of issues relating to Ovine Johne’s disease (OJD).

Most of the recommendations in the second report are consistent with the recommendations of the Mid-Term Review of the National Ovine Johne’s Disease Control and Evaluation Program (NOJDP) conducted by Animal Health Australia (AHA) in 2001. Implementation of the recommendations of the Mid-Term Review has been undertaken by AHA in consultation with industry and government stakeholders, including the Commonwealth, and is now substantially completed.

AHA is now responsible for managing nationally agreed animal health programs such as the NOJDP. Responsibility for delivery of the operational aspects of the NOJDP, including control and surveillance activities, rests with the relevant State agency, in consultation with industry. Commonwealth involvement in endemic disease control programs, such as the NOJDP, is now limited to its specific funding obligations under the program, the collection of levies on a national basis in accordance with national industry requests and the provision of policy, scientific and technical advice.

The Committee’s recommendations are addressed in turn below.

Committee’s Recommendations

General Recommendations

Recommendation 1

1. The Committee recommends that the Minister for Agriculture, Fisheries and Forestry pursue in ARMCANZ matters requiring action arising from the Mid-Term Review Committee’s recommendations.

Accepted. In August 2001, ARMCANZ Ministers considered a progress report prepared by AHA on implementation of the NOJDP Mid-Term Review recommendations. Ministers noted there has been substantial progress in implementing the recommendations from the Mid-Term Review and that AHA was preparing a revised NOJDP Business Plan for the period 2001 to 2004. The revised Business Plan incorporated key changes as reflected in the Mid-Term Review and the Senate Inquiry.

In light of a further reappraisal of the NOJDP in early 2002 AHA prepared a Two Year Transitional Program Plan 2002-2004 to further revise the NOJDP Business Plan. The Primary Industries Ministerial Council (PIMC), that replaced ARMCANZ, considered further progress reports on the NOJDP from AHA at its meetings in May 2002 and October 2002. The Transitional Plan is currently with stakeholders for endorsement.
Specific Recommendations

Recommendation 2

2. The Committee recommends that:
   • in the short to medium term, the management priority for infected properties in high prevalence areas should be on disease management rather than eradication; and
   • the long term goal be the eradication of OJD from Australia, until and unless the disease is determined to have become endemic in significant parts of Australia.

Supported in part. Outcomes to date from the research and development component of the NOJDP indicate that eradication of OJD is not feasible in the short to medium term given current technology, and that as OJD is endemic in parts of south-eastern Australia, the focus will need to shift to on-farm control and management of the disease, including the use of vaccine, supported by a coordinated cross-border approach to disease control.

Efforts to reduce the instance of disease in low prevalence areas are being pursued in the short term to lessen the risk of spread of the disease. In the high prevalence areas, the emphasis is on the gradual reduction in prevalence via modified sheep husbandry practices and the use of vaccine over a longer time frame.

Recommendation 3

3. The Committee recommends that, subject to appropriate vendor declarations, trading between the Control Zone and the Residual Zone be permitted and that this proposal be placed before ARMCANZ as a matter of urgency.

Supported in principle. The Government supports a risk-based approach to trading provided it is commensurate with sound disease control principles, including establishment of the risk posed by the sheep to be traded. Trading of sheep is currently permitted between zones subject to appropriate disease control requirements.

In August 2001, the National Veterinary Committee endorsed a substantial revision of the Standard Definitions and Rules for OJD incorporating enhanced control measures arising from an April 2001 National Control Strategies Workshop, including wider use of vaccine in NSW, and a model OJD vendor declaration.

In September 2002, PIMC endorsed the 4th edition of the OJD Standard Definitions and Rules containing significant additions providing guidelines for the development of individual property management programs, including the use of vaccine, epidemiological investigations of infected flocks, pathways for infected flocks and surveillance requirements for maintenance and progression of zones.

Recommendation 4

4. With a view to making vaccine available to producers at the earliest possible time, the Committee strongly supports all necessary steps being taken to facilitate discussions with the National Registration Authority for Agricultural and Veterinary Chemicals for revision of the current NSW permit to extend the use of Gudair OJD vaccine, while recognising the importance of expediting the completion of the necessary trials for registration.

Agreed. On 4 July 2001 the National Registration Authority for Agricultural and Veterinary Chemicals (NRA) issued a new permit for the use of ‘Gudair’ vaccine in Rural Lands Protection Boards approved by the NSW Department of Agriculture. This enabled the vaccine to be used in sheep on properties that are quarantined on account of the presence or suspected presence of OJD.

On 16 April 2002 the NRA granted registration of the “Gudair” vaccine for use nationally. The availability and use of vaccine is now a matter for each state to determine.

Recommendation 5

5. The Committee recommends that the Commonwealth Government initiate the establishment of a national sheep disease fund to which all sheep producers should contribute and which can be used by producers in every State. The Minister for Agriculture, Fisheries and Forestry Australia should place the establishment of this proposed fund before ARMCANZ for assessment and decision by the end of 2001.

If ARMCANZ and industry decide not to
proceed with the fund, the Committee believes that commercial reality should prevail and that producers should be permitted to decide whether to vaccinate their flocks on the usual commercial basis governing such stock management options.

Supported in principle. The government supports the provision of financial assistance to affected producers. The government also supports the view of the Mid-Term Review that the national sheep industry, as the prime beneficiary of disease control, should raise funds via a national levy to assist affected producers.

However, the initiative for establishment of a national sheep disease fund rests with the national sheep industry. Under the Government’s levy principles and guidelines industry is required to demonstrate national industry support for any levy proposal.

The government has worked closely with the Sheepmeat Council of Australia and Wool Producers to examine mechanisms, including a national levy, to provide funding for financial assistance to affected producers. The national sheep industry has been unable to obtain support from all member organizations for a national levy to fund assistance programs for affected producers.

Under the proposed Two Year Transitional Program Plan 2002-2004 for the NOJDP some Commonwealth (and national sheep industry) funding will be redirected to assist producers to maintain traditional trading patterns in light of recent changes implemented to OJD zones.

**Recommendation 6**

The Committee recommends that the appointment of a full-time manager for the NOJDP to manage national program delivery, budgets, accountability of outcomes and to ensure a co-ordinated national focus on the Program be a matter of priority. The Committee recommends that the Government pursue this recommendation so it is fulfilled by the end of 2001.

Supported. AHA appointed a full time NOJDP Manager in August 2001.

**Recommendation 7**

7. The Committee recommends that Animal Health Australia requests SCARM to facilitate the development of a national information system for the collection and analysis of disease data. The Committee recommends that the Government pursues this recommendation so that it is in place by the end of 2001.

Supported. In September 2002 Primary Industries Standing Committee (PISC), that replaced SCARM, agreed to the establishment of a small high level Steering Group to identify the information needed for national decision-making regarding animal health issues. As part of this process, Australia’s information management needs for both endemic diseases, such as OJD, and for emergency animal disease information management are being examined. Further, AHA is considering enhancement of the existing National Animal Health Information System (NAHIS).

**Recommendation 8**

8. The Committee recommends that a mandatory vendor declaration scheme be established for all sheep transactions as a matter of priority and that the Government pursue this recommendation so it is fulfilled by the end of 2001.

Supported in part. The Government supports the use of vendor declarations in the implementation of a risk-based approach to the management of OJD. The mandating of the use of vendor declarations is a matter for industry and state/territory governments to consider.

The national sheep industry has developed a national vendor declaration form for use by sheep producers when trading sheep. Its use is currently voluntary and it does not contain OJD information.

**Recommendation 9**

9. The Committee recommends that appropriate numbers of staff are employed by the relevant governments to ensure timely trace-forward/trace-back activities and to service the additional activities required for adoption of Mid-Term Review Recommendations. The Committee recommends that this should be
in place by the end of 2001, or if not practical, by 1 July 2002 at the latest.

Supported. States are responsible for ensuring the adequacy of staffing to deliver trace-forward/trace-back activities under the program. In August 2001, ARMCANZ agreed to provide sufficient resources to the NOJDP in line with Recommendation 33 of the Mid-Term Review, to meet agreed commitments under the existing Deed of Agreement. Recommendation 33 addresses government responsibility for funding appropriate staff levels for NOJDP activities.

Recommendation 10
10. The Committee recommends that the coordination and management of OJD Research and Development be strengthened through:

- appointment of a national Research and Development Co-ordinator by Animal Health Australia to be responsible directly to Animal Health Australia, and
- a new management agreement with Meat and Livestock Australia for their administration and budget control of approved Research and Development trials.

The Committee recommends that this should be in place by the end of 2001, or if not practical by 1 July 2002.

Supported in principle. AHA is responsible for the overall management of the Research and Development (R&D) element of the NOJDP. The required strengthening of R&D coordination and reporting has been dealt with in a revised contractual arrangement between AHA and Meat and Livestock Australia, including the establishment of a technical advisory committee for research and development. As a result, AHA considered the appointment of a national R&D Coordinator was not necessary.

Recommendation 11
11. The Committee recommends intensifying research on current available OJD diagnostic tests.

Supported in principle. The NOJDP R&D program is regularly reviewed in response to new needs and research results. Diagnostic tests continue to receive a high priority in the R&D program.

Recommendation 12
12. The Committee recommends that case studies of successful on-farm management of the disease and knowledge of international trends in the management of OJD should also form an essential part of the communication and education program, particularly as these issues have yet to become an acceptable part of a "whole of industry" attack on the long-term effect of OJD.

Agreed. AHA works closely with States in the production of a range of 'information' products addressing the on-farm management of OJD. The communications sub program was reviewed as part of the revision of the NOJDP Business Plan.

Recommendation 13
13. The Committee recommends that the current Abattoir Surveillance Program for OJD should be maintained in all states.

Agreed. For the remainder of the NOJDP, ongoing surveillance by States for OJD will increasingly be based on abattoir surveillance.

Recommendation 14
14. The Committee recommends that the Government's response to the Committee's Report be tabled as soon as possible, but no later than the last sitting day for 2001, indicating proposed implementation dates for matters recommended by the Mid-Term Review and this Committee.

Noted. Implementation of the Mid-Term review and the Senate Inquiry has been progressed by AHA in consultation with industry and government stakeholders, including the Commonwealth.

Government Response to the Joint Standing Committee on Foreign Affairs, Defence and Trade report

Introduction


To take account of the White Paper, and the community feedback regarding From Phantom to Force, the Committee released the supplementary report, A Model for a New Army: Community Comments on ‘From Phantom to Force’ Parliamentary Report into the Army, (delivered in September 2001).

While the performance of the Australian Army since its birth 101 years ago shows that it is certainly no phantom, there is scope for the Army to be more effective than it is today. Both reports comment on Army capability in isolation. However, in developing the White Paper, the Government considered the Australian Defence Force (ADF) as a group of capabilities rather than on a Service-specific basis. This means that guidance for Army capability development is provided under the umbrella of land force capability, which also includes elements of the Airforce and Navy whose principle task is to deploy and support the Army. Therefore, the aim of achieving an integrated, balanced joint force is central to the consideration of all Army capability planning.

The following section addresses the specific recommendations contained in both of the Committee’s Reports.

Recommendation 1. We recommend that the Government develop and maintain a national security policy. This policy should, amongst other things, guide the Defence Forces on their role in an integrated national concept for promoting and achieving international prosperity, peace and security.

We further recommend that the Government explore the feasibility of creating a National Security Council to oversee the development and maintenance of a national security policy.

Government Response

Agreed, with qualification.

The Government notes the Committee’s recommendation that a national security policy and a National Security Council be developed. However, the Government believes that the two elements of its national security framework, comprising formal national security policy statements and a machinery of national security committees, has demonstrated its effectiveness and suits the constitutional system of Australia.

Upon taking office in 1996, the Government established two high-level mechanisms for coordinating national security: the National Security Committee of Cabinet (NSCC) as one of Cabinet’s standing committees, and the Secretaries Committee on National Security (SCNS). The NSCC is the Government’s highest decision-making body on Australia’s national security. It considers strategic developments and issues of long term relevance to Australia’s broad national security interests. It also oversees federal intelligence and security agencies. The NSCC is chaired by the Prime Minister, and consists of the Deputy Prime Minister, Foreign Minister, Defence Minister, Treasurer, Minister for Immigration and Multicultural and Indigenous Affairs and the Attorney General. Other Ministers, Departmental and Government Agency heads and the Chief of Defence Force are invited to attend depending on the issues under consideration. This Committee oversees the development of Australia’s Foreign and Defence policy, ensuring that Australia maintains a coordinated policy approach on national security issues.

Recommendation 2. We recommend that the Department of Defence:

- Enhance and maintain a highly effective and regionally focused intelligence and surveillance capability.
- Develop and maintain plans, processes and institutions to enable the defence force to expand to meet significant threats to Australian territory within a warning period of no more than two years.
- Develop and maintain a well balanced and integrated force-in-being. This force should be capable of the sustained domi-
nance of one major and one minor focal area located anywhere within our region, including Australia. This force-in-being should be deployable within time frames up to, but not exceeding, four months of warning.

Government Response
Agreed, with qualification.

Enhance and maintain a highly effective and regionally focused intelligence and surveillance capability.

The Government agrees with the need for highly effective regional surveillance. This need was also highlighted in the White Paper as a priority for Australia's defence capability. As such, information capabilities have been addressed as a separate capability grouping in the Defence Capability Plan, which details the funding and timing for capability projects originating from the White Paper. Additional funding of $34 million has been allocated for intelligence enhancements in 2002-03. This funding commitment will enhance Defence's regionally focused intelligence and surveillance and maintain this highly effective capability.

Developments in technology are expanding the potential for sustained, 24-hour surveillance of our northern approaches, particularly through the Jindalee Operational Radar Network and other systems. Defence plans to acquire Airborne Early Warning and Control capability and Unmanned Aerial Vehicles, while upgrading the AP-3C Orion aircraft. When combined with the ability to fuse data from JORN and other sensor systems, these capability enhancements will help to provide an integrated national surveillance picture.

Similarly, the Army has continued to emphasise its regionally focused intelligence and surveillance capability. Its three Regional Surveillance units deployed across northern Australia form an important part of the total surveillance capability. Their local knowledge and continuous presence within many remote communities is invaluable. In addition, Army's intelligence capability in support of operations has been enhanced with the establishment of the 1st Intelligence Battalion in 2000.

Develop and maintain plans, processes and institutions to enable the defence force to expand to meet significant threats to Australian territory within a warning period of no more than two years.

The Government believes that the ADF size and capabilities prescribed in the White Paper provide suitable options for managing credible contingencies. The Government remains confident that the White Paper adequately identifies the range of most likely ADF operations in the near future and provides for capable forces to conduct these operations. The development of any new threats will be taken into account through regular strategic reviews, to ensure that the ADF force structure is appropriate for the current and foreseeable future strategic environment.

White Paper recognises that warning for credible operations may be short. It underlines the need to maintain ADF operational readiness, and also recognises that it is not realistic to assume that there would be sufficient warning time to allow for major new capabilities to be acquired, or for existing ones to be significantly enhanced or expanded.

The White Paper further identifies that:

- it is no longer a priority to provide the basis for the rapid expansion of the Army to a size required for major continental-scale operations; and
- Australia must be realistic about the scope of our power and influence and resource limits.

Given these assessments, the ADF has been directed to place an emphasis on providing a professional, well-equipped, well-trained force that is capable of deploying at short notice and is sustainable over extended periods. Reserve units are a crucial component of the flexibility, professionalism and sustainability of the ADF.

Develop and maintain a well balanced and integrated force-in-being. This force should be capable of the sustained dominance of one major and one minor focal area located anywhere within our region, including Australia. This force-in-being should be deployable within time frames up to, but not exceeding, four months of warning.
The White Paper and the Defence Capability Plan aim to develop and maintain a well balanced and integrated force-in-being. The White Paper acknowledges the need for the ADF to be capable of operating in more than one theatre concurrently and directs that the ADF be capable of sustaining a deployed brigade for an extended period, and at the same time have at least one battalion group available for deployment elsewhere. Army has developed force rotation models to provide for these contingencies and has two brigades and a battalion group capable of deploying on warfighting operations within four months’ warning. This reflects the committee’s recommendation that the force-in-being should be capable of the sustained dominance of one major and one minor focal area located anywhere within our region and that this force should be deployable within time frames up to, but not exceeding, four months of warning.

The Government notes the community concern on this point, referred to in the supplementary report, which is similar to that expressed in response to the pre-White Paper public discussion paper Defence Review 2000. In both instances, the community expressed concern that the ADF should have a balanced structure, which is not overly formula-driven and is able to cope with all eventualities, while at the same time maintaining a focus on the defence of Australia. The White Paper approach is designed to allow maximum flexibility to ensure that Defence planning does not leave us with a set of capabilities that is too narrowly focussed on specific scenarios.

Recommendation 3. We recommend that the Army be capable of:

- Maintaining a force-in-being of four brigades optimised for operations within Australia’s ACSI and capable of deploying within no more than four months warning.
- Generating an additional eight brigades within two years of warning for operations within Australia’s Area of Critical Security Interest (ACSI).

Government Response

Not Agreed.

Maintaining a force-in-being of four brigades optimised for operations within Australia’s ACSI and capable of deploying within no more than four months warning.

Army does not have four brigades optimised for operations and capable of deploying with no more than four months warning. As stated in response to Recommendation 2, the Army has two brigades and a battalion group capable of deploying on warfighting operations within four months’ warning time. In addition, elements such as the Special Forces can be available well within four months warning. The Government considers this to be sufficient deployable capability to meet Australia’s current strategic objectives.

This deployable capability is drawn from a current land force that is based on two full-time, one integrated and six part-time brigades. The Army has an approved funding limit of 25,785 full time Army personnel for the financial year 2002-03. The Army is planned to grow to 26,271 full time personnel by 2010, but current recruiting levels indicate that Army may achieve this before 2010.

For protracted deployments, force rotations are likely to require substantial support from the Reserve component. Therefore the role of the Reserves has changed from providing a partially trained force for mobilisation in the event of a major crisis, to providing fully trained personnel to round out, reinforce and rotate with forces already deployed. To facilitate this, new Reserve legislative provisions (detailed in response to Recommendation 8) have been enacted to enhance the range of options for call-out. Provisions for protection of a Reservist’s employment, education and financial situation have also been enacted, in addition to improved recruitment, retention and training provisions.

Generating an additional eight brigades within two years of warning for operations within Australia’s Area of Critical Security Interest (ACSI).

The Government acknowledges the changes made to this recommendation in the committee’s supplementary report, in which the recommendation that Army be capable of generating an additional eight brigades within two years notice, is revised down to four brigades. Notwithstanding the
Committee’s revised recommendation, the Government has directed in the White Paper that Army expand the number of infantry battalions at high readiness from four to six.

The Government believes that the task of generating an additional eight brigades within two years would place very heavy demands on personnel, equipment and training resources, that would not be justified by our strategic circumstances, and would absorb resources that would detract from our ability to maintain a balanced Defence force.

Recommendation 4. We recommend that:

- The Army report on the status of each brigade within the Department’s Annual Report in terms of operational criteria devised jointly between the Department of Defence and the National Audit Office.
- On alternate years, the Inspector General of the Department of Defence and the National Audit Office (ANAO), audit and report on the Army’s capability for force expansion.

Government Response

Disagreed.

The Army report on the status of each brigade within the Department’s Annual Report in terms of operational criteria devised jointly between the Department of Defence and the National Audit Office.

The Defence Annual Report covers Army performance, using capability-based performance targets, and provides visibility of the extent to which the Army is meeting the White Paper’s capability goals.

It is not practical to report on the status of each brigade in terms of operational criteria in the Annual Report, as recommended by the committee, for a number of reasons. Firstly, operational information of this type is security classified and therefore could not be included in a public report. Secondly, if brigade-level reporting on Army were to be balanced by an equally detailed level of reporting for the other Services, annual reporting would risk becoming excessively lengthy and cumbersome.

On alternate years, the Inspector General of the Department of Defence and the National Audit Office (ANAO), audit and report on the Army’s capability for force expansion.

The Government agrees with the ANAO’s comment on this recommendation, that Army periodic reporting is essentially a matter for the Army and Defence rather than the ANAO, and notes the committee’s acceptance of this in the supplementary report. The Government does not agree, however, that such reporting should necessarily involve the Inspector-General.

Recommendation 5. We recommend that the Army force structure be reviewed, such that:

- There should be no single unit or formation present in the force structure unless it is able to detach useful capability in components. These components need to be in multiples of three—a component in commitment; a component returning and a component being prepared for deployment.
- Where multiple units or formations exist in the force structure they must exist in multiples of three.
- Where neither of these conditions can be satisfied the capability being sought should either:
  - Be reduced to a force size that can meet the structuring principle, or
  - Be removed from the force structure.

Government Response

Disagreed.

There should be no single unit or formation present in the force structure unless it is able to detach useful capability in components. These components need to be in multiples of three—a component in commitment; a component returning and a component being prepared for deployment.
Where multiple units or formations exist in the force structure they must exist in multiples of three.

The Government accepts that Army capabilities should be able to be sustained but does not agree with the blanket application of a “multiples of three” principle. Army force rotation models are often structured in multiples of three to reflect a component in commitment, a component returning and a component being prepared for deployment. However, it would not be prudent to apply the trilogy structure rigidly.

Australia’s strategic environment requires a flexible force that is capable of conducting varied operations, including the use of specialist forces. Some capabilities may only need to be employed once during an operation (eg. parachute or commando capabilities), and domestic operations will generally require less unit rotations than overseas ones. Such operational variables, combined with funding constraints, dictate that it is not viable or necessary to ensure that all units are structured in triplicate.

The committee’s supplementary report asserted that:

…the decision to retain different, unique and individual capabilities at the brigade level and lower is seen ...as more an inability to make a suitable decision on force structure than a desire for flexibility7.

This assertion is incorrect. The deliberate and informed nature of Army force structure decision-making, has been demonstrated in the development of a combat force sustainment model, which meets the strategic sustainment, and rotation requirements set out in the White Paper. This model informs the Single Entitlement Document (SED) Review process that is being used to implement changes to Army’s force structure.

The SED Review is a rolling three-year program, which reviews every personnel position and every equipment line number attributed to each unit. This will achieve the following:

- implementation of force structure changes;
- validation of unit capability and structure for the conduct of assigned roles and tasks;
- standardisation of like Army units;
- elimination of hollowness in unit structures; and
- improvement of visibility of the true cost of a given capability or unit.

Where neither of these conditions can be satisfied the capability being sought should either:

- Be reduced to a force size that can meet the structuring principle, or
- Be removed from the force structure.

The Committee’s suggestion that unit numbers be reduced until multiples of three can be achieved is not viable given the currently high levels of the Army’s operational tempo, and the Committee’s own recommendation that Force in being be expanded. Further, it is clearly not sensible to remove these vital force support elements from the force structure altogether, simply because they fail to meet rotation model requirements.

Recommendation 6. We recommend that the Army maintain its capability focus on the conduct of warfighting. This focus should be based on meeting or exceeding regional technical performance parameters up to, and including, mid-intensity conflict. We further recommend that the Army enhance or develop capabilities for:

- Terminal Operations (i.e. the equivalent of military stevedoring operations).
- Civil Affairs (i.e. the capability on deployment to establish and maintain a relationship between the Army and the government, civil population and/or other agencies in order to facilitate the resolution of conflict and the re-establishment of normal civil life).

Government Response

Agreed with qualification

We recommend that the Army maintain its capability focus on the conduct of warfighting.

The Government agrees that the Army focus be on warfighting. The White Paper clearly stated that the Government requires a capable defence force that is trained and equipped to meet the demands of conventional wars between states. It also stated that, even with the greater prominence
of military operations other than conventional war, the military capabilities needed for the latter types of operations will have a lot in common with those we develop for more conventional conflicts. Accordingly, the Government’s plan for developing land force capabilities over the next decade includes the most significant enhancements to Army’s combat power in many years.

This focus should be based on meeting or exceeding regional technical performance parameters up to, and including, mid-intensity conflict.

The Government agrees that the performance standards of regional military forces should be a factor in setting the standard for our own Defence force. It is important to monitor trends in the development of regional capabilities.

The Government accepts the recommendation that Army develops further specialised capabilities for Terminal Operations and Civil Affairs.

We further recommend that the Army enhance or develop capabilities for:

- **Terminal Operations** (i.e. the equivalent of military stevedoring operations).
  
  Army has enhanced its Terminal operations capability. This has been achieved through force structure changes to the Logistic Support Force (LSF), with the provision of an additional 450 personnel to support the deployment to East Timor. These increased personnel levels have been maintained after East Timor, and a further 192 positions have since been provided to the LSF. In turn, the number of LSF Terminal Operations trainees has increased. Accordingly, the Army Logistics Training Centre (Townsville), Maritime Wing has increased its size by 12 personnel which constitutes a 30% increase in Instructor and Instructional Support Staff and equipment.

- **Civil Affairs** (i.e. the capability on deployment to establish and maintain a relationship between the Army and the government, civil population and/or other agencies in order to facilitate the resolution of conflict and the re-establishment of normal civil life).

Army has also enhanced its civil affairs capability since the committee’s reports were released. ADF experience has confirmed the close connection between successful operations and the restoration and support of civil authority. The Defence Organisation is examining options through Project Army 2003 for further enhancing this capability at the headquarters staff level throughout all stages of operational deployments. The civil affairs function is currently being performed as required by a combination of Reserve personnel with specific expertise and personnel from other units (when the nature of the contingency allows them to serve in a secondary role). On occasions, medical, engineering and transport units can contribute to civil affairs tasks as required, provided there is no detriment to their core operational tasks.

It is important to note, though, that the Defence contribution to this function is rarely in isolation, with other government agencies, the United Nations and non-government organisations having major roles.

**Recommendation 7.** We recommend that the Army’s funding be increased to:

- Account for the yearly rise in costs associated with military personnel and equipment. (Based on historical trends this equates to an annual growth rate of four per cent which was also the rate of GDP growth at the time of the inquiry).

- Provide a credible force expansion capability.

- Provide, in the short term, funds necessary to implement the recommendations within this report.

**Government Response**

Agreed, with qualification.

Account for the yearly rise in costs associated with military personnel and equipment. (Based on historical trends this equates to an annual growth rate of four per cent which was also the rate of GDP growth at the time of the inquiry).

The White Paper recognises the need for Defence spending to grow by an average of three per cent per annum in real terms over the next decade. The White Paper also provided an additional $27.88 billion for capability enhancement over the next 10 years under the Defence Capability Plan (DCP). The additional funds provide for capabil-
ity enhancements, as well as the yearly rise in personnel and operating costs of maintaining existing capabilities.

Since the White Paper, Defence funding has been further increased with the provision of additional appropriations for specific operations. This has included:

- the Appropriation (East Timor) Bill 1999-2000;
- $320 million for Defence’s contribution to the War Against Terrorism 2001-029; and
- an additional $199 million for Defence’s continued contribution to the War Against Terrorism in 2002-0310.

The Government continues to monitor the adequacy of Defence funding to ensure the Army remains both effective and efficient in meeting its strategic objectives.

Provide a credible force expansion capability

The Government’s Defence Capability Plan contains a clear development path for land force capability over the next decade and beyond, which will meet the committee’s recommendation that Army provide a credible force expansion capability. In short, it will improve the ADF war fighting capability; increase the number of ready frontline forces; and alleviate the sustainment and rotation problems that have previously been identified as a significant weakness in Army. Army’s combat weight will be enhanced with the provision of:

- two squadrons of armed reconnaissance helicopters;
- an additional squadron of up to 12 troop-lift helicopters;
- an upgrade of 350 of our M113 armoured personnel carriers;
- new shoulder-fired guided weapons;
- improved personal combat systems;
- replacement air defence missile systems;
- mobile mortar systems; and
- tactical uninhabited aerial vehicles.

The Government acknowledges the committee’s support, expressed in the supplementary report11, of the funding increases set out by the White Paper. The Defence Capability Plan meets the need, also expressed in that report, for information on how the funding allocation and management may be achieved over the ten-year period.

Provide, in the short term, funds necessary to implement the recommendations within this report.

Given that the Committee’s recommendations with which Defence agrees are already being implemented, or are part of existing funded plans, the provision of additional dedicated funds for recommendation implementation is not considered necessary.

Recommendation 8. We recommend that the Army adopt a unified personnel structure. This structure should consist of five employment categories able to be deployed on service anywhere in the world:

- **Category A**—Full-time service for an agreed tenure.
- **Category B**—Initial full-time service followed by an agreed commitment for part-time service for a set tenure. This part-time service would require regular attendance at a local unit.
- **Category C**—Part-time service for an agreed tenure. This part-time service would require regular attendance at a local unit.
- **Category D**—Part-time service for an agreed tenure. This part-time service would be done in a local or remote location at irregular time intervals which best suit the individual.
- **Category E**—Non-active service by fully trained personnel who remain on a recall database to support special projects or force expansion.

We further recommend that service within these categories be by voluntary enlistment and be covered by common legislation that provides for employment protection and call out.

**Government Response**

Agreed, with qualification.

All of the forms of service proposed by the committee are currently in place in the Army, apart from Category B. A voluntary Reservist option
similar to Category B does exist in which Reservists can choose to complete a full time Common Induction Training period for around six months, after which they revert to the normal Reserve part time commitment in a designated unit. This arrangement differs from Category B in that the continuous training period is classed as part of the Army Reserve annual training requirement, rather than full time service. But in essence the outcome is the same.

As the committee’s supplementary report acknowledges, a number of initiatives have been put in place since the release of From Phantom to Force in 2000, and these were important steps for the ADF’s personnel structure. These include amended legislation allowing Reservists to be deployed anywhere in the world, and The Defence Reserve Service (Protection) Act 2001, which provides for employment, financial and education protection across the spectrum of Reserve service.

The supplementary report raises concern about the apparent lack of a defined role for the Reserves. However, the Government has addressed this issue with a better defined and expanded role for Reserves as part of the ADF deployable force structure. The development of the Army’s Combat Force Sustainment Model will refine the role and tasks to be undertaken by Reserves as specified in Defence 2000. It should also be acknowledged that the Reserve is making a contribution to Army’s current capability by providing reinforcements to units deploying to East Timor and Bougainville, and rifle companies to Butterworth, Malaysia. Since November 2002 two Reserve companies have been deployed concurrently:

- one is in East Timor with the 5th/7th Battalion, The Royal Australian Regiment; and
- the other is undertaking training independently as the Rifle Company Butterworth in Malaysia.

Recommendation 9. We recommend that:

- All units are to be fully staffed to operational levels. Where a unit consists of predominantly part-time personnel it is to be staffed to 120 per cent of operational requirement.
- No unit is to be staffed with less than 20 per cent full-time (Category A) staffing.
- Transition of soldiers between Categories is to be administratively simple. This includes:
  - a standardised system of performance evaluation based on merit; and
  - a graduated system of employment conditions that covers issues such as superannuation, injury compensation and housing assistance.

**Government Response**

Agreed, with qualification.

All units are to be fully staffed to operational levels. Where a unit consists of predominantly part-time personnel it is to be staffed to 120 per cent of operational requirement.

No unit is to be staffed with less than 20 per cent full-time (Category A) staffing.

Through the Single Entitlement Document Review (outlined in response to Recommendation 5), the Army is validating that units are staffed in accordance with their prescribed preparedness levels. This ensures that the higher readiness units are given priority for available resources.

Within current resources, 20 percent full time staffing levels in all units could only be achieved by creating hollowness in high readiness full time units to reallocate full time manning to low readiness part time units. This would significantly impact on capability and morale. As a result, the Government does not consider it practicable for no unit to be staffed with less than 20 per cent full-time staffing.

**Transition of soldiers between Categories is to be administratively simple. This includes a standardised system of performance evaluation based on merit.**

Transfers between the Regular Army and the Reserves happen regularly, to provide specialist augmentation, to better meet the needs of the Army and of Army personnel.

The Government recognises that it is important that this process is administratively simple. Army
is currently re-designing its training to accord with the requirements of Competency Based Training and Assessment. This program is the basis of the Army Training System, under which standards are being aligned for both Regular and Reserve training.

At the point of graduation, the standards for both the Regular and the Reservist are the same. Naturally as the Regular is employed full-time and gains experience he/she can be expected to improve those skills. The Reservist on the other hand, who may not be able to utilise all their skills all the time, may lose skills to some degree. However, this is measurable and is taken into account before a Reservist is selected for any form of full-time or operational service.

Currently the Army provides a standardised system of assessment, with Reserve officers and senior non-commissioned officers subject to regular performance appraisal, and all soldiers participating in the Army Individual Readiness Notice system.

With regard to attendance at courses, there are occasions where attendance by a Reservist may be a lower priority than that for a Regular. Wherever possible, courses are refined to assist Reservists in making the necessary time commitments to attend continuous service training for significant periods. This refinement of training in no way reduces the quality, the training objectives or standards to be achieved by the Reservist.

A graduated system of employment conditions that covers issues such as superannuation, injury compensation and housing assistance.

The Government notes the committee’s recommendation for a graduated system of employment conditions that covers issues such as superannuation, injury compensation and housing assistance. The service conditions of Regular and Reserve personnel differ substantially. For the majority of Reservists, the Army is not their primary source of income. Thus, for the part-time soldier tax-free pay is a more relevant incentive than superannuation. Similarly, Reservists will not be posted outside their own locality; thus most housing allowances are more relevant to their Regular colleagues who have to deal with posting turbulence. The Government has extended eligibility for the Defence Home Owner Scheme to Reservists, and has introduced legislation to protect Reservists’ civilian employment, education and financial situation when rendering military service. The Government is also considering the recently completed Nunn Review with a view to optimising the conditions of service for all ADF members.

Reservists on part-time service are covered for workplace injury in the same manner as all other ADF members on peace-time continuous full time service who enlisted on or after 23 May 1986. Reservists on full-time service are covered for workplace injury in the same manner as all other ADF members serving in the same workplace.

Recommendation 10. We recommend that no Army equipment project be approved unless it is acquiring sufficient equipment to meet the full operational equipment liability for the total force.

Government Response
Agreed, with qualification.

The Government’s investment in Army, outlined in the White Paper, constitutes the most significant enhancements to its combat power in many years. This involves stocking equipment for current use, as well as holding additional stocks for maintenance and training purposes.

However, equipment levels will always be subject to variations in operational requirements, the availability of equipment maintenance personnel, and funding constraints.

Recommendation 11. We recommend that the Army, in conjunction with the Department of Defence, review its equipment and stock acquisition strategy. We further recommend that this strategy be based on a coherent policy which addresses the need for the Army’s equipment and stock to:

- Be sustainable.
- Support plans for force expansion.
- Be optimised for operations within Australia’s ACSI.
- Be based on, in the case of equipment, an appreciation of the whole-of-life costs associated with any particular purchase or replacement program.
Government Response

Agreed, with qualification

This recommendation focuses on Army equipment and materiel stock acquisition strategy; however, the core issue is sustainability. As the committee recognised, the issue of stockholding policy is an ADF-wide issue and cannot be addressed by Army alone.

Defence is currently undertaking the following steps to address sustainability:

- the development of endorsed sustainability analysis methodologies to enable the Services to determine their stockholding requirements;
- a review of Defence explosive ordnance reserve stock and operating stock requirements;
- the development of sustainability planning guidance; and
- a review of current Defence stockholding policy as a whole.

In particular, the Government has demonstrated its commitment to improving the sustainability of explosive ordnance stockholdings, by providing an additional $20.9m for increase munitions warstocks, in the 2002-03 Defence Portfolio Budget Statements.

In terms of agreed activity levels and usage rates, two major projects are under development. The Joint Operational Logistic Tool Suite (JOLTS), sponsored by HQAST, will be a theatre level planning tool which uses agreed activity levels and attributes up to five levels of usage rates. This is expected to be completed by the end of 2002. Secondly, the ADF Preparedness Planning Guide will provide a web-based repository of endorsed planning guidance.

In addition, whole-of-life costs are taken into account when capital acquisition decisions are made.

The committee’s supplementary report refers to the role of Australian industry within Defence as needing clarification.

The Government has developed a range of specific industry and procurement policies to help achieve its capability requirements and facilitate collaboration between Defence and defence industry. These policies are detailed in two main documents:

- the 1998 Defence and Industry Strategic Policy Statement (DISPS); and

DISPS provides the strategic policy framework for industry’s vital role in the development, acquisition and through-life support of Defence capabilities. The Defence White Paper reiterated this role in terms of Defence’s long term capability goals, and foreshadowed the release of the Defence Capability Plan 2001-2010 (DCP). The DCP provides detailed, long-term guidance on Defence’s capability goals and the opportunity for industry to take defence capability needs into account as part of their own strategic planning.

Industry Division, within the Defence Materiel Organisation, is responsible for ensuring that Australia’s defence industry is developed and sustained to meet the needs of a technologically advanced ADF. This is a move away from a project by project acquisition strategy, to one in which individual capability projects are strategically linked, and offered to key defence suppliers in packages under long-term, multi-project commercial arrangements. This new approach is expected to:

- reduce cost, performance and schedule risks by providing continuity of work and better planning guidance;
- provide opportunities for increased investment in skills generation, training, research and development; and
- allow for greater commonality of technologies, equipment and platforms.

Further, the Strategic Logistics Branch was established within Headquarters Logistics Command, in February 2002, to develop strategic level joint logistics policy and coordinate access to national and international logistics capabilities. One of the its primary aims is to foster defence industry relations to support ADF operations, as required. As can be seen, the relationship of Australian industry with Defence has been clarified.

Recommendation 12. We recommend that the Government establish, for a period of three
years, an Army Capability Enhancement Project (ACEP). The Project Team would work alongside the Army in effecting the restructuring and enhancements recommended in this report.

We further recommend that this Project provide a report to Parliament twice each year for the period of its operation.

Government Response

Disagreed.

The Government considers that there would be little value in establishing an Army-focussed project team, as enhancements to Army’s capability are undertaken in a joint service context, as part of the land force capability group identified in the White Paper.

Defence has implemented, or is in the process of implementing, substantial changes to the ADF as a result of the White Paper. It is not considered necessary to establish a dedicated project team to oversee this. Defence has review and audit processes in place to monitor the progress of projects including those for the implementation of White Paper initiatives. Defence is accountable to the Senate Legislative Committee for its budgets, as well as to other parliamentary committees such as the Joint Standing Committee on Foreign Affairs, Defence and Trade.

1 Defence Portfolio, Portfolio Budget Statements 2002-03, 6 May 2002, pg. 55.
4 Integrated means comprising a substantial element of Reserve personnel as well as full time personnel.
5 Part time units comprise both Reserve and permanent Army personnel. The permanent personnel make up the training staff in each unit and formation.

6 A Model for a New Army, op cit, pg 42, para 6.9.
7 Ibid, Pg 43, para 6.12.
8 2001-02 dollars Australian.
11 A model for a new Army, op cit, pg 44, para 6.15.
12 Ibid, pg 44, para 6.18.
13 A Model for a New Army, op cit, pg 44, para 6.23.

Government Response to Report 48 of the Joint Standing Committee on Treaties

Recommendation 1

The Committee recommends that improved departmental procedures be implemented such that the Committee is advised in a timely fashion of International Maritime Organization amendments proposed to take effect through a ‘tacit acceptance’ procedure.

The evidence provided to the Joint Standing Committee on Treaties on this issue was confined to amendments to conventions coming out of the Legal Committee of the International Maritime Organization (IMO)—it did not refer to conventions coming out of other Committees of IMO. The two resolutions considered by JSCOT, which amend compensation limits in oil pollution compensation damage conventions, were the first amendments by the tacit acceptance procedure made by the Legal Committee.

The Government advises that the processes now in place for any future tacit acceptance amendments arising out of the Legal Committee ensure that those amendments will be tabled in a timely fashion. Officers responsible for arranging for the tabling will be made aware of any amendments adopted by the Legal Committee within good and sufficient time to arrange for tabling of the amendments and subsequent report by JSCOT before the expiry of the time in which Australia may indicate it does not accept the amendments.
Arrangements for advising the Committee of amendments coming out of other IMO Committees are currently being examined jointly by the Department of Transport and Regional Services and the Department of Foreign Affairs and Trade.

**Recommendation 5**
The Committee recognises that responses to questions on notice and requests to amend the Hansard record must receive security clearance and Ministerial approval prior to their release.
The Committee recommends that the Department of Defence ensures that these measures do not inhibit its ability to provide requested information to the Committee within an acceptable timeframe.
The Government agrees, with qualification, with the recommendation.
The Government is committed to providing timely responses to questions on notice taken during parliamentary committee hearings and to ensuring that any corrections to evidence given by official witnesses are made promptly.
In this instance, however, the Government does not accept the implication in the recommendation that the Department of Defence did not endeavour to provide the information requested by the Committee within an acceptable timeframe. The Government considers that the information requested in relation to access by elected representatives to Defence facilities, specifically the Joint Defence Facility Pine Gap, was beyond the scope of the Agreement under review. The Government was prepared to provide the information, while recognising the time entailed in searching records held at different locations and going back several years, consulting with appropriate authorities in the USA, and obtaining approval for release by the relevant Minister. The Minister for Defence has written separately to the Committee Chair to address matters of concern arising from the Committee’s consideration of this Agreement.
The Government is encouraged by the Committee’s recognition of the provisions of the **Government Guidelines for Official Witnesses before Parliamentary Committees and Related Matters—November 1989**, in regard to the relevant Minister’s approval being sought for an official to attend a committee hearing, or to provide material to it (paragraph 2.7 of the Guidelines refers).

**Recommendation 7**
The Committee recognises that responses to question on notice must receive Ministerial approval prior to their release.
The Committee recommends that the Department of Foreign Affairs and Trade ensure that these measures do not inhibit its ability to provide requested information to the Committee within an acceptable timeframe.
The Government notes the Committee’s recommendation, and in the future will ensure requested information reaches the Committee within an acceptable timeframe. The Government also notes the Department of Foreign Affairs and Trade provided the Committee with its response on 22 October 2002.

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**Government Response to Report 50 of the Joint Standing Committee on Treaties**

**Recommendation 2**
The Committee recommends that, where proposed treaty actions seek to amend existing international taxation arrangements, the costs and benefits of past tax treaty arrangements be included in the National Interest Analysis.

(paragraph 2.22)
The Government has already commenced a practice of providing the Committee with greater detail of the specific issues and quantitative gains and losses of amendments to tax treaty arrangements. In this regard, the Committee specifically noted and expressed its satisfaction with the efforts of Treasury on page 21 of Report 48, October 2002 and on page 7 of Report 50, December 2002. The Government will continue with its efforts to provide additional information, including costs and benefits of past treaty actions, in future National Interest Analyses. The Government notes however that it is often difficult to identify and measure the costs and benefits of specific past treaty actions. The Government will provide the information sought by the Committee on a best endeavours basis.
At paragraph 2.17 on page 7 of Report 50, the Committee sought specific additional information on the historical cost of tax sparing arrangements with Vietnam when considering the 2002 Ex-
change of Letters between Australia and Vietnam. The sole purpose of these Letters was to ensure that tax sparing arrangements provided for in the Vietnamese Agreement and 1996 Exchange of Notes continue as intended until 30 June 2003. The Government’s subsequent analysis shows that the total cost of tax sparing with Vietnam for the four year period from 1997-98 to 2000-01 was approximately $6 million. Further information on the cost of tax sparing is provided in the 2002 Tax Expenditure Statement (pages 50 and 101).

**Recommendation 4**

The Committee recommends that future National Interest Analyses list all agencies consulted in relation to the proposed treaty action.

(paragraph 3.18)

The Government agrees to this recommendation. The Treaties Secretariat, Department of Foreign Affairs and Trade, has informed all Government Departments and agencies of the need to annex a list of all agencies consulted to National Interest Analyses tabled from the beginning of 2003.

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**Government Response to Senate Finance and Public Administration References Committee Report**

*Re-booting the IT agenda in the Australian Public Service, final report on the Government’s information technology outsourcing initiative, August 2001*

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<th>Number</th>
<th>Recommendation</th>
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<tr>
<td>1</td>
<td>Although the secretariat to the Humphry Review no longer exists, the Committee recommends that DOFA, acting as a responsible body and a department of State, immediately undertake the task of obtaining advice from the National Archives of Australia on the status of documents and material received and generated by the Humphry Review. If they are deemed to be Commonwealth records the department should ensure their proper management and disposal.</td>
<td>Support. Finance has had discussions with the National Archives of Australia on the status of documents and material received and generated by the Humphry Review. All documents and material received and generated, with the exception of the submissions to the inquiry, have been treated as Commonwealth records in the normal course. Mr Humphry returned the submissions based on legal advice that they were not Commonwealth records. Finance has since confirmed that the original or a copy of all submissions made to the Humphry Review are now held by the Senate Committee and, as such, are clearly Commonwealth records.</td>
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<td>2</td>
<td>The Committee recommends that as part of the strategic planning for IT outsourcing and, in particular, where the value exceeds $10 million, agencies be required to set aside ample time to prepare and release draft tender documents for industry comment. It further recommends that agencies consider releasing an invitation to register interest as part of a prequalification phase of the tender process with follow-up public information seminars and briefs.</td>
<td>Support in principle. After the Government’s response to the Humphry Review, IT outsourcing has been devolved to agencies. The timing and processes of industry participation will be a matter for each agency as it goes through its outsourcing process, while remaining consistent with the requirements of the Commonwealth Procurement Guidelines and Best Practice Guidance (CPGs).</td>
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<td>3</td>
<td>The Committee recommends that tender documentation made available to bidders clearly identify, at the very least, the relative importance of the separate evaluation components—technical, corporate, financial and industry development. They should also indicate the evaluation criteria given top priority within each of these components.</td>
<td>Support in principle. Ethics, accountability and transparency are principles of the CPGs. Agency managers are required to have regard to the CPGs; however, the devolved management framework means that each agency is accountable for these matters.</td>
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<td>4</td>
<td>The Committee recommends that, for any future tender process for IT outsourcing, the evaluation plan be finalised and approved before the RFT is issued.</td>
<td>Support in principle. The Committee’s recommendation that evaluation plans are finalised and approved before the RFT is issued is supported; good process reduces the potential for legal liability. However, the devolved management framework means that each agency is accountable for these matters.</td>
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<td>5</td>
<td>The Committee recommends that the Government re-introduce mandatory competency standards for all officers undertaking procurement functions.</td>
<td>Do not support. The Government does not support the Committee’s recommendation to reintroduce mandatory competency standards. Formalised competency standards are but one means of ensuring that officials undertaking procurement functions are competent. Chief Executives (FMA Act agencies) and Directors (CAC Act entities) are responsible for all aspects of procurement. The CPGs (Section 2) specify that Chief Executives should ensure that staff undertaking procurement have appropriate skills and training. The CPGs highlight that competency based training can help officials and provides links to information on the ‘Procurement and Contract Management’ training certificates.</td>
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<td>6</td>
<td>Consistent with the Department of Finance and Administration’s policy responsibility for Commonwealth contracting and procurement, the Committee recommends that the competency standards and training should be developed by that department. This is to be done in consultation with the Public Service and Merit Protection Commission to ensure consistency with the Australian Public Service Values. Further to the Government’s response to Mr Humphry’s recommendation 3, the Committee recommends that the Public Service Commissioner report</td>
<td>Partially support. While the Government does not support the reintroduction of mandatory competency standards (see response to recommendation 5), the Government does support the Committee’s recommendation regarding the annual reporting on the implementation of the IT Outsourcing Initiative. The devolved management framework means that Chief Executives and Directors are responsible for managing their agency’s procurement functions and should ensure that staff undertaking procurement have appropriate skills and training. The APS Commission will be available to assist agencies in ensuring that staff skills and training are consistent with the APS values. The APS Commission currently offers training programs</td>
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<td>in the annual State of the Service report on the implementation of the Initiative together with the competency framework.</td>
<td>on contracting and procurement for APS staff at various levels. The content of these training programs takes into account APS values and all agencies are able to utilise these programs. Other training providers also offer competency based procurement training. Furthermore, the existing Certificate IV in Government (Procurement &amp; Contracting) was developed by the Public Service Education Training Australia (PSETA—which has representatives from all Commonwealth, State and Territory governments). The Government encourages agencies to use the competency training framework established by PSETA as it is identified as best practice in the CPGs. The APS Commission commenced reporting on the implementation of the Initiative through its 2000-01 State of the Service Report.</td>
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<td>7</td>
<td>The Committee recommends that all RFTs for IT outsourcing, which contain clauses allowing the Commonwealth broad discretionary rights to alter the RFT or to exclude a tenderer from the process or any similar decision, also include a clause which places a clear and definite obligation on the Commonwealth to provide in writing the reasons for the variation, amendment, cancellation or termination. RFTs should be consistent with the Commonwealth Procurement Guidelines.</td>
<td>Support in principle. Clauses to alter the RFT, or to exclude a tenderer from the process, are common in commercial procurement and are employed to protect the Commonwealth. For FMA Act agencies, a decision to invoke such a clause needs to be defensible under the framework requiring efficient, effective and ethical use of resources. In line with the CPGs, agencies should document the reasons for variation, amendment, cancellation or termination of a RFT. However, each agency should decide on the most appropriate and effective means of notifying tenderers. The Government does not consider it necessary to mandate that this be provided in writing. For CAC entities, a decision to vary, amend or cancel an RFT would need to be consistent with the obligations and responsibilities requiring good faith, care and diligence when making business decisions.</td>
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| 8 | The Committee recommends that: The Government review the Commonwealth Procurement Guidelines with a view to making them more explicit and detailed for agency heads and less likely to broad and uncertain interpretation. An annual review is also recommended to ensure their continuing relevance. All officers performing duties in relation to the procurement of property or | Partially support. The Minister for Finance and Administration released revised Commonwealth Procurement Guidelines and Best Practice Guidance (CPGs) in February 2002. The CPGs will be reviewed and updated as required. The Government does not support the Committee’s recommendation to require officers to ‘act in accordance with’ the CPGs. The CPGs strike a balance between prescription and empowerment so as to encourage
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<td>The Committee recommends that DOFA undertake a review of available guidance on probity issues associated with the procurement process, taking into account the new and revised probity guidelines of the Victorian, Tasmanian and South Australian State governments. The review should form the basis of a revision of the Commonwealth Procurement Guidelines.</td>
<td>Support. The Minister for Finance and Administration released revised CPGs in February 2002 that require officials to consider seeking probity advice. The Government agrees that the experiences of other jurisdictions are informative and will continue to review policy guidance with a view to updating it as appropriate.</td>
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<td>The Committee recommends that for future IT outsourcing contracts valued over $10 million agencies contract the services of both a probity auditor and a probity adviser and that their roles involve separate and distinct tasks.</td>
<td>Support in principle. The devolved management framework means that this is a matter for individual agencies.</td>
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<td>11</td>
<td>The Committee is strongly of the view that Commonwealth agencies should in future have confidence in being able to source truly independent probity advice. It recommends that, consistent with Victoria’s probity guidelines, the Government consider the establishment of a whole of government panel of probity auditors to assist agencies and departments avoid real or perceived conflicts of interest when establishing the probity standards that will guide their IT out-</td>
<td>Partially support. The Government agrees that agencies should have confidence in being able to source independent probity advice. However, the Government does not support the establishment of a whole-of-government panel of probity advisers. While regarding probity as an essential element in the procurement process, a mandatory whole-of-government panel of probity auditors is not consistent with the framework of devolved management. Any establishment of a whole-of-government panel would duplicate existing agency arrange-</td>
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<td>The Committee recommends that agencies include provisions in their contracts that require: probity auditors to keep accurate records and provide sufficient information to allow for proper parliamentary scrutiny of the audit process; and probity auditors’ reports to be made public.</td>
<td>Partially support. The Government agrees that transparency with the tender process is necessary. It is up to agencies to consider the inclusion of provisions in their contracts that require probity auditors to keep accurate records and provide sufficient information to agencies to allow them to meet their accountability obligations to Parliament and the public. However, the CPGs require agencies to ensure that an outsourced provider maintains appropriate systems for recording decisions and reasons for making those decisions. The Government does not consider it necessary to mandate that probity auditors’ reports be made public. Agencies should also be aware of the provisions under the Freedom of Information Act 1982 for disclosure of records.</td>
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<td>13</td>
<td>The Committee recommends that the Government consider establishing a centre of IT outsourcing expertise in the Department of Communications, Information Technology and the Arts (DOCITA) concerned with the technological and industry development side of IT outsourcing but not necessarily the tendering and contracting process. The Committee proposes that the role of a service unit in DOCITA would be far different from the OASITO model and be more consultative and helpful than the service unit now established in DOFA. It would have broader horizons on IT and would establish and form the hub of a network between IT outsourcing units in Commonwealth agencies. Further, it would assume an education and training role in IT outsourcing with its focus on IT planning for the future.</td>
<td>Do not support. The establishment of a central resource for agencies to use would create overlapping responsibilities between agencies and the central resource, and inefficient use of the resource. Given the broad range of issues on which advice may be sought, and the ad hoc nature of such responses, it may be more efficient to make use of consultancy services rather than establishing a full time unit. However, the Government, on 21 June 2002, announced simplified industry development requirements for Information and Communication Technology (ICT) contracts to reduce the compliance burdens on bidders and agencies. DCITA will work cooperatively with agencies on the implementation of these requirements for future ICT contracts. In addition, DCITA will implement an ICT Small to Medium Enterprise (SME) facilitation package to enhance the ability of SMEs to lead and participate in government ICT contracts.</td>
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| 14     | For agencies with distinctive data security needs, such as the science agencies, and agencies with high security needs, such as the Australian Support. In its response to the Humphry Review, the Government stated that, “Secretaries and agency heads will be held accountable for implementing
Federal Police, a credible argument has been put forward that IT outsourcing is far more complex. The Committee endorses recommendation 10 of the Humphry Review and recommends it be extended to apply to the evaluation of the implementation risks of all other agencies.

15 The Committee recommends DOGIT A conducts an evaluation of the outcomes of the Initiative's intellectual property management clauses in existing contracts. The evaluation to include, but not exclusively, an examination of the generation of government royalties, the protection of government assets and the contribution to industry development.

16 The Committee notes that an intellectual property rights register is a feature of current contracts under the Initiative. It recommends that DCITA investigate the feasibility of publicising and marketing this information, as well as details of intellectual property held by agencies that are not outsourced, with a view to maximising returns on Commonwealth intellectual property.

17 The Committee recommends that the Government give serious consideration to introducing legislation that will provide a greater degree of transparency in Commonwealth contracts by making them publicly available. The Victorian legislation, which
requires contracts valued at over $10 million to be placed on the Internet, provides a starting point. In this context the ANAO criteria would provide guidance on what, in such circumstances, would still be considered genuinely confidential and may be withheld from publication.

The Committee recommends that budget funded agencies take immediate action to ensure that before they enter into any formal or legally binding undertaking, agreement or contract that all parties to that arrangement are made fully aware of the agency and contractor’s obligation to be accountable to Parliament.

The Committee further recommends that any future Requests for Tender (RFTs) and contracts entered into by a Commonwealth agency include provisions that require contractors to keep and provide sufficient information to allow for proper parliamentary scrutiny, including before parliamentary committees, of the contract and its arrangements.

The Committee recommends that DOCITA in close consultation with agencies develop and agree to an overall roadmap for ID under the IT outsourcing program. This strategic plan is to spell out the objectives and targets of ID under the IT outsourcing Initiative, to define and specify SME involvement, and establish the

the way set out in the Guidelines”. The CPGs require officials to report agency agreements, Commonwealth contracts and standing offers with an estimated liability of $2000 or more in the Gazette (the Gazette Publishing System which is online at www.contracts.gov.au) within six weeks of entering into the agreement. Consistent with the Senate Order regarding Departmental and Agency Contracts, the CPGs require that FMA agencies place lists of contracts valued at $100,000 or more on their websites. The list should indicate whether the contract includes confidentiality provisions and the reasons for those confidentiality provisions. Further, Finance is currently finalising a strategic and technical review of the Gazette Publishing System (GaPS) which considers the possibility of utilising GaPS to assist in meeting the Senate Order regarding Departmental and Agency Contracts reporting requirements.

Support.

The CPGs state that, “officials, departments and agencies are answerable and accountable for any plans, actions and outcomes that involve spending public monies” and “Agencies should include provisions in tender documentation and contracts that alert prospective providers to the public accountability requirements of the Commonwealth, including disclosure to Parliament and its Committees”.

The Committee further recommends that any future Requests for Tender (RFTs) and contracts entered into by a Commonwealth agency include provisions that require contractors to keep and provide sufficient information to allow for proper parliamentary scrutiny, including before parliamentary committees, of the contract and its arrangements.

Partially support.

DCITA will continue to have prime carriage of policy in relation to industry development associated with ICT and Endorsed Supplier Arrangement (ESA) Government contracts. The Government, on 21 June 2002, announced a simplification of the industry development arrangements for Government procurement of ICT following a consultation process with agencies and industry.
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<td>These arrangements reflect a self-regulatory approach to achieving industry development outcomes and include voluntary guidelines to encourage companies to undertake strategic activities in Australia. While the Government does not consider it necessary to mandate that weighting to industry development be included in RFTs, industry development requirements still apply. The cornerstone of these requirements is the obligation that all ICT suppliers to Government must be endorsed. The ESA includes an industry development component. For contracts of $20 million and above, there is also a mandatory requirement for a minimum level of SME participation, with the level of participation to be determined by the nature of the contract. DCITA will work cooperatively with agencies in the implementation of this requirement.</td>
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<td>The Committee recommends that the Commonwealth adopt an open and transparent methodology for estimating cost savings for IT outsourcing. In developing this methodology, all relevant Commonwealth agencies, including ANAO and DOFA, are to be consulted, and a common methodology adopted.</td>
<td>Support in principle. The Government supports open and transparent methods for estimating cost savings. However, the devolved management framework means that this is a matter for each agency as it moves through an outsourcing process.</td>
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<td>The Committee recommends that the Government act immediately to remove barriers, such as onerous requirements including financial guarantees, that hamper the participation of SMEs in the Initiative.</td>
<td>Support. The Government released an action plan, in October 2001, addressing inhibitors facing SMEs’ access to Government contracts. The Government announced a SME facilitation package on 21 June 2002 which will be implemented in close consultation with agencies and industry. The Government’s support does not mean that the terms and conditions aimed at protecting the Commonwealth’s financial position should be removed, although the Government Information Technology Contract (GITC 4), linked to the ESA, includes mechanisms to eliminate the need for business to place guarantees with agencies each time they enter a contract. Decisions to remove requirements for financial guarantees and other requirements on bidders are risk management decisions for individual agencies under the devolved management framework.</td>
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Return to Order

Senator HILL (South Australia—Leader of the Government in the Senate) (3.43 p.m.)—by leave—The order arises from a motion moved by Senator O’Brien, as agreed by the Senate earlier today, and it relates to draft regulations for the Energy Grants (Credits) Scheme Bill 2003 and the Energy Grants (Credits) Scheme (Consequential Amendments) Bill 2003. I am making this statement on behalf of the Treasurer. I seek leave to incorporate in Hansard the balance of the statement prepared by the Treasurer.

Leave granted.

The statement read as follows—

I wish to inform the Senate that these bills are now before the Senate and we will shortly be recommencing debate on them.

The Government proposes to have the regulations gazetted in time for the commencement of the Energy Grants (Credits) Scheme (EGOS) on 1 July 2003.

However, in March of this year, the Labor Party refused to allow debate to continue on the bills.

The Government’s position on this matter was made clear in a letter from the Manager of Government Business, Senator the Hon Ian Campbell, to the Manager of Opposition Business, Senator Joe Ludwig, dated 26 March 2003.

The regulations under these bills will replicate many of the matters that are currently prescribed under the Diesel and Alternative Fuels Grants Scheme Regulations 2000 (DAFGS Regulations) and the Customs Regulations 1926 (Customs Regulations). The regulations will maintain benefits equivalent to those available under the existing schemes. The matters intended to be prescribed by regulation are as follows:

- The definitions of diesel fuel (on-road diesel) and emergency vehicle contained in the DAFGS Regulations will be replicated in the EGCS Regulations;
- The definition of diesel fuel (off-road diesel) contained in the Customs Regulations will be replicated in the EGCS regulations;
- Metropolitan boundaries will be specified in the same way as they currently are in the DAFGS Regulations;
- The EGCS Regulations will prescribe methods for the calculation of eligible fuel similar to those prescribed by the DAFGS Regulations;
- The EGCS Regulations will prescribe the grant rates for the on-road and off-road credit as the same effective amounts currently applying under the existing schemes.

It is long-standing practice in this portfolio not to release draft regulations relating to amendments currently under the consideration of Parliament. In any event, regulations cannot be Gazetted until the enabling legislation has been passed by the Parliament.

Part XII of the Acts Interpretation Act 1901 provides the necessary process for the parliamentary scrutiny of regulations. Part XII requires regulations to be laid before each House of the Parliament within 15 sitting days of that House after the making of the regulations and either House can pass a resolution disallowing any of those regulations within 15 sitting days after the regulations have been laid before the House. Regulations should be considered during this process and not during the parliamentary consideration of these bills.

The Government will not be made to produce draft regulations to the Labor Party as a prerequisite for the passing of the enabling legislation. This is the principle that the Government has followed for past Treasury portfolio bills and it—is the principle that we will continue to follow.

The draft regulations were circulated to industry on a confidential basis on 15 May 2003 at a meeting of the Tax Office’s Fuel Grant Advisory Forum. There are no minutes of this meeting. The Forum is a consultative group convened by the Tax Office that has been in existence since 1999 and has been the forum through which all consultation with industry on legislative and administrative issues concerning the various fuel grant schemes has been conducted.
As mentioned above the regulations will not affect existing entitlements and therefore the regulations are not a necessary precursor to assessment of the legislation by Parliament.

In light of the above I ask that the Labor Party desist from further political stunts and support the passage of the bills through the Senate, so that the regulations may be Gazetted in time for their 1 July 2003 start date.

**DOCUMENTS**

**Auditor-General’s Reports**

Report No. 51 of 2002-03

The DEPUTY PRESIDENT—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 51 of 2002-03—Performance Audit—Defence Housing and Relocation Services.

**BUDGET**

**Consideration by Legislation Committees**

Report

Senator FERRIS (South Australia) (3.44 p.m.)—On behalf of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I present the report of the committee in respect of the 2003-04 budget estimates, together with the Hansard record of proceedings.

Ordered that the report be printed.

**TAXATION LAWS AMENDMENT BILL**

(No. 8) 2003

Report of Economics Legislation Committee

Senator FERRIS (South Australia) (3.45 p.m.)—On behalf of the Chair of the Economics Legislation Committee, Senator Brandis, I present the report of the committee on the provisions of the Taxation Laws Amendment Bill (No. 8) 2003, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**COMMITTEES**

**Economics Legislation Committee**

**Extension of Time**

Senator FERRIS (South Australia) (3.46 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 report of the Economics Legislation Committee in respect of the 2003-04 Budget estimates be extended to 23 June 2003.

Question agreed to.

**Public Works Committee**

Report

Senator FERRIS (South Australia) (3.46 p.m.)—On behalf of the Chair of the Parliamentary Standing Committee on Public Works, I present the committee’s third report of 2003 entitled Proposed fit-out of new leased premises for the Australian Customs Service at Sydney International Terminal, Sydney, NSW.

Ordered that the report be printed.

Senator FERRIS—I seek leave to move a motion in relation to the report.

Leave granted.

Senator FERRIS—I move:

That the Senate take note of the report.
Senator FERRIS—I seek leave to have my tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—

The report examines the proposed fit-out of Customs’ new leased premises currently under construction at Cooks River Drive, Sydney International Terminal. The estimated cost of the proposed fit-out works is $13.409 million.

The need for the proposed work is driven by Customs’ objective of collocating its two existing Sydney offices at a single purpose-built premises within the Sydney Airport precinct.

At present, Customs occupies two premises in Sydney: Link Road, within the Airport Precinct and 447 Pitt Street in Sydney’s CBD. The decision to relocate is timely given that the leases on both properties expire in 2003.

The degenerating condition of the Link Road building, witnessed by the committee during their inspection of the site, provides further impetus for the proposed works. At present, the building has air quality and air-conditioning problems, and requires significant annual repairs at Customs’ expense.

Customs expects rationalisation and consolidation of its accommodation to result in a number of operational and administrative benefits, including cost and infrastructure efficiencies, technological improvements in services, enhanced corporate identity, increased amenity to clients and efficiencies in work allocation and resource use.

As the new premises will be purpose-built to meet Customs’ requirements, Customs will have the opportunity to integrate many of its specific needs into the base-building works. This will reduce tenant fit-out costs and increase the amenity of the building for Customs’ operations.

The works required to meet Customs’ objectives comprise:

- integration of electrical, mechanical, security, communications, fire and hydraulic services into base-building works;
- fit-out of investigations rooms, evidence rooms, operation rooms and a control room to meet special Customs requirements; and
- general office fit-out, including reception facilities, security-controlled access, partitioning and open-plan work areas, workstations, enclosed offices, computer room, meeting rooms, personal and common storage facilities, conference and training facilities, a first aid room, utility rooms, a carer’s room, kitchens, a gymnasium, lockers and showers.

At the public hearing, Customs informed the committee of two changes that had been incorporated into the design of the new building since the agency’s evidence was submitted in March 2003. Under the new design, it is proposed that the building will be reoriented to have a more northerly aspect; and will have one central core rather than three.

Customs believe that these changes will significantly improve the overall building design, in that reorientation will increase energy efficiency and the single core will enhance overall operational efficiency and will improve the flexibility of internal configuration.

Questions asked at the public hearing arose chiefly from evidence that Customs staff had expressed some concerns in relation to their relocation. In particular, staff had raised issues with respect to:

- increased travel times and costs;
- parking arrangements;
- the provision of child care facilities; and
- access to food outlets.

Customs demonstrated they were working to address all the issues raised by staff. Travel concerns had been dealt with in the form of a one-off lump sum payment to all staff—an initiative that had been approved by both staff and unions. Customs had also resolved potential parking problems by arranging for three years’ free parking for staff in the public car parks adjacent to the new premises.

Research into child care was continuing at the time of the public hearing, but preliminary surveys had indicated that most staff preferred to
access childcare facilities close to their homes. Customs intends, however, to provide a family room for staff.

Finally, Customs reported that a food and beverage survey had been undertaken and had shown that a range of food outlets were available at Sydney International Terminal, some three hundred metres from the new building.

The committee questioned Customs witnesses on budgetary matters, and were satisfied that the project budget was realistic and that sufficient contingency planning had been undertaken to mitigate against time and cost over-runs.

Finally, Mr President, I should add that the committee was very pleased at the high quality of written and verbal evidence supplied by Customs, which greatly assisted the committee’s work.

I wish to thank my committee colleagues for their support throughout this inquiry and also the staff of the secretariat.

I commend the Report to the Senate.

Question agreed to.

ENERGY GRANTS (CREDITS) SCHEME: DRAFT REGULATIONS

Return to Order
Senator O’BRIEN (Tasmania) (3.47 p.m.)—by leave—I move:

That the Senate take note of the statement.

I rise to respond to the government’s refusal to table draft regulations relating to the Energy Grants (Credits) Scheme Bill 2003 and the cognate bill, the Energy Grants (Credits) Scheme (Consequential Amendments) Bill 2003. The opposition has long indicated to the government its support for these bills, subject to the outcome of the Senate committee inquiry and subject to draft regulations being made available to the Senate prior to our deliberations on the bills. In relation to these two conditions, the Senate has tabled its report but, despite an undertaking from the Treasurer’s office some months ago, the opposition and, therefore, the parliament and the Australian people still await the draft regulations. In matters such as this, where regulations will contain the detail—that is where the devil will be, of course—of how this legislation will work, it is crucial that parliament has the opportunity to properly consider them before or at least concurrently with the current legislation. When I say ‘consider them’, I mean that parliament should take them into account in the context of the appropriate form of the legislation. Indeed, there is a strong tradition of that occurring. To their credit, most ministers within the Howard government follow this course in the interests of getting their bills through parliament and, in some instances, in the pursuit of good public policy, but not in this case.

The Energy Grants (Credits) Scheme Bill 2003 is a Treasury bill, and I note that the statement that was tabled by Senator Hill says that this portfolio does not follow the practice of circulating draft regulations. One wonders why this portfolio takes a different view from other departments, other ministers and other portfolios to assisting in the pursuit of legislation through this chamber. We hear the government talk about a lack of cooperation from the Senate. What could be a greater demonstration of the government’s desire to frustrate the will of the Senate in seeking to cooperate with the government than for this portfolio to refuse to circulate draft regulations? That point is emphasised even more by the fact that the tabled statement indicates that the draft regulations were circulated to industry, albeit on a confidential basis, on 15 May.

Members of the tax office fuel grant advisory forum are entitled, apparently, to see these draft regulations but the Senate is not so entitled in its consideration of the legislation. If it is germane for the draft to be with the industry before the legislation is passed, one wonders why the minister in this case has chosen not to share that information with the Senate. The government comes to this
place, it says, seeking the cooperation of the Senate to pass its legislation and to allow it to fulfil its mandate. It ought to come here with clean hands. In this case, by refusing to supply this information, this minister is saying, ‘I don’t believe I need to cooperate with the Senate.’ We will say to you, ‘Block this legislation and stop this measure coming into place.’ That is what we are prepared to say. What the Senate has required of this minister is the production of this information. I stress again: it is information which has already been supplied to others outside this place. If it is good enough for them, it is good enough for the Senate under the order of the Senate. Obviously, we will pursue this matter further in the debate on the legislation but I thank the Senate for the opportunity to respond today.

Question agreed to.

COMMITTEES

Membership

The DEPUTY PRESIDENT—The President has received a letter from a party leader seeking variations to the membership of committees.

Senator HILL (South Australia—Minister for Defence) (3.52 p.m.)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Finance and Public Administration References Committee—

Appointed—Substitute member: Senator Bartlett to replace Senator Ridgeway for the committee’s inquiry into the administrative review of veteran and military compensation and income support issues

Foreign Affairs, Defence and Trade References Committee—

Appointed—Substitute member: Senator Bartlett to replace Senator Ridgeway for the committee’s inquiry into health care needs of Australian Defence Force members and veterans with overseas service.

Question agreed to.

MEDICARE

Senator McLUCAS (Queensland) (3.53 p.m.)—I move:

That the Senate—

(a) condemns the most damaging effects of the Government’s proposed reforms to Medicare, which will create a user-pays, two-tiered health system in Australia and dismantle the universality of Medicare;

(b) acknowledges that the first of the damaging effects of the Government’s reform package is to cause bulk-billing rates to decline further, and that these reforms do nothing to encourage doctors to bulk bill any Australians other than pensioners and concession cardholders but make it clear that the Government considers bulk billing to be a privilege that accrues only to a subset of Australians, not an entitlement that all Australians have as a result of the Medicare charge;

(c) notes that the second most damaging effect of the Government’s proposed changes to Medicare is the facilitation and encouragement of higher and higher co-payments to be charged by medical practitioners, and that a central plank of the Government’s package is the facilitation of co-payments to be charged by doctors who currently bulk bill Australian families, as well as to make it easier for doctors who currently charge a co-payment to increase the amount of this co-payment; and

(d) notes, with concern, that the Government seeks to allow private health funds to offer insurance for out-of-pocket expenses in excess of $1 000, a measure which, if implemented, would inflate health insurance premiums as well as be a real step towards a user-
The Prime Minister, Mr Howard, and his coalition government are set on a path to destroy Australia’s internationally regarded health system. This government is threatening the fabric of a system designed to provide quality health care to all Australians. Medicare, the Pharmaceutical Benefits Scheme and our public hospital system are all under attack. The Howard government’s proposed changes to health care will effectively create a user pays, two-tier system in Australia where the average family will simply pay more and more. We are seeing in Australia an Americanisation of our health care system because this government just does not believe in Medicare. Mr Howard said so himself, and has been saying so for a very long time. In a media release in 1986 he said, ‘Medicare has been an unmitigated disaster.’ On radio in June 1987 he said, ‘The second thing we’ll do is get rid of bulk-billing.’ He went on to say, ‘We will be proposing changes to Medicare which amount to its de facto dismantling; we’ll pull it right apart.’ These are the Prime Minister’s words over many years about the system of health care in Australia that all of us—all Australians—cherish.

Mr Howard has never believed in Medicare, and we are now seeing its de facto dismantling. Mr Howard got a bit smarter though as he went along. He now does not attack Medicare directly like he did in the 1980s. He now knows that Australians believe in Medicare, and we have repeatedly had information at estimates that supports that view—that the public do value a Medicare system that is accessible and affordable. Instead of publicly attacking Medicare, he has been slowly undermining it since 1996, but in a far more insidious way.

Under Labor, bulk-billing increased every year to a peak of 80 per cent in 1996. Every year since 1996—since the election of Mr Howard’s government—it has decreased. GP bulk-billing is now below 70 per cent nationally and, in many regional areas around the country, has dropped to well below 50 per cent. If you do not have access to bulk-billing, you do not have access to Medicare, and in many centres we have pretty well reached that situation. In my home state of Queensland we have GP bulk-billing percentage rates in the low 40s in Hinkler and Capricornia. In Dawson and Herbert, bulk-billing is around the 60 per cent level. In Leichhardt it is just in the 70s. Even in the electorate of Brisbane, GP bulk-billing has dropped 20 per cent in the last two years to 63.9 per cent. In Queensland, from Brisbane to the Torres Strait, bulk-billing is disappearing. The same thing is happening all around the country. My colleague Senator Forshaw will speak more about this in detail in his contribution.

However, we can be certain that Mr Howard, as he has said previously, wants to dismantle Medicare. He does not believe in bulk-billing and he never will. Only Labor believes in Medicare and we will rebuild it. Only Labor has a plan to reform and reinvestigate Medicare. Under a Crean Labor government, we will save Medicare with a $1.9 billion package to reverse the collapse in bulk-billing by lifting the patient rebate for bulk-billing for all Australians, no matter where they live or how much they earn. A Crean Labor government will immediately lift the Medicare patient rebate for all bulk-billed consultations to 95 per cent of the schedule fee—an average increase of $3.35 per consultation—and a Crean Labor government will subsequently lift the Medicare...
patient rebate for all bulk-billed consultations to 100 per cent of the schedule fee—an average increase of $5 per consultation.

In addition, Labor will offer financial incentives to doctors to not only keep treating their patients without additional cost but also extend bulk-billing, especially in outer metropolitan areas and regional areas, where the collapse in bulk-billing is hurting families the most. Doctors in metropolitan areas will receive an additional $7,500 each year for bulk-billing 80 per cent or more of their patients. Doctors in outer metropolitan areas and major regional centres will receive an additional $15,000 a year for bulk-billing 75 per cent or more of their patients. Doctors in rural and regional areas will receive an additional $22,500 a year for bulk-billing 70 per cent or more of their patients. Lifting the patient rebate and introducing financial incentives for bulk-billing will help stem the current dramatic decline in bulk-billing and act to make bulk-billing available to more Australian families. Under Mr Howard, bulk-billing has declined by more than 12 percentage points from a high of 80.6 per cent to 68.5 per cent today. By offering GPs a significant increase in the Medicare rebate and financial incentives to meet bulk-billing targets, Labor will restore bulk-billing to respectable levels again. These measures are the first step towards Labor’s objective of lifting the average national rate of bulk-billing back to where it was under Labor of 80 per cent or more.

The decline in bulk-billing is denying families access to affordable health care, forcing them to pay more and more to see their doctor, despite the fact that Australians have paid for Medicare through their taxes and their Medicare levy for the last 20 years. We only have to look back at history to know that only Labor believes in Medicare. When Labor was elected in 1941, Chifley was determined to implement a national health service. However, the civil conscription clause in the Constitution, limiting the regulation of doctors, and the election of the Menzies Liberal government in 1949, prevented him at that time from establishing a national health service. In 1953, Prime Minister Menzies, whom we know Mr Howard absolutely idolises, established the Earle Page system. The scheme was primarily a method whereby the Commonwealth government subsidised private health insurance by meeting part of the cost of rebates for medical expenses—and doesn’t that ring a bell? This is what Mr Howard wants—a 1950s health care system. Mr Howard and his government believe in private health insurance, not in a universal health system where everyone has access to quality care. They believe in a two-tiered system where the quality of care you receive depends on the size of your wallet, not the level of your need.

When Labor was re-elected in 1972, Prime Minister Whitlam again proposed a national health service and Medibank was eventually born. However, Labor had to fight the coalition opposition to establish Medibank. The opposition controlled the Senate and blocked the bills establishing Medibank, forcing a double dissolution election to be called in 1974. Health care was a centrepiece of the subsequent election campaign, which we know, of course, Labor won. But the coalition again blocked the legislation in the Senate. How many times was that? That was two. Medibank was therefore only established following a joint sitting of the Senate and the House of Representatives in August 1974.

With the election of the Fraser government, of which Mr Howard eventually became the Treasurer, the coalition once again began the process of deconstructing Medibank. By 1981 there was essentially a return to the Earle Page scheme, with Commonwealth subsidies only paid to members of
registered funds. Contributions to funds became eligible for taxation rebates and eventually free treatment in hospitals was eliminated in every state except Queensland. All of us in Queensland would remember the battle that was had within the coalition for the retention of our free public health system. The Liberal Party has always been opposed to a public health system with equal access for all Australians and, I am afraid to say, the National Party of today is no different.

With Labor in power for an extended period, from 1983 to 1996, Australia finally obtained the health system it deserved. Medicare was established and Australia again had a universal health system, a system where everybody would have access to quality health care, importantly, irrespective of where they lived. As we know, Medicare has three objectives: firstly, to make health care affordable for all Australians; secondly, to give Australians access to health care services with priority according to clinical need; and, thirdly, to provide a high quality of care. The Liberal Party have always fought against the notion of equal access to health care. They are still opposed to that, and this brief history certainly demonstrates it.

Most Australians, however, value Medicare and understand the need for a health care system where you are treated based on your need rather than on the money in your pocket. They want a fair system, one where everybody has access to quality health care. Mr Howard, as I said earlier, understands the political consequences of openly attacking Medicare. He campaigned against Medicare in 1984, 1987, 1990 and again in 1993. He lost all of those elections. He is not openly going to go there again but he is determined to dismantle it. Finding a bulk-billing doctor is almost impossible in much of Australia, and the government’s Medicare package will only make that worse. When the health minister, Senator Patterson, launched the Medicare package, she said that the government’s Medicare changes were ‘for all Australians’—echoes of 1996, when Mr Howard was elected as Prime Minister and his slogan was ‘For all of us’. Everyone knows now that his government is only for some of us. It was an intriguing use of words by the health minister. We now know that Medicare will be just for some of us. It is a return to that longstanding public policy view of the 1980s that bulk-billing should be restricted to the disadvantaged and doctors should be free to charge everyone else whatever they like.

These changes to Medicare can mean only one thing—a two-tiered user-pays system under which Australian families will pay more to visit their doctor. Doctors will be given financial incentives to bulk-bill concession cardholders—a de facto means test—but they will be given the green light to charge higher fees for everybody else. In estimates some weeks ago, no evidence was provided by the minister or her department to support the view that gap payments will not increase—no evidence at all. Australian families with two children who earn more than $32,300 a year—not a lot of money—are not eligible for a concession card. For them bulk-billing will end and, when they visit their GP, bit by bit they will be asked to pay more.

The government, though, is not happy to simply destroy bulk-billing; it also wants to destroy our public hospital system. The information from the Australian Institute of Health and Welfare shows that the federal government’s share of expenditure on public hospitals has been in decline since the Howard government came to office. At the same time, the states share of public hospital funding has been on the increase. It is estimated that the federal government has cut $628 million out of public hospitals under the current health care agreement with the states,
and it plans, as we know, to cut even more from public hospitals.

Senator Barnett—That is not true.

Senator McLUCAS—This year’s budget, the forward estimates, shows that the Howard government is withdrawing funding for public hospitals to fund its Medicare package. It is almost dollar for dollar, Senator, and you know it. The accident and emergency departments of our public hospitals are already under greater pressure. Instead of recognising the pressure they are under, the government is withdrawing a further $918 million over four years from our public hospital system. This cut in funding will lead to fewer nurses being employed, fewer operations being undertaken and longer waiting lists for elective surgery. This cut to public hospitals precisely offsets the budgetary impact of the government’s $917 million Medicare package—robbing Peter to pay Paul. These fundamental changes will destroy Medicare and put an end to bulk-billing for Australian families. Over the five-year period from 2003-04 to 2007-08 the total funding withdrawn from public hospitals is in the order of $1.5 billion. As well as attacking Medicare, this government is attacking our public hospital system.

Mr Howard promotes the private health care system at every chance he gets. At the same time our public system continues to struggle. The 30 per cent rebate on private health insurance actively encourages people into the private health system. The Howard government’s planned increases in pharmaceutical copayments and falling bulk-billing rates are increasingly making basic health care unaffordable. This is combined with a public hospital system in crisis because the Howard government continues to cut its funding. The government is well on its way to achieving the same thing today. The coalition and in particular Mr Howard do not like Medicare. They hate Medicare and they want to destroy it. They have campaigned against it over and over again. However, they have learnt the hard way that Australians love their Medicare and they respect the need for a health system that everyone can access based on need. Mr Howard knows as a politician that he simply cannot announce the scrapping of Medicare so what he is doing is slowly dismantling it, undermining it and destroying it by stealth. History and his actions support this contention.

The continued decline in bulk-billing is just a continuation of the government’s attacks on public health care. What will a coalition health system look like? We need look no further than the United States of America, where the quality of care you receive is determined by the size of your bank balance. Basically it is a system in which the average Australian must have private health insurance if they want quality health care. The declining rate of bulk-billing attacks Medicare’s first objective: to make health care affordable for all Australians. The proposed increases in the Pharmaceutical Benefits Scheme copayments will have a similar effect. Labor opposes these measures because we believe in a fair public health system. We will again invest in our public health system and increase bulk-billing rates. Only Labor believes in Medicare, our public hospitals and the principle that everyone should have access to quality health care.

Senator Barnett (Tasmania) (4.12 p.m.)—I stand in total opposition to the motion put by Senator McLucas. I plan to dismantle the arguments put by the Labor Party one by one, and to put the facts on the table so that the Australian public can clearly understand what is in their best interests and what is in the best interests of our health system here in Australia. We have a very good health system and it has improved markedly since 1996 under the Howard government.
The three key strands regarding the universality of Medicare relate to, firstly, the rebate. I am going to talk about the Medicare rebate and the track record of Labor in the last six years of the Labor government, prior to 1996, and compare that to the track record of our coalition government. I am also going to speak to the merits of the initiative, which is a $917 million injection into the Medicare system that has recently been announced and is currently being blocked by the opposition parties in this Senate.

Secondly, I am going to rebut the totally unfounded, baseless allegations and misrepresentations made by Senator McLucas and other members of the Labor Party in the public arena regarding the funding of public hospitals. Thirdly, I will be addressing the comments that have been made regarding the PBS and make very clear the facts regarding the Pharmaceutical Benefits Scheme. Fourthly, I am going to make a comment about prevention, which is really a fourth strand of the universality of Medicare. Prevention is always better than cure.

Firstly, to the bulk-billing arguments: if you believed what you saw in the newspapers and what has been alleged by the Labor Party then you would think that this federal coalition government was actually cutting funding to Medicare. You would think that there has been a big slash in funding. Nothing could be further from the truth; it is in fact the exact opposite—an injection of $917 million. The system has not changed. We are proposing an increase of nearly $1 billion. Let us just walk through that. There is no means test. As is the case now, doctors will remain in control of their billing practices, and they can choose to provide care at no cost to any patient regardless of whether or not they hold a Commonwealth concession card. Remember there are seven million Australians with concession cards out there who in particular will benefit under these proposals of the coalition government. Doctors will be free to bulk-bill whomever they choose but, for the first time, we are strengthening the availability of bulk-billing for those concession cardholders. As I say, there are seven million Australians who will benefit, particularly people in the outer metropolitan areas and the rural areas.

Senator Forshaw—They should be getting it now.

Senator BARNETT—We will come to your policy—the Labor policy—with respect to rural and regional Australia and the discrimination under the Labor policy. Sadly and disappointingly, there was no mention today of the fact that there is going to be a two-tier system under the Labor policy, whereby they want to have a lower level of bulk-billing in rural and regional areas compared to those in city areas.

Senator Mackay interjecting—Senator BARNETT—Senator Mackay is on the other side representing Tasmania. You should be ashamed because under the Labor system those in rural and regional areas will receive a lower level of access and affordability to bulk-billing. They have an 80 per cent—

Senator Forshaw—That is a crock of garbage.

Senator BARNETT—That is absolutely true, Senator Forshaw, and you know it. Put it on the record and make it clear to Australia that you have a—

The ACTING DEPUTY PRESIDENT (Senator Brandis)—Order! Senator Forshaw you are interjecting too frequently.

Senator BARNETT—I do not mind the odd interjection from the other side because they know that it is wrong. I want the facts on the table. Let me make it clear: res ipsa loquitur. That is Latin for letting the facts speak for themselves. I am walking through
the facts and the Labor Party do not like it. They do not like to listen to the facts. Under our system, in the city areas the doctors that sign up for bulk-billing will receive $3,500 extra. But benefits will flow to the rural and regional areas because doctors will receive $22,000. In Tasmania, for example, in places like Ross, Campbell Town, Queenstown and St Helens—rural and regional towns—access to bulk-billing will be strengthened. There is no denying that. There will be an extra $22,000. Towns like Launceston—my home town—Burnie and Devonport will receive $18,500 under our system. For the GPs in those areas, that is a great incentive to bulk-bill. The incentives in fact are going to be indexed by the CPI and that is appropriate. There is nothing in this Medicare package that should increase doctors’ fees. In fact, the vast majority of doctors will be financially better off if they choose to participate in the GP access scheme. Doctors will continue to be able to provide care at no cost. It is at their discretion and it is their option. The universality of Medicare will be retained. Everyone will continue to have access to the Medicare rebate when they visit their GP.

I want to get on to the record of the Labor Party in that regard. Firstly at the moment—let us make it clear—seven out of 10 services are still bulk-billed in this country. What is true is that the government subsidised visits by Australians to GPs to the tune of almost $2.8 billion last calendar year. Under the coalition government, the Medicare rebate for a standard consultation has increased by $4.20 or 20 per cent since 1996. What is the record of the previous Labor government under Paul Keating? There was a reference to Robert Menzies so let us make a reference to Paul Keating. In the last six years of Labor, what did the Medicare rebate for a standard consultation rise by? Was it $4.20? No, it was $1.70 or less than nine per cent. So we stand by our record of a 20 per cent increase compared to Labor’s nine per cent. Under Labor in its last six years in government the Medicare rebate for longer consultations increased by only five per cent to $65.20. What is our record? In the past six years of this government, the rebate for longer consultations has increased by 23 per cent to $80.40. As I say, the facts speak for themselves—res ipsa loquitur.

While we are talking about Labor, let us see what Dr Blewett, the former health minister under Labor, said about it in 1987:

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

We know what the Labor Party stood for in 1987. We have Senator McLucas going back to 1986 with quotes. Let us compare those quotes and those commitments that were made at that time. We know what Labor stand for. We know that they actually want an increase in the Medicare levy. The opposition have a track record of increasing taxes. They have a track record of pushing up the government debt. It was $96 million when we came into government in 1996 and that has been cut back big time under the Howard coalition. Let us have a look at some of the other facts regarding the Medicare rebate and Labor’s proposal. What did Kerryn Phelps, the former President of the AMA, have to say about Labor’s proposal to pay doctors who bulk-bill more than those who do not? She said, ‘Effectively, it abandons the universality of the Medicare rebate.’ What hypocrisy have we got here? We have Labor standing here today accusing us of dismantling Medicare, yet there is Kerryn Phelps of the AMA saying that. Have a look at that quote and you will be hoisted with your own petard. You are caught out by the AMA.
Let us look at the Medicare rebate and how, under our package, there is a benefit. There are special incentive payments for doctors—and a lot of people are probably not aware of this—which give them the resources and the time to manage patients with diseases such as diabetes and asthma, and with mental health issues. Did you know that there is $46 million extra—in addition, to all the incentives that I have already outlined, which are in the A Fairer Medicare package? There are incentives for doctors to manage patients with, for example, diabetes. The current initiative is some $46 million over several years, and that is to help early diagnosis of people with diabetes. It is a good initiative. It is a good move. It is an incentive payment. It is called a PIP payment—a Practice Incentive Program payment.

The Labor Party failed to mention that. I want to get the facts on the table during this debate so that the Australian public can know who to support and which health policy is better. There are practice incentive payments not only with respect to doctors but also with respect to nurses. Labor have made no mention of that anywhere in the discussion today or previously. They simply ignore the facts, and that is not good enough. When you put all those special payments together—the practice incentive payments and the other special payments for doctors—on average they receive nearly $18,000 a year in additional income, over and above the Medicare rebate. That is not to be sniffed at. It helps, and I can assure you that it is appreciated by the medical fraternity.

Let us move on to the public hospital system. We need to dismantle the argument—the totally baseless and unfounded allegation—that there has been a $1 billion cut under the government’s proposal to support the public hospital system. I have never heard such nonsense in all my life. Under this proposal the Commonwealth government is increasing funding by an extra $10 billion over the next five years, to a total of $42 billion, for the provision of free public hospitals in this country. That is a real increase of 17 per cent over that period of time. It is the biggest commitment to the public hospital system ever in the history of the Australian health system, and it is happening under the Howard coalition government.

What are the states doing? Senator McLucash did not mention the state Labor governments when she was talking about public hospitals. Let us have a look at their track record. There is no mention about that because they are the culprits in terms of inadequate funding for our public hospital system. The big test with regard to the real 17 per cent increase—which is a $10 billion increase over five years and, as far as Tasmania is concerned, is a $220 million increase over the next five years—is: will the state Labor governments sign up? They say, ‘No, it is inadequate.’ Will they match the commitment? Has it been said publicly anywhere, any time by any state premier in this country that they will at least meet the 17 per cent increase in funding to public hospitals? Not once. They have not said that. They simply pooh-pooh the agreement and the proposal and they will not agree to match, or better, the increase. If it is inadequate, surely at minimum they would at least meet the agreement? Surely, they would! No. The writing is on the wall. The facts are on the table. The assessment of the budget papers put forward by Senator McLucas is simply not there. They know what is in the proposal by the Howard government, and they cannot get away from it.

Let us look at the facts with respect to public hospital funding. I have mentioned the $220 million increase in Tasmania, which is a 17 per cent increase in real terms. Using my state as an example, if Tasmania will not
sign the hospital agreement, including a commitment to match the rate of growth in federal funding—that is the key point—it will receive $836.9 million over the five years, or $85 million less than the optimum amount. Let us consider the following points. The federal government’s share of spending on hospitals nationally grew from 45.2 per cent to 48.1 per cent between 1997 and 2001, while state and territory spending fell from 47.2 per cent to 43.4 per cent. That is a four per cent drop. The federal funding commitment has increased, while the Labor state and territory government funding commitments have decreased by four per cent over that four-year period.

The federal government’s 30 per cent rebate for private health insurance led to an increase in private hospital admissions of 18,098 in Tasmania, which was an increase of 38 per cent between 1998 and 2001. This has eased the burden on the public hospital system. Putting more people into the private sector takes the pressure off the public hospital system. Again, this has not been acknowledged by the Labor state and territory government funding commitments have decreased by four per cent over that four-year period.

Senator Barnett—Thank you for that interjection and for the support and encouragement, my fellow senators McGauran and Boswell. I would like to comment on the PBS—the third tier of the universal Medicare system—very quickly because of the time factor. In 1990 the PBS cost $1 billion. This past year, it cost nearly $5 billion—$4.8 billion. It is unsustainable. And it is the opposition parties that are blocking this initiative in the Senate. What we need is affordability and sustainability, which the Australian public is being denied as a result of this obstruction by the Labor Party. Present payments mean that patients pay $22.40 for their subsidised drugs or just $4.60 per prescription for concession cardholders. They are the facts. I have put them on the table. If the Labor Party would simply support that initiative, it would go through.

I have type 1 diabetes. There are new drugs coming onto the market which will help people with diabetes. There are a million people with diabetes out there. Make no mistake: of those people, about 800,000 of them are type 2. There is a drug called glitazone. It is important that we try to get that onto the PBS. How can we get all these new drugs, which modern day Australia and modern science are allowing us to create through good research, onto the PBS? How do we afford it? Could the Labor Party—and, Senator McLucas, I am looking at you because you are a key person on the other side with respect to health and ageing issues—please reconsider their position, sign up and say, ‘Yes, this is a good move and we will make it more sustainable for all Australians’?

Finally, I refer to prevention. Why did I mention prevention? Because I think that could be a fourth tier to the universality of Medicare. Prevention is always better than cure. Today I have been with Senator Kay Patterson and the Hon. Larry Anthony at the launch of Food for Health. I want to con-
gratulate both ministers on the launch. It was a great success. This relates to new guidelines which recommend lifestyle changes to promote healthy living. This is a big issue. Childhood obesity, for example, has doubled in the last 10 years. It is becoming close to a crisis and action is required. Two things need to happen: we need to have a balanced diet and regular exercise. With respect to balanced diets, the announcement today of these guidelines is a great step forward. I hope that not only I—it applies to me—but all Australians will take them into account when they consider their own health needs. Well done and congratulations on the launch.

Senator ALLISON (Victoria) (4.32 p.m.)—I rise to support the motion today to refer this Medicare package to the Senate Select Committee on Medicare. As we know, the government has already identified the Medicare bill as being necessary to be debated quickly. It is important to point out that this is a major change in health services for GPs and others in our health system. It is critically important that it receive the kind of scrutiny that people have come to expect the Senate to give to such important legislation. The Democrats initiated the Senate inquiry into the government’s proposed changes and it is fitting that this bill, now it has been received by the Senate, be referred to that committee.

When we initiated that inquiry we developed terms of reference and, as is common for us and this place, they were circulated to other parties. In the spirit of a true democracy in this place, suggestions were taken on board and consensus reached about what sort of inquiry this place should engage in. I think that is a good example of how this place works. It also demonstrates that the Senate will not be told by the government that the bill will be dealt with before there has been any scrutiny. We will not be told that this is a matter that we should not invite the public to make submissions on, that we should not look outside the square, as it were, at other alternatives or that we should simply knuckle down and agree to whatever it is the government has put up to us. The package that has been put up has received almost universal condemnation from not only doctors but also consumer groups and people who value the Medicare system in this country.

The Democrats have argued that Medicare is a very important social institution. In fact, we go so far as to say that it underpins how Australians relate to each other. It is a universal system of health care access paid through taxes. It is progressive and cohesive. We do not want a two-tiered system in this country where income determines your level of health care and where doctors can dish out charity to the deserving poor with regard to health.

There has been a trend in the last few years for many of the institutions that we hold dear—institutions that reflect a healthy egalitarian country—to be eroded. I name the ABC, academic institutions and peak organisations, for instance, that might occasionally criticise the government—after all that is their job—and they have been subjected to resource cuts and criticisms by this government over time.

It is vitally important that the public is aware of how the parliament works and how it regards pieces of legislation which do have the capacity to change in very substantial ways important institutions such as our Medicare system. I think our health system works very well. We have good health outcomes and some excellent health and medical professionals to service our system. But it is the case, despite what has been said on the other side already, that bulk-billing is in decline. It is certainly the case that the new President of the AMA says that he can see further decline and rapid decline at that.
We know that there are parts of Australia where access to a GP is extremely limited—in fact, GPs are not available in many towns. We know that GPs are leaving country areas and outer metropolitan areas in numbers that are too large to ignore. But we also know, by its own admission, that the government's package will not actually fix those problems. The shortage of doctors in country areas is not going to be fixed overnight. Arresting the decline—let alone talking about increasing the availability of bulk-billing—is not necessarily on the government’s agenda. So this package, worth $900 million and more as it is, is actually not going to do what the vast majority of Australians expect it to do—that is, fix the problems that we currently have.

I think there are other problems too. One of the reasons for initiating this inquiry was not just to examine the government’s package—not just to look at whether or not Australians were being misled and at whether this was an honest attempt at fixing our health system—but to look at a whole range of other aspects of Medicare which could well be enhanced and open up public debate about some of these. Medicare does not make use of allied health professionals, whose skill and expertise could complement and, in some cases, replace general practice consultation. In other words, we think there may be considerable cost benefits in removing the need for a GP to be all things to everyone and allowing other health professionals to take up some of the need. The GP could therefore concentrate on using his or her specialist skills in more satisfying ways. Reducing the proportional use of GPs might also mean that their remuneration could be relatively higher than in the present circumstances.

This is a really important consideration. When we talk about prevention we particularly need to look at allied health professionals, who can be active in this area in different ways from those of GPs. There is a dimension in health services which is both economically desirable and socially and medically desirable for us to pursue. So I would be very surprised if our inquiry does not also give the government some good ideas on how we might use allied health professionals and prevention in a much more effective way. I could probably talk for the next quarter of an hour just on prevention measures that I think we ought to be putting in place for smoking. That causes billions of dollars in health costs every year, yet this government spends just $2 million—I almost said $2 billion; that would be good—a year on antitobacco campaigns. That is despite the fact that 19,000 people a year die from smoking related disease. We really do very little to persuade people to not take up smoking in the first place or to give it up if they already do smoke. However, I am getting off the track.

There are other aspects by which Medicare could be reformed. We do not think, as I said, that the package put forward by the government is acceptable. The ALP has put forward its proposal that may stem the flow of GPs leaving bulk-billing, but I think by any account that is probably a short-term solution. We would like to see a greater vision than this—one that is in step with the fundamental philosophy that the Australian community still embraces, despite the government’s best efforts at destroying it—and that is providing institutions which unify the country and looking after all members of society in a way that does not stigmatise people. That is what we are after.

On that question of whether the government is actually being honest with us, we need to look beyond what is on the page in this package. We need to explore the risks, and I think they include health costs, GP costs, increasing substantially if this package were to go through in this place without any
form of amendment. We would see an escalating increase in costs for GPs and we would see those costs being borne more and more by private individuals, by patients—by sick people, in other words; people who in many cases, when we talk about increasing costs, can least afford to pay them.

We know it is families at the end of the day, not necessarily those on health care cards, that are going to suffer from increases in health costs. We know it is families that in some circumstances—if they are on medium or low incomes or have illness in the family for whatever reason—are going to suffer the greatest disadvantage from this package. There are also the chronically sick—those people who have a need to visit their GP on a very regular basis. I am thinking of those who perhaps have cancer, are getting oncology services outside hospitals or have other illnesses which take them to their GPs for treatment on a very regular basis. For those people this package would make things extremely difficult to afford as well.

I think we need to ask whether the government is being honest with us about the long-term prospects with this legislation. We know that Australia has an ageing population, in common with so many other countries, and we know that more services are being provided outside hospitals. So will people of my generation, the baby boomers, move into a very high cost area? Will the kind of pathology designated for our health services become very costly? Is that in fact what this government has designed? Has it designed a system which will shift the costs for those kinds of health services to individuals to pay themselves?

That is what I think we need to be looking at in this inquiry. I very much look forward to reading all of the submissions, and some have already been received by the committee. Many know what is in the government’s package—we have had plenty of information about that—so to some extent those submissions are already about this legislation. I hope that the Minister for Health and Ageing is able to keep an open mind on her reform agenda and consider the perspectives from those making submissions—the eminent health experts and the representatives from the state governments which deliver health services and bear the brunt of some of the problems associated with Medicare at present, including access to GPs. I hope they will have something really worth while to say—I know they will—and I look forward to weaving together some of this information and putting forward to the government alternatives to what we have before us. I sincerely hope that the minister is generous enough to look at those, embrace those ideas which are good and come up with an alternative solution, because the vast majority of Australians are not convinced that this legislation will do what we need it to do and what the government thinks it will do and, longer term, they are fearful that this legislation may change very dramatically the way in which health services are delivered in this country.

Senator FORSHAW (New South Wales) (4.45 p.m.)—On any objective analysis, Medicare is one of the great achievements of governments in postwar Australia. Indeed, it stands beside such universal schemes as superannuation for all Australian workers and access to higher education for all Australians irrespective of income as something that defines this country throughout the world. Great achievements, such as universal health coverage through Medicare, superannuation and access to higher education, are what defines an equitable society. These were all achieved by Labor governments.

Medicare, of course, was the re-creation of Medibank, which was first introduced by the Whitlam government in 1972. I pay trib-
ute to my colleague Senator McLucas who so clearly outlined the attitude adopted by the coalition when they found themselves on the opposition benches after the 1972 election. They could not stand the concept of promoting universal health coverage for all Australians. They wanted to maintain a system of privilege in which, if you could afford private health insurance, you might get access to a decent health service. If you had the income to pay for private health insurance then you were okay. If you did not you would very often have to utilise the services of public hospital emergency departments—casualty departments, as they were called in those days—to get medical assistance for you or your family. I can recall that. I can recall those days when casualty departments in public hospitals were overflowing with people waiting hours and hours to see a doctor because they could not afford to go to their local doctor or they did not have private health insurance—let alone whether they needed to get hospital treatment or specialist treatment.

Under Gough Whitlam, the Labor government established a universal health system, Medibank. Of course, the coalition did not want that; they fought it tooth and nail and blocked it in the Senate, as Senator McLucas has outlined. When the coalition finally got back into power in 1975, through the constitutional vandalism of the then Prime Minister, Malcolm Fraser, they set about destroying this great achievement of the Whitlam government. And they did; they abolished Medibank. So by 1983, when the Fraser government was defeated, over one million Australians in this country were uninsured and unable to afford access to decent health care. Under Bob Hawke, the Labor government re-established Medibank, this time as Medicare.

Senator Boswell—We don’t want a lesson in history.

Senator FORSHAW—The history is important, Senator Boswell, because you and your Prime Minister are trying to recreate history by destroying Medicare. That is what the coalition has always been about. It is on the record. It is worth while remembering what the current Prime Minister, then the Leader of the Opposition, was saying about Medicare back in 1986. He was saying that Medicare had been ‘an unmitigated disaster’. It had been in operation for three years, bulk-billing levels were increasing and Mr Howard was out there saying to the Australian population that Medicare was ‘an unmitigated disaster’. In 1987, trying to be clever with a literary analogy, he said that ‘radical surgery would be performed on Medicare’. That was the policy of the coalition at the 1987 election. In respect of bulk-billing, which I am going to come to shortly, he said:

The second thing we will do is get rid of the bulk-billing system, it is an absolute rort.

He also said:

Bulk-billing will not be permitted for anyone except the pensioners and the disadvantaged. Doctors will be free to charge whatever fees they choose.

Isn’t that an interesting quote? That is exactly what this government is now really trying to implement. That is its policy today—the policy it had in 1987. There is a famous quote that has been mentioned on a number of occasions and which is worth mentioning again. Mr Howard said this about Medicare:

We will be proposing changes to Medicare that amount to its de facto dismantling ... we will pull it right apart.

Like Senator Barnett, Mr Howard apparently liked using Latin phrases too. Prior to winning the election in 1996, Mr Howard realised the error of his ways. He said:

We’re not going to contemplate altering the universality of Medicare. I mean, that is fundamental, and we’re also going to keep bulk billing ...
We absolutely guarantee the retention of Medicare. We guarantee the retention of bulk billing ... We’re keeping Medicare full stop. There’s no doubt about that. Let’s have that absolutely crystal clear, we are going to keep Medicare lock, stock and barrel.

This is what Mr Howard said in the campaign leading up to the 1996 election. And, remember, his slogan was ‘for all of us’. To me, and I think to all Australians, ‘for all of us’ means universality. He was promising to keep Medicare lock, stock and barrel. The shadow health minister at the time who later became the health minister, Dr Wooldridge, said:

Medicare stays. Universal bulk billing stays. These are the things the Australian public demands and we accept that.

They had had a conversion along the road because they had realised that Medicare had become, as I have said, one of those great achievements of a Labor government and people wanted it maintained. The coalition knew that, if they said anything that suggested they would either weaken or destroy Medicare or that they were opposed to it, they would never win an election in this country. The 1993 election proved that, because Medicare was one of the key issues in the 1993 election, along with Mr Hewson’s GST in the Fightback package—I think it should have been more appropriately called the throwback package.

This government got itself elected by promising to maintain Medicare, promising to maintain bulk-billing and promising to maintain Medicare and bulk-billing as a universal system for all Australians. Well, what have we seen? Let us have a look at the statistics on bulk-billing—statistics which are provided by the government’s own department. We have seen bulk-billing rates, which reached a peak of 80.5 per cent in 1996 at the time the government was elected, decline to 68.5 per cent nationally. In just over six years the rate has dropped by 12 per cent. And this is supposed to be maintaining the universality of Medicare and bulk-billing? It is a nonsense. What is even worse is that in the last two years the rate of decline has been much, much greater. In fact, six per cent of the 12 per cent decline—half of it—has occurred in the last two years. When you go to the states—because 68.5 per cent is the national average—you will find that it has declined, of course, in every state and territory. In Western Australia the decline has been 8½ per cent. In the ACT there has been a 21.3 per cent decline in bulk-billing of GP services.

Senator Barnett tried to argue—he made a comment, but did not really advance an argument—that the Labor Party’s policy was discriminatory against rural and regional areas. The Labor Party’s proposal that is out there and is fully costed and fully funded will provide incentives to GPs to lift their bulk-billing rates—and not just for concession card holders. This government is trying to dumb down Medicare and bulk-billing to apply only to those on concession cards. Our proposal is for bulk-billing for all Australians. We have deliberately skewed it to ensure a faster increase in rural and regional areas. There are higher incentive payments for doctors in outer metropolitan and rural and regional areas than there are in metropolitan areas. That is deliberate.

The rates of bulk-billing that need to be achieved to attract an incentive payment in outer metropolitan and rural and regional areas are lower than in metropolitan areas. And why is that? Because there needs to be an extra incentive in rural and regional Australia to lift bulk-billing rates. This government has even recognised that with some of the proposals it has put on the table. I have heard government members and senators and the minister talk about how the real need and the real priority is in rural and regional Aus-
Australia because of the shortage of doctors and the problems of accessing doctors who bulk-bill in those areas. When Senator Barnett gets up and runs his furphy that we are discriminating, he should tell the whole story. Because what we are doing is recognising that bulk-billing rates in rural and regional areas in Australia are at abysmal levels.

In electorates like Cowper and Page on the far north coast, bulk-billing rates are at levels of 50 per cent and 47 per cent respectively. There is a real need for an extra incentive to get those levels up to somewhere near the target of at least 80 per cent. We know that in metropolitan areas they are higher and in some cases much higher. Ironically, if you go to Liberal held seats such as in the North Shore of Sydney, have a look at the levels of bulk-billing there: they do all right. It is the people in areas represented by people who belong to the party of Senator McGauran and Senator Boswell—the National Party—that are really doing it tough with terribly low levels of bulk-billing. In Eden-Monaro the level of bulk-billing is 38 per cent. That is why our package is deliberately designed to promote bulk-billing in all areas but particularly to give extra incentives for rural and regional Australia.

Senator McGauran—What is your package?

Senator FORSHAW—Senator McGauran, I do not know what you or your adviser who is here to help you are doing, but I will send you a copy. If you have not already seen it, it is out there. It is fully funded, it is fully costed and it is supported by organisations such as the AMA, who have made it quite clear—and I am sure my colleagues will be able to point this out—that our package is far better and will do far more to improve Medicare and bulk-billing than your proposals.

I want to look at the proposal that the government has put on the table, because it really takes us all the way back to Mr Howard’s real agenda that he outlined in 1987—that is, ‘We’re going to get rid of the bulk-billing system.’ And, again, I quote Mr Howard:

Bulk billing will not be permitted for anyone except the pensioners and the disadvantaged. Doctors will be free to charge whatever fees they choose.

The government has made it clear, because its members have stood up, and the minister has stood up, in this chamber and tried to argue that Medicare and bulk-billing were never designed as a universal system. Even though the Prime Minister is on the record in 1996 as promising to maintain the universality of Medicare, in recent weeks we have the minister—and other senators as well—standing up in this chamber and saying on behalf the government, ‘Medicare was never really intended to be universal. It was really only ever intended to be for people who were on low incomes or on concession cards.’ That argument is a total furphy; it is a lie, because Medicare was created and was always intended to be, and under Labor will remain, a universal system.

The government’s proposals clearly are directed at providing incentives to doctors to bulk-bill concession card holders. On that point, one could say that at least the government has now realised that there is a problem with Medicare. Indeed, it knows there is a problem because the department of health in December 2001 said that, unless something dramatic was done, the decline in bulk-billing would reach catastrophic proportions. So the government has been on notice from its own department, and it is has put forward this proposal targeted at concession card holders. Of course the quid pro quo for that—I have picked up another Latin phrase—is that anyone else going to a doctor
is going to end up paying more and more each time they visit. Dr Kerryn Phelps, when she was the President of the AMA, stated:

What will need to happen is that for doctors to continue to bulk bill their concession card holders, they’re going to have to charge their non-concession card holders more in order to meet the cost of running their practices.

That is what Dr Phelps said, speaking on behalf of medical practitioners. This is the doctors’ representative organisation saying to the government that the government’s own proposals will lead to higher costs for anyone who does not have a concession card.

We know that any family in this country whose income is more than $32,500 is not eligible for a concession card—and that is a lot of families with a lot of kids. Overwhelmingly, Australians who now have access to bulk-billing, if they are lucky, if they can find a doctor who bulk-bills, in the future are going to have to pay increasing amounts to visit their doctor. The universality of Medicare will disappear. I do not think that there is any doubt about that, and of course that has really been the coalition’s agenda all long. That is why they have sat back and allowed bulk-billing rates to decline since they have been in office. Senator Hill said earlier in an interjection that the coalition support choice. The choice has become having to either pay substantial amounts of money to be in a private health fund and have your premiums to that private health fund increase on a regular basis or queue up at your public hospital emergency department—that is the choice that this government support. They do not support Medicare and they certainly do not support the universality of Medicare.

Senator HUMPHRIES (Australian Capital Territory) (5.04 p.m.)—The Labor Party’s position in respect of these reforms is a little puzzling. Here we have a set of measures which, first of all, invest huge additional amounts of money into the Medicare system. It is a fact that there is an extra $917 million going into the Medicare system under these arrangements. This has not been mentioned much in this debate but, very clearly, it is the most salient feature of the reforms that the government has announced.

We have measures designed to increase the access for the poorest in our community to bulk-billing; that is undeniably a feature of this system. We have measures to improve the accessibility for people in rural and regional areas in Australia to doctors and other related health professionals. We have measures to prevent families with high health bills in this country from having to bear the full cost of those bills above certain prescribed levels. I would have thought that each of these measures characterises the sort of social policy that the Labor Party, once upon a time, espoused—assisting those in rural and regional areas who have poor access to doctors, assisting the most poor in society, investing more in the health system. And that is just Medicare; I am not talking here about the extra $10 billion the government has proposed to put into the hospital system in this country. With this package, we have an enormous shift of resourcing into the areas where demand and need are greatest, and we have a Labor Party which is universally opposed to what is being put forward. There is no feature of the system that has been put forward by the government with which it can find any agreement. Apparently nothing we have done is worth supporting. I find that very surprising.

At another level, it is not surprising at all, because this Labor opposition to the government’s announced reforms to Medicare is as much about giving Simon Crean and his rather ragtag team some traction on an issue where they need to have it. In fact, we are seeing quite deliberate distortions and misrepresentations coming forward from the
Labor Party in order to lay a glove or two on this package. I saw the literature of a Labor member of the lower house which baldly asserted that, under this new package of measures announced by the government, there will be no bulk-billing other than for concession card holders. That is simply not true. There is nothing in this package which affects access by people other than concession card holders to bulk-billing services. Indeed, measures like the streamlining of red tape associated with bulk-billing should make it easier for people other than concession card holders to get access to bulk-billing doctors and bulk-billing services; it is clearly a bald misrepresentation to assert otherwise. It is also a sign of the desperation inherent in the Labor Party’s approach to this issue that they need to escalate their response so quickly to outright distortion and lie.

All Australians should have access to high-quality and affordable health care. That is and always will be this government’s position. Medicare underpins this and A Fairer Medicare attempts to shore up the future of this vital institution. Senator Forshaw thought that he could characterise the government’s package by what was said over a decade ago in a much earlier debate. I say to Senator Forshaw: look at what is happening at the present time; look at the money being put into the system; look at the nearly $1 billion going into Medicare under this package. It is not going to get siphoned off into bureaucracy or disappear into some unattractive area of the health system; it is not going anywhere but into enhancing accessibility to Medicare. That is where it is going—every last dollar—and I am surprised that that does not win the support of those opposite.

It surprises me that a Medicare reform package that benefits those most in need, while not in any way disadvantaging middle Australia, is not supported by the Australian Labor Party, a party with social justice pre-
tensions. Such is the desperation of the Crean team that they are willing to misrepresent those reforms and drive fear into the Australian people on that subject. We have heard in the last little while a ramp-up of that campaign of fear. We have heard Labor try to characterise the $10 billion extra being put into public hospitals in Australia as a cut to public hospitals. Excuse me, a cut? That is what we have heard from some Labor figures: that we are cutting public hospitals in this country. I look forward to hearing the ingenuity of later speakers in explaining how $10 billion extra can do that.

The ALP has already demonstrated its irresponsibility on health by not supporting reforms to the increasingly costly Pharmaceutical Benefits Scheme and by the failure of its state governments to back the 2003-08 Australian health care agreement. Now, with its opposition to A Fairer Medicare, it is going for the trifecta. Simon Crean believes Medicare is his electoral escape route. He has spoken a lot about it in the last few days. But this strategy is built, I think, on a house of cards. We hear constantly from the ALP that this government’s reforms to Medicare will create a user-pays, two-tiered health system in Australia—the ALP seems to think that if it repeats that often enough people will eventually come to believe it—but the facts do not support that contention. Under these reforms, all Australians will continue to benefit from a universal Medicare, a universal Pharmaceutical Benefits Scheme and universal access to free hospital care.

Senator McLucas, in putting forward this motion, says that our reforms give the impression:

... the Government considers bulk billing to be a privilege that accrues only to a subset of Australians, not an entitlement that all Australians have as a result of the Medicare charge ...
If Senator McLucas and her party wanted bulk-billing to be a right rather than a privi-
lege—she has characterised our view as be-
ing that bulk-billing is some sort of privilege;
premisingly that means she believes it is a
right—then why didn’t the ALP make bulk-
billing compulsory when it introduced Medi-
care in 1984? Why didn’t the Hawke and
Keating governments take measures to re-
quire certain minimum levels of bulk-billing
in the Australian community? The fact is that
the 80 per cent coverage of bulk-billing that
Senator Forshaw spoke about in this debate
was the high watermark for Medicare, and it
was a high watermark from which the system
was receding long before the change of gov-
ernment in 1996. It was not 80 per cent in
1996, Senator, it was before that point.

Senator Forshaw—It was! It was over 80
per cent in 1996.

Senator HUMPHRIES—Does 80 per cent make it universal, Senator? I would
have thought the term ‘universal’ implies 100
per cent. Everybody having access to a bulk-
billing doctor is what makes it 100 per cent.

The ACTING DEPUTY PRESIDENT
(Senator Sandy Macdonald)—Order! Sena-
tor Forshaw, you are entitled to interject as
far as I am concerned, but you have to do it
from your own chair.

Senator McGauran—I am not even sure
he is entitled to interject.

The ACTING DEPUTY PRESIDENT—
I said from my point of view, Senator
McGauran. It is adding to the debate.

Senator HUMPHRIES—The fact is that,
if Labor had been serious about making
bulk-billing accessible to all, it would have
taken some measures to ensure that that was
the case. As it was, during Labor’s time in
office access to bulk-billing was declining.
That decline, admittedly, has continued in
more recent years. That decline has led to
this government’s decision to reinforce bulk-
billing for those in the community who are
most in need of that service. The government
have made sure that those who have the
greatest need for access to bulk-billing can
get it, particularly in those parts of Australia
where it is not largely accessible at the mo-
ment.

I think that the Hawke and Keating gov-
ernments realised—and I hope that Senator
McLucas does now—that to somehow man-
date compulsory bulk-billing would have
been unaffordable and an administrative
nightmare. The fact is that we have always
required or provided for choice among doc-
tors to bulk-bill. It is probably unconstitu-
tional to do otherwise. This government,
unlike its predecessor, has developed a
Medicare policy which explicitly acknowl-
dges the significance that bulk-billing has
for low-income Australians. That is why we
want to introduce incentives for GPs to bulk-
bill concession card holders. In many ways,
those measures will not particularly benefit
people in strong Liberal voting areas in this
country. They are not intended to. They are
intended to particularly benefit those on
concession cards and those who are most in
need. The ACT, incidentally, is an electorate
where access to bulk-billing is at a very low
rate—in fact, it has probably the lowest state
or territory rate of bulk-billing. That is why a
measure like this, which will encourage doc-
tors to bulk-bill particularly concession card
holders and potentially others, is very much
welcomed by people in my electorate. I am
determined that everybody in Canberra and
elsewhere should have access to an afford-
able general practitioner.

Senator McLucas and her colleagues seem
to have developed a new line of thinking in
Labor health policy. I congratulate them on
that, given that they do not appear to have a
health spokesman just at the moment. They
have been decapitated in that respect—
Senator Forshaw—Yes, we do!

Senator HUMPHRIES—You do? Congratulations—who is it?

Senator Forshaw—It is the Deputy Leader of the Opposition, Jenny Macklin.

Senator HUMPHRIES—I congratulate her—I had not caught up with that announcement. That is very good. I hope she has more faith in the leader who wants to revitalise health care than her predecessor did. I can certainly see a strange shift in Labor policy, which perhaps Ms Macklin will remedy, where instead of upwards envy we now have downwards envy on the part of the ALP. Senator McLucas implies that increased access to bulk-billing for low-income earners is a privilege. I think it is disappointing that it should be characterised in that way. I think the ALP has let down the people it has claims to represent in characterising it as a privilege. I think that members opposite need to heed what the Labor Minister for Health in the Hawke government had to say in 1987 about bulk-billing. At that time, Dr Blewett said:

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

Dr Blewett made it quite clear there that the point of bulk-billing was particularly to focus on pensioners, the disadvantaged and others who are not well off. That is what he said and that is what he meant.

This motion refers to the dangers of a two-tiered medical system in Australia. Certainly, the two tiers that we are facing in a very real sense, not in the rhetorical sense put forward in this motion, is the dichotomy or tiering of metropolitan health and rural and regional health. A Fairer Medicare addresses the concern that a two-tiered system may develop along geographical lines in this country. That is why from 2004 under this package there will be an extra 324 medical school places in Australia. That is a crucial part of a strategy to develop access for all Australians to affordable health care. I am proud that the ACT will play an important role in this. The Australian National University’s new medical school, opening next year, has been allocated 80 of those places. All medical school places created through A Fairer Medicare will be bonded for six years to work in areas of work force shortage upon completion of medical training so that areas of greatest need can experience the greatest benefit.

What about middle Australia, though, in all of this? Senator McLucas claims that our Medicare package will lead to higher copayments for those not bulk-billed. However, doctors have always been free to charge what they want under Medicare and this will remain the case. The Labor Party has overlooked the fact that competition between GPs is what keeps consultation fees in check. It is bad business to charge your customers, clients or patients more than the provider down the street is charging. I think that a 16 per cent increase in medical places in this country will lead to further downward pressure on those fees as well.

Finally, Senator McLucas is concerned that this government wants to let private health funds offer insurance for out-of-pocket expenses exceeding $1,000. She says in her motion that this would ‘inflate health insurance premiums’. In a sense, it will do that, it will inflate the premiums, because people now have a new health product to buy—they can buy gap insurance. They can buy insurance to cover those medical expenses above $1,000 in any given year that come out of their own pockets. It has been estimated that that would cost about $1 a week—hardly very inflationary, one would have thought. If Australians want to buy that
new product on the health insurance market, why shouldn’t they be able to do so? It is a very tawdry distortion of the argument to then say that, because a new product is being offered in that way, it is going to inflate health insurance premiums. Dear, oh dear! It will allow people, particularly families, to purchase the certainty that, if a member of their family happens to be sick, they will be able to afford all of their non-hospital medical benefit schedule payments in any given year. It is a pretty significant development. Senator McLucas says that giving health funds this option will inflate premiums. The argument is there for all to see.

I remind those opposite that this government also wants to introduce a new medical benefits schedule safety net that will cover concession card holders at the other end of the scale, if you like, for out-of-hospital gaps that exceed $500 in a year. Under that, the federal government will reimburse 80c in the dollar for costs over $500. This is another indication of the commitment this government has to those in this community who are most in need.

It is fair to describe the Australian Labor Party as being Medicare fundamentalists. They squeal at any possible changes no matter how necessary they might be. They fail to appreciate that the society they introduced Medicare to 20 years ago is changing and that Medicare, as an institution, needs to change along with it. The irony of their opposition to A Fairer Medicare is that they undermine what they claim to hold dear. It is the Liberal Party, not the Labor Party, that accepts the reality of Australia’s health burden. It is this coalition government, not the Labor Party, which has designed an affordable program that will put Medicare on a sustainable footing. For that reason, senators should look very carefully at the wording of this motion, reject it and move instead to properly update the operation of the Medicare system to ensure that it is able to meet the changing needs, the changing demands, of the health system in the 21st century.

Senator STEPHENS (New South Wales) (5.24 p.m.)—In speaking to the motion to refer the Medicare package to the Senate Select Committee on Medicare I would like to highlight the inevitably disastrous consequences of the Howard government’s proposed changes to Medicare. The first change is to allow medical practitioners to charge patients copayments and to receive the Medicare rebate. Doctors who agree to bulk-bill all of their concessional patients will be allowed to bill Medicare directly for all their other patients and to charge these other patients a fee on top of that. So if a doctor participates in the General Practice Access Scheme—that is, if the doctor agrees to bulk-bill concession card holders—the doctor is then free to charge everyone else more than they are charged today.

The Howard government is even going to give doctors an incentive to do this. They will receive a payment of up to $20,000, depending on their location, to participate in the scheme. From November this year participating doctors will receive a monthly incentive payment linked to the number of concessional patient visits. So, for doctors already charging private fees, rather than bulk-billing it will be much easier for them to increase their fee from $20 to $25 rather than to increase it from $40 to $45 and then make up the difference by receiving the Medicare rebate. At present it is not lawful to do this. The reason it is not lawful is that, if it were, there would be even less bulk-billing than there is now and doctors’ fees would rise—and so it will be if the Howard Medicare changes are implemented. Only concession card holders will be bulk-billed and everyone else will be charged more. Of course they will be charged more. If doctors are now complaining about how little they get
from the Medicare rebate if they bulk-bill and if the Howard government will let doctors charge more, why wouldn’t they?

The architect of Medicare, Professor John Deeble, is one of the many professional and expert voices when he says:

There will be GP co-payments for most people. These would be uncapped and unpredictable, and only a fool would believe that they will not rise or eventually extend to other services ... Separating fees from Medicare benefits will leave doctors free to charge what they like.

So the Howard government is even giving doctors an incentive to charge their concessional patients higher fees. Under the new arrangements doctors will know that the government will pick up 80 per cent of the costs of the medical expenses incurred by concessional patients above the $500 threshold. Why is all this going to happen? Simply because John Howard wants it to happen. In the 1980s he stated that bulk-billing should be restricted to the most disadvantaged in our society and that doctors should be free to charge everyone else what they like. Now he is trying to legislate for it. But what John Howard is not telling us is that there are a few problems with this approach.

Dr Gwen Gray, a senior lecturer in political science at the Research School of Social Sciences at the ANU, in an article entitled ‘Undermining Medicare: steadily, relentlessly, effectively’ says that John Howard sees bulk-billing—

She goes on to say:

Such systems are fraught with insurmountable problems, as Australian health policy history 1950 to 1975 clearly demonstrates. The most serious problem is the fact that user charges deter a great many people from using medical services. Other problems are that Australians cannot be divided into two neat groups, called the poor and the rest, that two-tier systems are inequitable and divide the community, and that predominantly private systems are the most expensive and most likely to result in uncontrolled increases in health care costs.

She further points out:

... studies have also found that user charges and decreased service use result in adverse health outcomes ... and user charges seem to be most detrimental to low-income persons, especially those who are already in poor health.

So much for Mr Howard’s gimmick of appealing to the battlers. If the battlers, those poor people who are not poor enough to qualify for a concession card, find that the increased doctor’s fee is too much for them—because the costs of most other things have risen under Mr Howard’s stewardship of the economy—what are they going to do? They have two choices. The first is to do nothing; they simply do not seek and obtain the medical care they need. This is exactly the situation that Medicare was set up to prevent. Their second choice is to go to an emergency department of a public hospital and seek medical attention. We know they will do this because that is what some poor people do now.

The Victorian government has estimated that the Howard government’s proposed dismantling of Medicare will force 60 per cent more people into public hospital emergency departments. The emergency departments of our public hospitals are already under greater pressure than ever before because the Howard government has let bulk-billing run down by more than 12 per cent.
over the seven years since Mr Howard became Prime Minister.

Faced with this regrettable situation in our public hospitals, what is the Howard government proposing? Quite simply, it is going to make it worse, much worse—in two ways: firstly, by reducing bulk-billing even further and, secondly, by reducing funding for public hospitals. Unbelievable as it seems, and despite Senator Barnett’s and Senator Humphries’s protestations, the Howard government intends to withdraw a further $918 million over four years from our public hospitals. That $918 million is remarkably close to the $917 million that the Howard government intends to spend on its Medicare package, which will destroy Medicare as a provider of quality health care for all Australians by putting an end to bulk-billing for Australian families.

It might be thought that this is public policy gone mad, but it gets even worse. Over the five-year period from 2003-04 to 2007-08, the total funding to be withdrawn from public hospitals will be in the order of $1.5 billion. What is next—an announcement that the government intends to make public hospitals free only for pensioners and concession card holders? Heaven forbid.

The second proposed change that I would like to examine is the further step in this already ludicrous proposal, whereby the Howard government intends to allow private funds to offer insurance for out-of-pocket medical expenses in excess of $1,000. At the present time, this too is illegal, and for a very good reason. The present system, whereby Medicare is the sole insurer for private out-of-hospital medical services, including visits to a GP, and where all Australians contribute Medicare through payment of the Medicare levy and through their taxes, has helped us to keep medical costs down. That is the system that is being wiped away. It is meant to be a safety net, and it may be for those who can afford it. For those who cannot afford it, it is not an option.

But this reveals a few other things. If we need insurance to cover our medical expenses, it is clearly an admission that costs will rise because of the limitation of bulk-billing to concession card holders and because of the doctors’ ability to charge whatever they like. It is also inflationary. The Howard government has already indicated its willingness to allow the private health insurance funds to increase their premiums by twice the CPI in recognition of the increasing costs of health services. It really is the thin end of the wedge to Americanise our health system, to make it a system where you can only get the health care you can afford and where health care costs are incredibly expensive.

So a vast number of middle Australians will be denied bulk-billing, and huge numbers will be faced with ever-increasing medical costs as doctors increase the copayment—the gap—patients will have to pay. This is Mr Howard’s vision and he is gradually making it a reality. The question needs to be asked: why is he doing this? The answer is all too clear. It is driven by ideology. The ideology is that in health, as in most other things, John Howard wants to take financial responsibility away from the government and transfer it to individual Australian citizens. At the same time, the health system will be increasingly privatised through the health insurance system.

At the same time as the Howard government claims that the cost of supporting general practice is too high, it is using $2.5 billion of taxpayers’ money to pay the private health insurance rebate. Since the Howard government came to power it has axed the Commonwealth Dental Scheme, made huge funding cuts to many areas of health ser-
vices, increased user-pays charges for aged care, reduced entitlements for health care card holders, closed dozens of Medicare offices, introduced the Private Health Insurance Incentives Scheme, had a $2 million publicity campaign to promote private health insurance and introduced a 30 per cent tax rebate for private health insurance at a cost to taxpayers of $1.6 billion. All this did not deliver a large increase in the levels of private health insurance.

Finally, with the $8.7 million taxpayer-funded ‘run for cover’ campaign for Lifetime Health Cover, the level of private health insurance increased from 30 per cent to 48½ per cent, but to what purpose? Dr Gwen Gray has pointed out that, despite John Howard’s push for the privatisation of our health system:

... taxpayers’ money is currently being used to underpin Australia’s private health sector. The beneficiaries are those Australian doctors, particularly surgeons and proceduralists, who wish to work predominantly in private practice, along with private hospitals, many owned by overseas investment interests, and the private health insurance industry. The losers are the majority of Australians who rely entirely on Medicare, who could have had their services significantly upgraded with these tax dollars, now totalling approximately $2.5 billion annually. General Australian taxpayers lose as well. The overall financing result has been to reduce the total share of private financing from 11 per cent to 6 per cent. Far from generating greater private sector contributions to the overall health system and relieving pressure on public hospitals, as the Government claimed, taxpayer dollars have been used to replace private dollars!

It is clear that John Howard’s mania for privatisation is not even achieving the shift away from public expenditure that he wants. But that does not matter to him. His aim is to destroy Medicare by expanding the private sector, using taxpayers’ dollars, instead of improving services in the public sector. Why does he persist? It can only be that he is stuck in the past, with no understanding that we live in different times with different needs, and quite clearly with no empathy or compassion for people in less comfortable circumstances than he and his family enjoy. John Howard’s vision for Australian health care is a vision of the 1950s and a return to the system of publicly subsidised private health insurance introduced by Earle Page. Mr Howard was quoted in the Sydney Morning Herald on 27 October 1971, saying that the introduction of Medicare was a:

... cardinal mistake ... we destroyed the honorary system and we dismantled a perfectly functioning health system.

Mr Howard conveniently ignores the fact that his ideal system was one that was investigated by the Nimmo committee of inquiry into the health care system, set up by Prime Minister Gorton in 1969 in response to public controversy over the system. It was found to be a system in which 20 per cent of people could not afford private health insurance and in which insurance costs and health care costs created hardship for additional groups of citizens.

Mr Howard conveniently ignores the fact that Medicare was set up to ensure that adequate health care was available to all Australians, regardless of their ability to pay for it. Medicare was intended to break the nexus between access to health care and the capacity to pay for it, where health care is based on health not wealth. Mr Howard’s ‘vision’ is quite the opposite: it is a vision of essentially a private system, with high charges for low- and middle-income earners and a bit of charity for the very poor. It is a dismal picture.

Mr Howard’s so-called A Fairer Medicare: Better Access, More Affordable is, like so many of his pronouncements, Orwellian newspeak. It would be laughable if it were not so frightening. He really means ‘An unfair system: No Medicare at all’. 
Finally, the Howard government’s proposed changes to Medicare must be seen in a larger context. They are not just about making disastrous changes to the provision of health care for ordinary Australians but are part of the Howard government’s agenda for changing Australian society to one which we will not recognise and do not want. It is about creating a society where money alone matters and a fair go for all will be a thing of the past.

Senator KNOWLES (Western Australia) (5.38 p.m.)—It is most remarkable to be sitting here listening to the Labor Party talk about health in this debate. I think we need to be reminded about a few things. Under Labor’s stewardship of Medicare, bulk-billing rates went up to 80 per cent. They did; it is a fact. Isn’t that interesting: Senator Stephens just waltzes straight out. She does not want to hear any of the counterargument.

Senator Eggleston—We don’t want to confuse her with the facts.

Senator KNOWLES—No, we do not want to do that, Senator Eggleston. Yes, bulk-billing did go up to 80 per cent. But what the Labor Party conveniently forget is that under their stewardship they also ran up $80 billion in debt, 17 per cent interest rates and double-digit unemployment.

Senator Eggleston—A fantastic record!

Senator KNOWLES—It is just a wonderful record, if you want to run the country into the ground! Isn’t it just amazing? The Labor Party come in here and complain about a package that has been applauded by so many people. I want to quote some of the influential people who have had a view on this package, as opposed to the ideologues in the Labor Party who ran private health insurance down, had no idea of what to do and tried to create an impression that the levy covers all costs associated with medicine and Medicare when in fact it covers less than 20 per cent. Let us have a look at what Dr Ken Mackey, from the Rural Doctors Association, said.

Senator Eggleston—He is the national president, in fact.

Senator KNOWLES—Thank you, Senator Eggleston. Dr Mackey is the National President of the Rural Doctors Association. He said that the package would certainly influence some doctors to start practising in rural areas and it will help retain doctors in rural areas’. He went on further to say that rural doctors will get $6.30 extra for each consultation, which amounts to a 30 per cent pay rise. ‘A very welcome long-term solution’ was the response from Dr Michael Kidd, the President of the Royal Australian College of General Practitioners. The heading of an editorial in the Australian Financial Review said that it was a ‘Healthy step in the right direction’. The editorial said:

The appeal of the package, for all its imperfections, is that it attempts to put a large area of health spending on a sounder footing.

I think we also need to look at a quote from Professor Paul Gatenby, head of the ANU Medical School, when he commented on the additional places for nursing and medical students under the government’s A Fairer Medicare package. Professor Gatenby said:

It’s a wise investment of the Government.

But one of the other things we need to recognise is that seven out of every 10 GP visits in Australia are still bulk-billed. One would never suspect that when listening to the diatribe coming endlessly from the opposition. An average city doctor would gain an extra $500 to $600 per month out of the government’s proposal. One would never suspect that when we listen to the diatribe coming from the opposition.
Labor say they will guarantee bulk-billing for all Australians, but we do not know how they will do this, because that was never the intention of Medicare when it was first brought in. Dr Neal Blewett, the former Labor Minister for Health, never conceded that point at all. In fact, it was quite the reverse. Labor know they cannot force doctors to bulk-bill so they have to convince them by other means, such as an increase in the Medicare rebate. Labor have said that their solution to make bulk-billing more attractive is to reduce the gap between the doctors’ rebate and the fees that doctors want to charge their patients.

Labor keep running around and saying that ‘doctors are going to increase their fees’. What is different? What is different today from yesterday? What is different today from when the Labor government was in office? The difference is that the rebate has been increased at a greater rate under this government than under the Labor government. The AMA estimates that a reasonable fee would be around $50, but the current rebate is $25.05. To eliminate the incentive for gap payments, Labor would have to increase the rebate to 85 per cent of the AMA’s recommended $50 fee, or an extra $17 per consultation for GPs. That is their answer, and that is what is stated on the record. But remember that each $1 increase in the rebate costs taxpayers an extra $100 million. In the case of a $17 rise, it will be $1.7 billion per year. At no stage in this debate have the Labor Party said where that $1.7 billion will come from.

Labor say that in a federal health budget of $30 billion they will be able to find enough money to make bulk-billing more attractive. What the public need to know is how they are going to do it and at what cost. There are Labor stalwarts like Professor John Deeble, who is a very proud person because he is the architect of Medicare. He has suggested that bulk-billing can be fixed by an across-the-board rebate increase of only $6.
Let us put aside the fact that that does nothing to increase doctor numbers or encourage people to practise in rural and remote regions, but even this amount would cost the taxpayers $2.4 billion over the next four years. Is that what the Labor Party are all about? Is that the suggestion? The government’s proposal, which will mean more doctors and encourage doctors to work in rural and regional Australia, would only cost $1 billion over the same period.

This is typical of the Labor Party—they just throw money at it and do not care how they get it. They just say, ‘This is what we are going to do and somehow or other we will find the money.’ Clearly, it has to come from somewhere. It has to come from a rise in the Medicare levy; it has to come from abolishing the private health insurance rebate or it has to come from higher general taxation revenue. It is about time, after seven years in opposition, that the Labor Party told us where it is going to come from. I would suggest that that is not an unreasonable request.

Labor keep saying that they want a universal health care system, with universal access to bulk-billing. What do we mean by universal? Do we mean that everyone has to be bulk-billed? Or do we mean that those in need should have access to bulk-billing? I do not know what the Labor Party mean by this overarching universal access to bulk-billing. They know that they cannot guarantee access to bulk-billing for everyone, because the only way they could guarantee 100 per cent bulk-billing is by conscripting doctors, and conscription of doctors happens to be against the Constitution of Australia. But it is just amazing; they do not seem to care about the Constitution—they just say, ‘The Constitution is dispensable; it does not really matter. But to get a cheap vote we will say that that is what we are going to do, regardless of its constitutionality.’

Instead, when they are closely questioned about what they mean, they waffle and talk about increasing bulk-billing levels up to 80 per cent. So we have dropped from universal access down to 80 per cent and, as I said before, that 80 per cent level is where they ran up $80 billion worth of debt for the country, with high interest rates and high unemployment. We have mixed messages all the time. Labor’s version of ‘universal’ as we stand here today equals no guarantees for rural areas, regional areas, veterans or health card holders and no guarantees for any increase in bulk-billing rates whatsoever—just a cast iron guarantee that there will be a lift in the Medicare levy, abolition of the 30 per cent private insurance rebate or a lift in general taxation.

One of the best ways to take the strain off the medical system is to train more health workers. That is what A Fairer Medicare is doing—training those health workers to put them into the areas of greatest need. That is what this government has tried to do since coming to office in 1996. Then, provision of medical facilities in the bush, for example—not just remote Australia—was absolutely appalling. The provision of specialist services was virtually non-existent. The provision of adequate health for Aboriginal communities was virtually non-existent. Those issues have been largely turned around within the past seven years of the Howard government, and yet the Labor Party still whinge and whine.

The A Fairer Medicare package goes further. It takes the next step. It recognises the need for greater facilities and more health care workers, and includes almost $300 million in new funding for 234 new places for medical students who agree to work in areas of need, particularly rural and outer metropolitan areas, 150 more places for GP registrars and 457 extra nurses working in general practice in areas of needs. Our package is
targeted effectively and in economically responsible terms. Labor’s $3 promise is untargeted, uncosted and will not lead to any more health workers in areas where they are needed.

I challenge anyone to tell me that they have yet heard anyone in the Labor Party talk about how we will get more doctors and more nurses into areas of need under the dreadful proposition of a Labor government. I have not heard anything and I have been closely connected with this debate for many years. Here we are today talking about this issue with still not a hint of costing and not a hint of the way in which the workforce shortages would be addressed by Labor. I think that is pretty disgraceful for an opposition that have been in opposition for seven years.

Mr Crean recently denied that Labor would use an increase in the Medicare levy or in taxes to pay for their promises, but that was only after his official health spokesman, then Mr Stephen Smith, let the cat out of the bag. If what Mr Crean says is correct and there would be no tax or levy increase, we still have to ask the question, ‘Where is the money going to come from?’ Quite frankly, going on their record you would have to say that an increase in the levy would be their first choice, their first point. I think that we need to get some answers out of the Labor Party. As I said, there are other questions that Mr Crean needs to answer.

Does he acknowledge, for example, that even a modest increase of $5 in the Medicare rebate would alone more than double the cost of the government’s recently announced measures? It would more than double the cost. But there is no acknowledgement from the Labor Party of that fact. What increase in the rebate does Mr Crean believe is required to lift bulk-billing rates in areas where they are low, particularly in outer metropolitan and rural Australia? Does he intend to either abolish or significantly means test the private health insurance rebate to pay for other health expenditure? If so, in what way—is it going to be totally abolished or is it only the ancillaries that will be abolished? If Mr Crean happens to continue to support the private health insurance rebate—and I think that is very unlikely—how will he fund additional health expenditure? Will he rule out an increase in taxation? I hardly think so. You only have to think back 10 years to the law tax cuts. They marched in here and put a law down. They put a bill to the parliament to guarantee tax cuts, got re-elected and said, ‘Whoops—we didn’t mean that. It was only a bit of a con to get you to vote for us.’ So how could anyone ever believe them again on taxation? Will Mr Crean rule out an increase in the Medicare levy? And, if is he prepared to increase the Medicare levy, can we know by how much?

I think it is about time we knew all the answers to those questions, given that the government has laid out the precise details of its proposed policy changes to strengthen Medicare. These are all very legitimate questions to be asked of a whingeing, whining opposition—a whingeing, whining, carping opposition that can only oppose. They do not have any policies. I defy anyone to tell me what the opposition’s policy is on anything. There is absolutely nothing, let alone in the vital area of health. For more then seven years they have sniped, they have scaremongered and, under both Mr Beazley and Mr Crean, they have failed abysmally to deliver an alternative health policy.

So it is a very interesting exercise that they are undertaking today, because they create so many myths. I wish I had more time to go through the myths. One myth they perpetuate is that bulk-billing will not be available for those earning more than $32,000. That is a blatant lie. There is noth-
ing truthful in that. Even after it was corrected, the Labor government in Western Australia took out a four-page advertisement at the taxpayer’s expense making the claim. That was just a lie. Another myth is that doctors will put up gap costs for non-concession card payments. There is no basis for asserting this. Given that doctors will be paid more to bulk-bill their concession card patients, there is no reason for them to charge other patients higher gap fees. It should be remembered that GPs have always had the ability to set charges as they see fit. There is another myth that the rebate to doctors has not kept pace with inflation. Between 1984 and 2002 the average benefit per GP service rose by 114 per cent. The CPI rose by 109 per cent.

Yet another myth is that it is too expensive for doctors to set up the computer systems. The AMA’s costing of $17,000 is based on a survey of one seven-doctor practice, which currently possesses no computers whatsoever. We have already spent over $400 million helping GPs to computerise their practices. A more realistic costing provided by the department of health indicates that the upgrade costs would be around $600 for software. I wish I could go on with all these myths about Medicare being dead. Medicare is healthy and the government’s initiatives will strengthen Medicare and make it fairer for all Australians. (Time expired)

Senator EGGLESTON (Western Australia) (5.59 p.m.)—The central point the opposition is trying to make in this debate is that the so-called universality of Medicare will be compromised by these proposals. That is utter nonsense. The universality of Medicare refers to the fact that every person in Australia is entitled to free treatment in a public hospital. That remains, regardless of their income status and regardless of what is wrong with them. Whether they need a heart transplant or a toenail removed, everybody can get free treatment in a public hospital. Rather than ending bulk-billing, this package preserves bulk-billing for general practitioners, especially for those patients who happen to be concession card holders. If you look at the range of bulk-billing across the medical specialties, you will find it varies greatly: from surgeons, who bulk-bill very little, to people like pathologists, who bulk-bill almost all their services. This package preserves bulk-billing.

The ACTING DEPUTY PRESIDENT (Senator Brandis)—Order! The time allotted for the consideration of general business notices of motion has expired.

DOCUMENTS
Commonwealth-State Housing Agreement

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (6.00 p.m.)—I move:

That the Senate take note of the document.

This report is the annual report for the year 2000-01, so it is nearly two years old. It was only published this year and tabled on 26 March this year. That is quite a long period of time between the data that it represents and its becoming public. It is a very important report. As I have said a number of times in speaking to reports such as these, the parliament as a whole often does not give significant and adequate attention to some of the reports that come before it.

This particular report is produced under the Housing Assistance Act and it covers the operations of the Commonwealth-State Housing Agreement—the current agreement that was reached in 1999. This report is the second report covering the second year of that agreement from 2000 to 2001. That agreement expires at the end of this month and there has been a lot of debate and concern about the adequacy of the new Commonwealth-State Housing Agreement, when
it commences later this year, and also about the adequacy of government policy on the broader issue of housing, particularly access to affordable housing.

I asked a question in this chamber earlier this week at question time about what the government was doing to address the major and growing problem of the lack of affordable housing and accessible affordable housing. There is clearly market failure to provide housing that is affordable to either purchase or rent. There is growing poverty in Australia, as the current Senate committee inquiry is discovering, and a lot of that is driven by the large proportion of income that people have to spend on housing. This particular report deals with the Commonwealth-State Housing Agreement, which is the funding provided by the federal government to state governments to cover public and community housing. It is an important program and one that has suffered not just in the last couple of years but over a period of time due to under-funding and inadequate maintenance of the levels and numbers of housing stock at state level.

This winding back of the adequacy and the amount of public housing is adding to the broader crisis in affordable housing in other parts of the housing sector such as the private rental and private ownership sections. What the Democrats believe is needed is not just an overview of housing assistance programs but an overview of housing affordability more broadly that goes beyond governments simply providing grants to state governments for public and community housing and ensures that there is proper consideration given at a national level to a national housing strategy.

There are many organisations—not just non-government organisations such as ACOSS, National Shelter and the state shelter organisations but also the Housing Industry Association, the Real Estate Institute and others in the private sector—who recognise that currently the way the housing market in all its forms operates does not provide adequate amounts of affordable housing, and that problem is actually getting worse.

We have heard repeatedly and quite rightly the government’s praising the fact that they have low interest rates at the moment, and that is obviously better than the alternative, but it needs to be acknowledged that one of the downsides of that, because of no other addressing of the issue in broader housing policy, is that housing prices are going through the roof. That might be great if you are a speculator, but it is not good if you are a family just trying to buy your own home or finding a home to rent at an affordable level. What has been called for, not just by community organisations but by the industry as well, is a national housing strategy looking at the problem across the board. The Democrats believe that is important and will continue to push for that.

Leave granted; debate adjourned.

Great Barrier Reef Marine Park Authority

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (6.05 p.m.)—I move:

That the Senate take note of the document. This report is just an errata from the Great Barrier Reef Marine Park Authority’s annual report correcting some of the values for various outputs. I speak to it not just in the context of the corrections it contains but given the fact that it represents a significant and ongoing problem, which is the adequacy of resourcing for the marine park authority to do what is its core job, which is to protect the World Heritage values of that absolutely precious area. Coming from the state of Queensland, I have a particular interest not only in ensuring that this magnificent international
asset is protected in all its variety and ecological values but also in the enormous economic benefits it generates for my state of Queensland, particularly central northern and Far North Queensland.

It is appropriate also, utilising this document, to note the current rezoning proposals for the marine park, which the Democrats have supported. It has been a number of years in the making. It started under the previous Minister for the Environment and Heritage, Senator Hill, and has been progressed under the current environment minister. Many times, and quite rightly, the Democrats have very strongly pointed out the failings of the federal government and the state Labor government in Queensland in dealing with the many threats to the marine park, but this particular undertaking should be strongly supported and the federal government should be strongly congratulated for continuing to push through this significant change in the zoning of the marine park.

The rezoning that has been proposed has just been released in draft form, and we are in a consultation phase that continues until 4 August. I very much urge all stakeholders to participate—and all stakeholders really includes all the people of Australia, because it is a shared public asset and one that all people should have an interest in protecting. The draft plan increases the amount of marine protected area from less than five per cent to over 30 per cent. Many people, I believe, are shocked when they discover that the Great Barrier Reef Marine Park is not all protected—that a lot of commercial activities, including very high-intensive activities like prawn trawling, continue in many parts of the marine park. People are often shocked to know that such minimal areas are protected.

The figure of over 30 per cent proposed in the draft plan is obviously a significant move forward, and it must be welcomed. The Democrats and other organisations, including a lot of people in the science community, believe that to maximise the protection opportunities and the benefits of increasing marine protected areas we should actually be looking at moving it up towards 50 per cent. Many people in the fishing communities, not surprisingly, initially react to that with horror, suggesting that all their fisheries will be removed and that they will be put out of business. I say two things about that.

Firstly, we have to acknowledge that the primary necessary objective is to ensure that the ecological values of the marine park and the reef are protected. There is no point in enabling people to make short-term livings out of various activities in the marine park if the long-term consequence will be the degradation and the destruction of the marine park. So we have to ensure that protection is provided and is adequate. If that means that there is some economic loss to individual people then that is regrettable and it needs to be minimised. I must say that means the entire broader community should bear that economic loss and economic cost so that compensation or financial adjustment can be provided to people. That is always painful but it is sometimes necessary, and the Democrats do not shy away from that.

Secondly, the science is clear: if you significantly increase marine protected areas, you significantly increase fish stocks and the size of fish. That is obviously something that recreational fishers, in particular, are keen on. So I do believe fishing folk should look more deeply at it and also should contribute to the consultation phase. I also urge all people that are keen on ensuring that the marine park is protected to lend their support to this significant increase to see if we cannot get the government to increase that protected area further, because it is essential that the government does not back down. Having gone this far, this is an opportunity for the
federal Liberal government to have a significant environmental legacy. There are still many other threats to the marine park and the reef, it must be acknowledged, but this rezoning is a significant move.

Question agreed to.

Consideration

The following orders of the day relating to government documents were considered:


General business orders of the day nos 2-4, 6-11, 13, 14, 16, 18-21 and 24-26 relating to government documents were called on but no motion was moved.

COMMITTEES

Foreign Affairs, Defence and Trade References Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Brandis)—Order! The President has received a letter from an Independent senator seeking a variation to the membership of a committee.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (6.11 p.m.)—by leave—I move:

That Senator Brown be appointed a participating member of the Foreign Affairs, Defence and Trade References Committee.

Question agreed to.

Treaties Committee

Report: Government Response

Debate resumed from 20 March, on motion by Senator Murray:

That the Senate take note of the document.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (6.13 p.m.)—I want to talk about the government’s response to the report of the Joint Standing Committee on Treaties on the UN Convention on the Rights of the Child. It is particularly relevant because, as I raised in question time, the full bench of the Family Court today found that maintaining children in detention for prolonged periods of time or indefinitely, as Australia is currently doing, is in their view not only against the law but—and one of the reasons it is against the law—a breach of the Convention on the Rights of the Child.

The Minister for Immigration and Multicultural and Indigenous Affairs, Mr Ruddock, has indicated that he is considering appealing this ruling to the High Court. While I would urge him not to and to simply free the children from their ongoing torment, I suspect that, given his past record, he will seek to appeal the ruling. And it is possible of course, as always, that that appeal will be upheld. What I suggest that would mean is that maybe the court would be wrong in saying it has jurisdiction over children in deten-
One of the aspects of the court’s judgment was that the Family Law Act includes an implied incorporation of our obligations under the Convention on the Rights of the Child. That is partly why the court believed it had jurisdiction.

It is important to note that one of the Family Court’s primary goals and areas of expertise is ensuring the welfare and wellbeing of children. Whilst it should be no surprise to anybody with an ounce of commonsense, it is nonetheless important that the court has found, not surprisingly, that it is not in the interests of children and their wellbeing to be detained indefinitely in immigration detention centres. That was also seen to be a breach of the Convention on the Rights of the Child. Whether or not it is affirmed in the High Court that, for this reason, the Family Court had jurisdiction, or that the Family Law Act can or should be interpreted in that way, what will remain, regardless of any other ruling of the High Court, is that detaining children for prolonged periods of time is a breach of the Convention on the Rights of the Child. This is something the government has repeatedly denied, as it does every other accusation of breaching our international obligations, but it is also something that is quite clearly undeniable if you simply look at the facts and forget the political smoke-screen.

This is a very important treaty. I think that all of us would acknowledge that the protection of children and their fundamental rights is a major issue. It was one of the driving issues behind the community outrage underpinning the recent debate we had on the future of the former Governor-General. I believe that the Australian people, almost to a person, strongly support ensuring that children are protected. That is what the Convention on the Rights of the Child is about and that is what we in this chamber should be about when we consider public policy and legislation. The fact is that it has been reinforced by the Family Court decision today that the ongoing detention of children is clearly against their welfare and is clearly not in their interests.

There is a massive amount of evidence from psychiatrists, child welfare bodies, people with expertise in child behavioural issues and other health professionals that detaining children for any significant period will inevitably do them enormous damage. We have seen some of the consequences and victims of that with individual children in Australia, some of whom are still in detention at the moment. There have been massive disorders, particularly psychological and mental, as a consequence. That is a direct consequence of government policy. The minister and the government would no doubt say that if they let children out of detention that would undermine the government’s migration regime. I would simply say that any policy that relies on destroying children’s lives, causing them permanent, significant, psychological harm is a policy that is not justifiable. I do not care what the end is, the end does not justify those means.

The government has to find another policy. There are plenty of other alternatives. The Democrats have put forward many themselves. There are many people in the community with not just the will and the desire but the expertise to care for children even if their parents are in detention. I should say that when this particular case I have referred to was before the court, the father was in the community, not in detention. The mother was in detention. There are five children in this family—two initially for the hearing and I think three others joined up to it. Five children are affected, three of them under the age of 10. They are in detention as we speak, as a direct result of government policy, despite all the undeniable evidence of the harm that does to them.
This surely should be a wake-up call for the government. Whether or not the government appeals this ruling, the finding of fact that it is not in a child’s interests to be in detention for a prolonged period of time will stand, I believe. The finding of fact that there has been a contravention of the Convention on the Rights of the Child will, I believe, also stand. The government needs to respond to it. The government needs to hear the concerns of people throughout the community.

As many senators would know, I have dealt with many aspects of the refugee and detention debate. There are a range of views in the community, and I acknowledge that many are different from the ones which I hold and which the Democrats promote. But on the issue of children in detention I believe there is a much wider degree of community support for finding an alternative. That is what we need to do, and we need to do it as a matter of urgency. I would very much urge the government—whether it is looking at it through the prism of the Convention on the Rights of the Child or through the prism of basic humanity and good public policy—to do something about it and do it now.

Question agreed to.

Consideration

The following orders of the day relating to committee reports and government responses were considered:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Report—Australia’s role in United Nations reform—Government response. Motion of the Leader of the Australian Democrats (Senator Bartlett) to take note of document agreed to.


Foreign Affairs, Defence and Trade References Committee—Report—Material acquisition and management in Defence. Motion of the chair of the committee (Senator Cook) to take note of report called on. On the motion of Senator Bartlett the debate was adjourned till the next day of sitting.

Corporations and Financial Services—Joint Statutory Committee—Report—Review of the Australian Securities and Investment Commission. Motion of the chair of the committee (Senator Chapman) to take note of report agreed to.

Rural and Regional Affairs and Transport Legislation Committee—Interim report—Proposed importation of fresh apple fruit from New Zealand—Government response. Motion of Senator O’Brien to take note of document called on. On the motion of Senator O’Brien debate was adjourned till the next day of sitting.


Treaties—Joint Standing Committee—Report 51—Treaties tabled on 12 November and 3 December 2002. Motion of Senator Buckland to take note of report called on. On the motion of Senator Bartlett the debate was adjourned till the next day of sitting.


DOCUMENTS

Auditor-General’s Reports

Report No. 38 of 2002-03

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (6.21 p.m.)—I move:
That the Senate take note of the document.

This is a report prepared under the Environment Protection and Biodiversity Conservation Act 1999. As many senators would know, the Democrats were instrumental in enabling the passage of that act, after getting an enormous number of amendments—over 100—made to that particular bill. It is an act which I am certain is a significant advance forward in the overall powers of the federal government to enforce environmental protection. It is worth noting that that is another initiative and achievement of the Liberal government under the former minister, Senator Hill. It is an achievement that would not have been possible without the Democrats, I should add, and it would not have been an achievement without the amendments that the Democrats gained. It is nonetheless a significant act.

What has become apparent since that act was brought into being in 2000 is that, while this is not the best act in the world, it is pretty good and it has a good framework for further improvements. I note that the Labor Party has occasionally promised to make some further improvements were it to get back into government. I would indicate now the Democrats’ willingness to support those whenever they are put forward by a Labor government. We will not back away from gaining improvements that are achievable in the interim whilst we wait for those other opportunities to arise.

But even a good act is only as good as the political will of the minister and the government that oversee it. That is a concern that the Democrats and I have that is growing more and more. The way that the minister and the department are administering the act is not using it to its full potential to prevent environmental damage to areas of national environmental significance.

This audit report is an interesting one. Whilst I do not read all of the reports out of the National Audit Office, I do try to scan a number of them. I have to say that, unusually, I am very dissatisfied with this one. The Audit Office seems to suggest that in the overwhelming majority of the cases examined—and the cases are individual proposals for activities that were assessed by the department—the reasons for the decisions by the minister or his delegate were documented and consistent with the Prime Minister’s guide on ministerial responsibility and the principles of administrative law. I do not know if it was just bad sampling or an extraordinary case of good luck from the government’s point of view in the cases that the Audit Office sampled, but in my view and in my experience with a number of proposals and potential actions that have come under the ambit of the environment protection act I do not think that that statement of the Audit Office applies at all.

I find astonishing the suggestion contained in this report that everything is being done very well and compliance enforcement is going well. I could go into the details, but in the time available I will not. I could list a number of particular examples where clear breaches of the act were occurring. Significant damages were being done, for example, to Ramsar listed wetlands and World Heritage areas that were reported to the department, and no action was taken—no compliance action and no legal action. It was left up to individuals and community organisations to get action in Northern Queensland in relation to fruit growers who were slaughtering enormous numbers of an endangered flying fox that were an integral part of the wet tropics World Heritage area. That action had to be taken by the community because the government and the department would not act.

It is only thanks to the amendments the Democrats put in that act that the community
has the power and the standing to ensure that there is some mechanism for getting the government to enforce their own act, but it is still far from ideal to go through a court process when the department and the minister should be doing it. I do think that in this case the Audit Office has not got the real picture, and I am not quite sure why. It is something that needs to be looked at again. I will certainly explore the options for enabling that to happen. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Audit report No. 41 of 2002-03—Performance audit—Annual reporting on ecologically sustainable development. Motion to take note of document moved by Senator Bartlett. Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

Orders of the day Nos 1 to 4, 6, 7 and 9 to 17 relating to reports of the Auditor-General were called on but no motion was moved.

ADJOURNMENT

The Acting Deputy President (Senator Brandis)—Order! There being no further consideration of committee reports, government responses and Auditor-General’s reports, I propose the question:

That the Senate do now adjourn.

Health: Services

Senator Barnett (Tasmania) (6.26 p.m.)—I stand to speak tonight in support of the federal government’s private health insurance rebate, to make some comments with regard to people with disabilities in Tasmania and the very real need for the state government to sign up to the Commonwealth-state disability services agreement and finally to make a comment with respect to the importance of reducing public hospital waiting lists and waiting times in Tasmania and, as a result, the dire need for the state government to sign the proposed funding agreement with respect to public hospitals in Tasmania.

Firstly, with respect to the private health insurance rebate, the 30 per cent rebate on Lifetime Health Cover has increased private health insurance participation. In 1996 the health system was at breaking point. The number of Australians with private cover had fallen dramatically, putting unsustainable pressure on Medicare and the public hospital system. This was a direct result of 13 years of neglect by Labor. The Howard government has invested more in Medicare and public hospitals than any previous government and introduced a range of incentives to encourage Australians who can afford it to take out private cover. The balance has been restored. Now we have 43.8 per cent—or almost nine million—Australians having private cover. Remember, in June 1996 that figure was around 33 per cent.

Unlike Labor, whose position on private health care is driven by an irrational and ideologically driven belief that Australians should not have the right to an affordable choice when deciding who provides their health care needs, the Howard government’s policies are based on the need for sensible and rational policy outcomes. It is a matter of choice—choice for the Australian people. Quite simply, the record shows that our policies have worked. The states are receiving more money for their public hospitals and, interestingly, treating fewer patients. The latest figures from the independent Private Health Insurance Administration Council show that in the December 2002 quarter there were more than 523,000 privately insured episodes in Australia. These are the people who would otherwise join the waiting lists for public hospitals. The boost in support for the private hospital system and pri-
vate health cover helps reduce the waiting lists and waiting times for public hospitals.

Private hospitals are playing an ever-increasing role. For the first time in the history of Medicare, between 1999-2000 and 2000-01 public hospitals nationally treated fewer patients—it was down by 4,591. Private hospitals have responded to this by significantly expanding their level of service provision, and I would like to pay particular tribute to the Australian Private Hospitals Association and the work of their members. The increase in the numbers there has been 245,129 or 12.1 per cent. Private hospitals now provide more than six out of 10 major joint replacements, around half of chemotherapy procedures, over half of major procedures for malignant breast conditions, around six out of 10 cardiac valve procedures and a massive seven out of 10 major eye lens procedures.

The rebate is universal by intention. It contributes around $750 every year to the health care costs of millions of Australian families, but for many the benefit is over $1,000. Importantly, it is helping families on low incomes. Over one million Australians on incomes less than $20,000 per year have private cover. That is an amazing statistic. So we have nearly 44 per cent of Australians with private cover, and for them it will always be 30 per cent cheaper under the coalition than under Labor, because Labor will simply not commit to supporting the 30 per cent rebate.

I would like to make a few comments on the Australian Private Hospitals Association. Again, I support the work they do and the good advocacy work of Michael Roff, their executive director at the national level. I want to highlight some of the key statistics. There are actually 299 private hospitals in Australia, with 24,465 beds—around 32 per cent of all hospital beds in Australia—compared with 749 public hospitals, with 52,591 beds. According to the Australian Institute of Health and Welfare, private hospitals treat four out of every 10 admitted hospital patients in Australia. Private hospitals perform the majority of surgery in Australia—52 per cent. In 2000-01 private hospitals admitted 2,270,791 patients, which is up 12 per cent on the previous year, whereas public hospitals admitted 3,867,607, which is down 0.1 per cent on the previous year. Over the past decade, full-time equivalent staff in private hospitals have increased by 47 per cent to 46,314. That is a staggering increase in the number of jobs in the private hospital sector, and I congratulate that sector for the work they have done and their initiatives. In 2000-01 capital investment by private hospitals grew by $452 million, which is up 28 per cent on the previous year. Again, that is a very significant percentage indeed; it is a very significant increase.

I commend in particular the private hospitals in Tasmania for the work they are doing in contributing to the health and welfare of the community. In Tasmania the 30 per cent health insurance rebate boosted private hospital admissions by 38 per cent between 1998 and 2001, reducing the burden on public hospitals. Our waiting lists for urgent elective surgery have increased from 22 per cent of total cases in 1998-99 to 29 per cent in 2000-01. Interestingly, the state spending on hospitals has fallen from 47 per cent to 43 per cent, while federal government spending has increased from 45 per cent to 48 per cent. In addition, federally funded residential aged care beds have increased by 21 per cent to 3,902.

Federal funding of Tasmania’s hospitals in the five years to 2003 totalled a bit over $700 million. The new offer for the next five years is $921.7 million—an increase of $220 million, or in real terms a 17 per cent increase. I encourage the state government to quickly

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sign up to that agreement, because this will help reduce our waiting lists and waiting times. It is imperative for the good of the Tasmanian people. The Tasmanian government say that the offer is not adequate. Of course, if they say that in Tasmania and in other states as well, surely they are willing to match that offer. But they simply are not and they have not put it on the record. I urge them to reconsider and to sign up as soon as possible.

I am distressed and disturbed by a letter to the editor in today’s Examiner by Kathryn Hay, where she makes an allegation against me and my support for the private hospital health insurance rebate. I ask her to reconsider her position and that of the Tasmanian government. The information and facts she used are misleading and, sadly, mostly rhetoric from the Labor Party. She does not acknowledge the facts that are on the table and she says that there has been a $1 billion cut to the offer provided for the public hospital system, and it is actually staggering that such information has been put into the public arena in such an incorrect and misleading way. I am disappointed about that.

With respect to the disability services agreement, I want to urge the state government to sign up. Last year the Commonwealth offered the states a further $2.8 billion to assist them with their responsibilities under that agreement, and that is over a five-year period. That is nearly $900 million more in cash for the states than was provided in the last agreement. The condition was that the states would have to outline their five-year funding commitments in dollars, giving us the growth and indexation—in other words, putting their money where their mouth is. The states were initially unwilling to match the Commonwealth’s growth, which is about 7.3 per cent. Of course, the growth in our portion of it for employment services has been much higher than that—it has been over 12 per cent.

Victoria and Western Australia have signed up. The Northern Territory is expected to sign up shortly, as is the ACT and South Australia. Queensland has made an offer which looks very positive. Sadly, Tasmania has made an offer which does not provide a sufficient increase of commitment to people with disabilities from state funding. The letter sent just a few months ago from the Premier to the Prime Minister was totally inadequate. I urge the state government to reconsider and to put on the table, in a letter from the Premier to the Prime Minister, a reasonable offer, like the other states. (Time expired)

Gambling

Senator BUCKLAND (South Australia) (6.36 p.m.)—Tonight I rise to speak on what I believe to be a very crucial issue for our society, and the issue is problem gambling. I want to outline some initiatives of the South Australian Labor government that were taken over the weekend to try in some way, and I think it is a small way, to address the problem we have with gambling. When I first saw the article in the paper announcing this program by the minister Stephanie Key, I recalled the early days in South Australia when we were debating whether or not to allow poker machines into hotels, and indeed I can remember the debates about whether to allow them into the casino as well. I thought, ‘I wonder what would happen if we had a conscience vote on gambling and poker machines in this place.’ It would probably be more chaotic and divided than the embryonic stem cell debate because views are so divergent.

Over my years working with the Australian Workers Union, and before that the Federated Ironworkers Association in Whyalla, sadly I came into contact with a lot of people...
who, for various reasons, became addicted—and I do not think there is any other term appropriate here but addicted—to poker machines. It is an issue that I think you have to morally weigh up in your mind, if you possibly can. You can have a dislike for poker machines, you can advocate or speak vocally against poker machines; but, then again, I remember that I cannot impose my will on what someone else does with their leisure time or with their money. At the same time as weighing up that, you see children who are suffering because they are not well fed. They are children in a society that is supposed to be forward thinking and affluent, yet they have to have their breakfast at school because there is no money to feed them at home. I do not lay blame on any government; I lay blame on all of us for allowing this affliction to get to people. At the same time as saying that, I still believe that every person has a right to decide for themselves.

On Sunday the South Australian government launched a series of particularly hard-hitting television commercials about problem gambling. They had to go this way because it is not one particular section of our community which is afflicted by problem gambling. It is not an affliction that affects only poor people or those not so well-off, it is not an affliction that affects wealthy people alone, it is not a cultural thing and it is not a religious thing; it affects all in our society. I really am particularly pleased that the South Australian government have taken the initiative that they have. The program they launched—which, as I say, is a particularly hard-hitting and very straight to the point campaign—is called ‘Think of What You’re Really Gambling With’. It is a new community education campaign which supports more responsible gambling and encourages people with a gambling problem to ask for help. I think all of us, in many aspects of our lives, really need to ask for help at some time. I can well remember that my father, who has now left us, had an addiction to gambling, and that brought much tension to the home. He was a loving father, a caring father and a good provider, but he was addicted not to poker machines but to horses that did not particularly run well.

Gambling is a part of Australia’s culture, but we cannot deny that it is affecting us and we cannot turn a blind eye to it. It is as plain as the nose on your face that gaming machines are a popular form of entertainment for people who enjoy playing the pokies for a bit of harmless fun and social interaction. But in South Australia alone there are an estimated 22,000 problem gamblers. This is in the order of two per cent of the population of South Australia. These are the identifiable problem gamblers. The 1999 Productivity Commission report into Australia’s gambling industries noted that problem gambling affected both men and women and appeared across all ages and cultural groups. On a general level, Australians with gambling problems lose around $3 billion every year. That translates to $12,000 per capita. Research has also indicated that the money lost is mostly taken from household funds and that around half of all people with gambling problems also borrow money from other sources. Problems that emerge from this, such as not having the money to pay household bills, are too often the source of family conflict and result in the breakdown of relationships, increasing family poverty and domestic violence. A gambling addiction can go unnoticed by many of us, but the people affected by gambling problems are the ones who see the realities—and they are all too real. The ramifications go further. For every one of these problem gamblers there are at least five other people who are affected, either financially or socially, by the problem gambler’s behaviour.
I think the South Australian government has acted particularly commendably. A number of strategies are being implemented by the government to address this problem. It is imperative that those with a gambling problem or those affected by gambling are aware that help is out there and that they are not alone. A solution is possible. The South Australian government, through these advertisements that they are now running, address this and show how people can get help.

In the 2002-03 South Australian state budget, a major budget allocation was made for an extra $4 million over four years for the Gamblers Rehabilitation Fund, to increase services to assist people most affected by gambling, and an additional $1.1 million over four years for the Independent Gambling Authority, to be used for research. Many counselling services funded from this are based at the Adelaide Central Mission; the Wesley Uniting Mission; the Salvation Army; Relationships Australia (SA); Anglicare; the Port Pirie Central Mission; Centacare Whyalla, in my own home town; Lifeline, in the south east of the state; the Centre for Anxiety and Related Disorders; Aboriginal community areas; the Overseas Chinese Association; the Vietnamese Community in Australia; and the Cambodian Association. All of these services provide confidential and non-judgmental counselling. I would encourage anyone who is affected by gambling, either directly or indirectly, to contact one of the services. I believe that every person in a position of responsibility who purports to represent the community should encourage all of their constituents to take advantage of those services.

Trade: Live Cattle and Sheep Exports

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (6.47 p.m.)—I rise tonight to speak on the issue of the live cattle and sheep trade. It has been an issue of some controversy and some interest in Australia for quite some time. Indeed, senators may recall that the Senate Select Committee on Animal Welfare did a report on the livestock export trade back in the mid to late 1980s—a committee that was established, of course, by Democrat senator Don Chipp. That report made a finding that, if you were going to assess the industry solely on animal welfare grounds, you would certainly want to ban it. But, of course, economic and other factors get in the way.

Since that time, the industry has actually expanded enormously. In the last financial year, over 6½ million live sheep were exported from Australian ports as well as over 800,000 cattle. The sheep destinations are predominantly the Middle East—countries like Egypt, Kuwait, Jordan, Saudi Arabia and Israel. The cattle destinations are more towards South-East Asia—Indonesia, the Philippines and Malaysia. But they are also sent to the Middle East, with Libya and Egypt being the most popular destinations—popular for the exporters, but not, I suspect, for the cattle.

It is important and relevant to mention this because, in recent times, the ban on the export of live sheep and cattle to the Middle East, which was introduced last year following a massive wave of deaths, was lifted by the federal government. That was done because the Minister for Agriculture, Fisheries and Forestry, Mr Truss, said that new criteria had been introduced to reduce the potential welfare and health risks to the animals. It is worth mentioning the numbers that died on just four journeys last year. The number of sheep that died was well in excess of 15,000. On one of those vessels alone, over 6,000 head of sheep died—nearly 11 per cent of the total number of sheep that were loaded on board the vessel.
particularly given that the ban on exports has been lifted, it is worth noting that exports of live sheep, cattle and goats to the European Union is banned and has been banned for a very long period of time. I think the suggestion that somehow our industries could not cope with a further expansion of that ban does not hold up to scrutiny. Indeed, at times when wider bans have been introduced—and, at various stages, there have been halts in the export trade to various countries, either because of animal welfare outrage and large-scale deaths or because of stock being rejected at the other end because of disease—the amount of trade in dead cattle, as in refrigerated meat, has gone up significantly.

The other aspect that I think needs to be covered is the welfare issue for the animals not just on board the vessels. Those are significant. I think anybody who has seen one of those vessels would acknowledge that, with the best conditions possible, it would still be an extremely unpleasant journey for the animals. I would like to refer particularly to an article in this month's Australian Veterinary Journal, written by a vet from the UK who followed Australian cattle from the ship through their offloading in Egypt and to the slaughterhouse in Egypt. I apologise if some of this is very unpleasant reading, but I think it needs to be put on the record. The issue is not just how the cattle are treated on any one part of the voyage, but the totality of that voyage. I really do not think the totality of it is recognised by a lot of people.

The long-distance transportation of export animals, in this case cattle, in Australia begins with road trains transporting them many hundreds of kilometres where they are offloaded to feedlots at main ports around Australia. They are then loaded again onto the vessels, which are usually very crowded. The particular ship that is mentioned in this article was carrying 75,000 sheep, 7,000 cattle and 800 goats. The reported conditions were very crowded—animals that were down were unable to get up again because of the crowding around them.

The lower decks had an extremely high concentration of ammonia, with the vast majority of cattle showing signs of conjunctivitis and respiratory distress. In the lowest two decks—and these are multideck vessels, as people would know if they have seen them—the manure was eight to 10 centimetres deep.

There was no bedding and citric acid to counteract the effect of the ammonia. Between 25 and 30 per cent of the water troughs were defective, with the continuous overflow of water adding to the problem of the muddy faeces in the lower decks. Liquid manure flowed into the food troughs, where the food was sodden and soiled with the sheep manure from the decks above. That is just a short summary of some of the descriptions. The vet reported this to Livecorp, which is the organisation that oversees our live exports. According to her, Livecorp appeared to take no action. It was not until the information was directly passed on to the Australian Department of Agriculture, Fisheries and Forestry and the Maritime Safety Authority that eventually something was done before the ship had its second voyage.

Worse than that is what happens to the animals when they are offloaded. The stockmen's authority for the animals on the vessels ends at the beginning of the ramp, when the animals are offloaded. If they go into Egypt, it is about a three-week journey often in extremely high heat, which was part of the reason for the massive number of deaths last year. They are loaded onto just trucks, not animal transporters, by lorry drivers and local stevedores, who frequently hit the animals with long sticks armed with rusty nails, metal bars and sometimes hammers. The trucks are general cargo trucks, often without any bedding and always without any
shelter against what is often an extremely hot sun.

The slaughterhouses are described in some detail. I will not go into all of the horror of it. The slaughterpeople in Egypt are usually used to the calm and tame Egyptian cattle and buffaloes. The untamed Australian cattle cause significant concern for them. Fear of this has led to some unfortunate slaughter methods. For example, at one abattoir initially four or five cattle are driven from their pens into a narrow gangway. The exit to the gangway is then bolted. The slaughterman then approaches from the outside and cuts the Achilles tendon of the right-hand hind leg of all the animals. This is done to try to prevent them from escaping. They are then driven onto the landing, where the slaughtermen spread themselves around the huddled animals and begin to cut more tendons on the front and the hind legs. Whenever they are able to approach an animal from behind or from the side, they strike out with a knife at a tendon. The animals then attempt to hobble in the other direction, where another slaughterman waits to strike.

The article says that the knee and elbow joints are targeted for destruction, and the eyes are knocked or stabbed out. The author had witnessed men kicking animals in the face and stabbing them in the anus to get them into the main slaughter hall. He observed a slaughterman cutting the tongue from an animal and stuffing the tongue into his shirt directly after the throat was cut while the animal was still conscious. Apparently some of the labourers get paid in only what parts of meat they can manage to get whilst they are slaughtering. These conditions have also been reported to the representative of Livecorp in the Middle East. According to the author, again, despite negotiating with representatives of Livecorp a range of measures to improve the situation ‘none have yet been put into practice’.

I suggest that is continuing to occur all of the time with all of the cattle and sheep that are shipped from Australia to the Middle East. When we are considering animal welfare issues, we cannot simply look at the significantly problematic aspect of forcing large numbers of sheep onto vessels in what are almost always unpleasant conditions for weeks at sea. There is the journey beforehand, which should not be forgotten, and, more importantly than that in terms of animal welfare measures, what awaits them at the other end and the lack of attention that Australian authorities pay to that. They should pay attention to that and, before we start expanding exports and lifting bans on exports of live sheep and cattle to the Middle East, we should consider some of those important issues.

Immigration: Policy

Senator SCULLION (Northern Territory) (6.57 p.m.)—I rise tonight to put on record my total support for this government’s immigration policies. I do not really need to defend the integrity of the Minister for Immigration and Multicultural and Indigenous Affairs, Mr Ruddock, his actions or the wonderful policies that he has built, has implemented and continues to defend, but I find it very hard to listen to the grubby, dirt-digging tactics of the Australian Labor Party in that other place and their attempts to somehow besmirch the good name of Philip Ruddock. Their attempts bring only discredit on the Australian Labor Party. This person has shown himself to have the highest levels of integrity and credibility of probably any minister of immigration throughout the history of the Australian parliament.

I find it very difficult to believe that a previous Labor minister for immigration is attacking this government for our policies on
immigration. The policies that this government now has in immigration are very much the cutting edge and the benchmark for immigration and migration control and border control policies in the world today. I certainly think the British—New Labour—have taken a very interested view of Australia’s immigration policies in this area. The old Labor that we have here should really be keeping an eye on that because New Labour have decided that they need to put an immigration policy in place that actually takes into account issues like national interest and talks about the economic outcome for your country, selecting the right people, looking at some of the really good parts of our policy that recognise prioritising humanitarian issues and humanitarian outcomes for those who are very needy.

Senator Bolkus, who presided over the immigration policies of the previous Labor government before 1996, must be squirming in his seat when he tries to compare the pathetic policies of that stage with the policies of the Australian government of today. But do not take my word for it, Mr Acting Deputy President: there are always people within the Australian Labor Party who are prepared to put in their two bob’s worth. The Australian Labor Party’s finance minister at the time, Peter Walsh, described Australia’s immigration program as administered by Nick Bolkus as one characterised by cave-ins and blow-outs—not much of an endorsement for someone who had a place in the same cabinet.

You have to look for an independent view on these things. Katharine Betts, a Monash based researcher, wrote a paper entitled ‘Immigration and public opinion: understanding the shift’. It is really good every now and again to look at what the Australian community really wants out of something and to try to reflect some of their views. That research paper says that opposition to immigration has declined since 1996. Going further you can say that there are many factors that have produced this change, with no doubt the single biggest factor being the election of the coalition government. I am not so sure the election was the primary issue, but certainly the bringing on of sensible immigration policies brought about some transparency, some probity and took away the mismanagement and the shambolic processes of the previous immigration program.

I can remember some of the great panaceas. Let us talk about the class visa. Maybe it was just too difficult for them in those days to go through people one at a time and to consider and respect the individual circumstances that these people found themselves in instead of saying: ‘It’s all too hard. We’ll run a ring around them and generally have a bit of a look at it.’ The last little class visa action that went like that ended up, I think, in a serial migration into Australia of 42,000 people. It was political expediency and incompetence. There is absolutely no way you can look back at history and those sorts of policies and say that this was well thought out and considered or that they could have anything else except for the shambolic outcome that they delivered for Australia. Not only was it a shambolic outcome, but we should look at some of the 42,000 people and look carefully at who was not able to come to this country. We have to look at people on humanitarian lists. I am talking about people like a Somalian lady who is in a refugee camp in Somalia. The only reason her life gets better every month is one of her children dies. That is the sort of person we need to give priority to and that is why we need to make sure that we have a visa process and a refugee and asylum process that deals with the individual needs of individual applicants.

I have obviously been very concerned about the processes of the East Timorese and I have looked very much at our policy on this
matter. Senator Crossin stood up in this place last night and basically took most of the credit. She certainly said that I had done absolutely nothing about this matter. I want to put on the record the unbelievable selective memory of people in the Labor Party. Here she is saying, ‘Why didn’t you have a visa class?’ When the East Timorese needed a class visa action—although I would not have agreed with it; it was bad policy, but the Labor Party probably would have handled it—where were they then? Absolutely nowhere. Every Australian looked at the Santa Cruz cemetery massacre and felt absolutely dreadful about it and thought, ‘How can we help our neighbours?’ The Labor government said: ‘We’ll tell you how we’ll help. We’ll talk about it for eight years. We’ll allow this shambles to go on and on. We’ll quote some colonial aspect of the UNHCR determinations. We’re part of this convention, but we’re going to take the worst part of it and say, “We think you have dual citizenship; go back to Portugal.”’ The vast majority of East Timorese, had they been assessed for asylum at the time—and some of them have showed me their letters from the review tribunal process, and the review tribunal process identified this—had they been considered and triaged through that process, would have been given permanent resident status. This was eight years ago. It is pretty hypocritical.

It is really up to the coalition to resolve the issue—and we have. We are now looking at the roll-out for that sort of stuff. It is absolutely fantastic. Senator Crossin claims credit. All I can remember is the Labor Party, particularly Senator Crossin and others—you have to help where you can—going to fundraisers and sitting around sipping tea and saying: ‘It’s a terrible thing that the government won’t do this for you. I’m not going to share with you any real history. It is a terrible thing that the Howard government won’t do this for you.’ We kept saying: ‘We are doing it. We are sorting out the shambles.’ And that is exactly what has happened.

Then of course we have had the Crossin amendment or, should I say, the Clayton’s amendment—the amendment that you have when you are not having an amendment. You talked about it to the media: ‘Will Scullion vote on our amendment?’ Well, Scullion went down to the Table Office and said, ‘Do you have the amendment?’ and they said, ‘We’re sorry, Senator, there is no amendment here; we’ve never heard of the amendment.’ Right up until the last day of sitting, no amendment at all was put to this place. It was actually reported in the paper that Dave Tollner had voted on an amendment. You talk to Senator Crossin and ask, ‘Why don’t you take the opportunity to clear it up?’ but there is no question of that happening. What have we done? It is about leadership. You talk about self-promotion. She says, ‘You’ve done nothing; we haven’t seen you.’ It is very un-Australian to say, ‘The first thing I’m going to do about these people is rush over to the newspaper and tell them what I’m going to do.’ It is un-Australian and it is not the way I do business.

We actually make things work. I have had meetings with over 75 per cent of the refugees. I have had long meetings to ensure that I can amplify their cases and the circumstances that fall under section 417, the ministerial discretion section, and ensure that the minister does not miss out on any nuance. I continue to support and explain things to them, unlike someone who stood in this place last night and said, ‘Be afraid.’ She said: ‘When the minister writes you a letter and says, “I am prepared, subject to the health situation et cetera,” that does not necessarily mean he’s going to let you in.’ What rubbish! All I can say is that at worst it is political opportunism and at best it is thoughtless incompetence. I remind you once again of the fantastic line—and it is abso-
lutely commonsense—’We decide who comes to Australia and the circumstances under which they come here.’

Senate adjourned at 7.06 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

- Superannuation Industry (Supervision) Act—Requests from Minister to APRA, dated 22 September and 1 December 2002.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Veterans’ Affairs: Fraud Control
(Question No. 1004 amended)

Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 9 December 2002:

With reference to paragraph 6.22 in the Australian National Audit Office report no. 6 into fraud control in the Department of Veterans’ Affairs, tabled in the Senate on 29 August 2002 and the estimate in the department’s Fraud Control Plan that up to $15 million may be at risk to fraud in the medical accounts treatment processing system:

(1) (a) What specific items of medical services were included in that estimate; and (b) what was the estimate against each item.

(2) For each of the past 3 years, what amounts have been recovered, by state, from: (a) providers of medical services, by type; (b) providers of community nursing; (c) providers of other home care and domestic services; and (d) other providers of health-related services.

(3) What resources are specifically allocated in each state office to fraud control and management in the health area.

(4) For each state in the past year, how many health providers have been interviewed or counselled with respect to claims lodged for payment.

(5) In each of the past 5 years, how many providers of health services have been prosecuted for fraudulent claims.

(6) In each of the past 5 years, how many veterans in relation to fraudulent travel claims have been: (a) investigated; and (b) prosecuted.

(7) In each of the past 5 years how many transport contractors in relation to fraudulent claims have been: (a) investigated; and (b) prosecuted.

(8) With reference to state offices, what instructions exist for the implementation of the fraud control plan.

Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) (a) and (b) The estimate of $15 million was a global estimate only. There is no break-up of that estimate against individual classes of providers and/or medical items. This estimated level of possible fraud against the Department of Veterans’ Affairs (DVA) was set by reference to the 1997 Australian National Audit Office (ANAO) audit report, titled ‘Medicaid and Inappropriate Practice’, which was published after a review of the Health Insurance Commission (HIC) Medicare and Pharmaceutical Benefits Scheme payments. The estimate was based on the Source Based Audits conducted on payments made by the HIC.

ANAO acknowledged that the estimate was approximate because of the small size of the sample used to derive the estimates.

DVA’s Fraud Control Plan adopted the ANAO estimate as its indicator of the level of fraud because of the similarity of activities between the agencies, and as it is the only estimate currently available in this area of activity.

(2) (a), (b), (c) and (d) Recoveries by State and Provider Type for 1999/2000, 2000/2001 and 2001/2002 are set out below.
1999/00

<table>
<thead>
<tr>
<th>STATE</th>
<th>Medical Services</th>
<th>Other providers of health-related services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Type</td>
<td>Amount recovered</td>
</tr>
<tr>
<td>VIC</td>
<td>Local Medical Officer</td>
<td>$1,584</td>
</tr>
<tr>
<td>NSW/ACT</td>
<td>Pharmacist</td>
<td>$130,000</td>
</tr>
<tr>
<td>WA</td>
<td>Neurologist</td>
<td>$131,584</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2000/01

<table>
<thead>
<tr>
<th>STATE</th>
<th>Other providers of health-related services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Type</td>
</tr>
<tr>
<td>QLD</td>
<td>Pharmacist</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
</tr>
</tbody>
</table>

2001/02

<table>
<thead>
<tr>
<th>STATE</th>
<th>Other providers of health-related services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Type</td>
</tr>
<tr>
<td>VIC</td>
<td>Pharmacist</td>
</tr>
<tr>
<td>NSW/ACT</td>
<td>Pharmacist</td>
</tr>
<tr>
<td>QLD</td>
<td>Physio-Therapist</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
</tr>
</tbody>
</table>

(3) New South Wales currently has seven staff (6.5 FTE) assigned to performance monitoring and evaluation, while Queensland (1.5 FTE) and West Australia both have two staff assigned to monitoring and review activities. Neither Tasmania nor South Australia has staff dedicated to this role and both are covered by National Office activity and supported by the National Fraud Control Unit that assists in investigation work.

The Victorian State Office does not have staff dedicated to monitoring and review activities, but is assisted by the National Fraud Control Unit which is located in the same building in Melbourne.

(4) The number of providers interviewed or counselled from 1 January to 15 December 2002 is as follows:

<table>
<thead>
<tr>
<th>State</th>
<th>Number of Providers interviewed or counselled</th>
</tr>
</thead>
<tbody>
<tr>
<td>QLD</td>
<td>13</td>
</tr>
<tr>
<td>WA</td>
<td>54</td>
</tr>
<tr>
<td>VIC</td>
<td>77</td>
</tr>
<tr>
<td>TAS</td>
<td>0</td>
</tr>
<tr>
<td>SA</td>
<td>6</td>
</tr>
<tr>
<td>NSW</td>
<td>239</td>
</tr>
</tbody>
</table>

(5) The number of providers prosecuted in the past five years, 1 July 1997 to 30 June 2002, is as follows:

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Number of providers prosecuted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997/98</td>
<td>4</td>
</tr>
<tr>
<td>1998/99</td>
<td>1</td>
</tr>
<tr>
<td>1999/00</td>
<td>3</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
(6) (a) and (b) The number of veterans investigated and prosecuted in relation to fraudulent travel claims are as follows:

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Number of veterans investigated</th>
<th>Number of veterans prosecuted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997/98</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1998/99</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>1999/00</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>2000/01</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>2001/02</td>
<td>9</td>
<td>7</td>
</tr>
</tbody>
</table>

(7) (a) and (b) The number of transport contractors investigated and prosecuted in relation to fraudulent claims are as follows:

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Number of travel providers investigated</th>
<th>Number of travel providers prosecuted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997/98</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1998/99</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>1999/00</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>2000/01</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2001/02</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

(8) Under the Financial Management and Accountability Act 1997, each agency is required to prepare a fraud control plan. Until May 2002, the agencies were required under the then 'Fraud Control Policy of the Commonwealth' to obtain the endorsement of their draft plans from the Commonwealth Law Enforcement Board.

In May 2002 the 'Commonwealth Fraud Control Guidelines' were introduced and made the external approval of fraud control plans no longer necessary, although agencies are still required to have a current plan in place. The plans must contain a fraud risk assessment and a fraud control action plan which addresses all activities which the agencies consider to present a high risk after appropriate controls have been established.

The Fraud Control Plan is accessible to all staff on the DVA intranet. Its purpose and location is being brought to the attention of all staff during the fraud and ethics training that the National Fraud Control Unit is presenting at all State offices and National Office in late 2002 and early 2003. Over 970 staff in five State Offices have attended this training in 2002.

The Fraud Control Plan incorporates a description of the policies, procedures and practices which have been in place for many years, such as IT access control procedures.

Gippsland Electorate: Programs and Grants

(Question No. 1095 and 1108)

Senator O’Brien asked the Minister for Communications, Information Technology and the Arts and the Minister for the Arts and Sport, upon notice, on 17 January 2003:

(1) What programs and/or grants administered by the department provide assistance to the people living in the federal electorate of Gippsland.

(2) When did the delivery of these programs and/or grants commence.
(3) What funding was provided through these programs and/or grants for the people of Gippsland in each of the following financial years: (a) 1999-2000; (b) 2000-01; and (c) 2001-02.

(4) What funding has been appropriated for these programs and/or grants in the 2002-03 financial year.

(5) What funding has been appropriated and/or approved under these programs and/or grants to assist organisations and individuals in the electorate of Gippsland in the 2002-03 financial year.

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

The Department of Communications, Information Technology and the Arts offers the residents of the electorate of Gippsland a wide range of benefits across both its cultural and information and communications program streams. These various programs are described in this answer so that they correspond with the structure of the department.

ARTS AND SPORT PROGRAMS

Old Parliament House and National Portrait Gallery

(1) The National Portrait Gallery (NPG) occasionally tours some of its exhibitions to venues outside the NPG’s premises. From 26 February until 26 March 2000, a National Portrait Gallery exhibition (jointly presented with the State Library of Victoria), Percy Leason’s Recognition: Aboriginal Portraits, was exhibited at the Gippsland Regional Gallery at Sale, which was close to the location where the portraits were painted. Percy Leason’s Recognition is the only NPG exhibition to have toured to the Gippsland electorate.

(2) NPG exhibitions have toured to interstate venues since the NPG was opened in early 1999.

(3) (a) 1999-2000: The Percy Leason’s Recognition exhibition toured to the Gippsland Regional Gallery, and was funded by a standard exhibition fee paid by the venue. There was no other funding provided by a Commonwealth grant or program.

(b) 2000-01: Nil.

(c) 2001-02: Nil.

(4) Nil.

(5) Nil.

Arts and Regional

(1) The following programs administered by the department offer benefits to the people of the federal Electorate of Gippsland:

Federation Fund,
Federation Community Projects (FCP),
Regional Arts Fund (RAF),
Playing Australia,
Visions of Australia,
Festivals Australia, and
Contemporary Music Touring Program (CMTP).

(2) The programs commenced:

Federation Fund commenced in 1999,
Federation Community Projects (FCP) commenced in 1999,
The Regional Arts Fund has been administered by the Department since 2001.

The funding is delivered by state based regional arts bodies. A small amount of funding is provided to the Australia Council and Regional Arts Australia for them to undertake their own projects. Prior
to 2001, the Regional Arts Fund was administered by the Australia Council and delivered by State and Territory arts ministries. A small amount of funding was also provided to Regional Arts Australia for it to undertake its own projects.

*Playing Australia commenced in 1992-1993,*
*Visions of Australia commenced in 1993,*
*Festivals Australia commenced in 1996-1997,* and
*Contemporary Music Touring Program commenced in 1999-2000.*

(3) The funding provided under each program was, for each year:

(a) 1999-2000

**Federation Fund**

- Gippsland Regional Art Gallery $50,000

**Federation Community Projects (FCP)**

- Community Resource Building – Koonwarra $27,015
- Performing Arts Centre – Mallacoota $27,015
- Fed Art Gallery – Korumburra $18,515
- Local Hall – Nowa Nowa $20,000
- Walkway & Avenue – Cann River $22,513
- Federation Kitchen Project – Woodside $14,250
- Grandstand – Toongabbie $27,000
- Heritage Butter Factory – Buchan $30,000

**Regional Arts Fund (RAF)**

The Department does not hold information on RAF program expenditure or grants prior to 2001-02

**Playing Australia (PA); Festivals Australia (FA); Contemporary Music Touring Program (CMTP)**

- Parallel Hum - Mallacoota Arts Council (FA) $21,700
- Street Theatre - Sth Gippsland Shire Council (FA) $10,000
- Gathering of Guilds – Stratford on Avon Shakespeare (FA) $5,000
- *Hotel Sorrento, to Bairnsdale - HIT Productions (PA) $166,155
- *The Melbourne International Comedy Festival Roadshow, to Bairnsdale & Waragul – MICF (PA) $128,813

* Denotes grants for tours into this electorate. Please note that the amount of money refers to the total grant, and that the program may visit a number of venues. It is not possible to show the amount of the grant relevant to any particular electorate or venue.

**Visions of Australia**

Nil.

(b) 2000-2001

**Federation Fund**

- Gippsland Regional Art Gallery $100,000

**Federation Community Projects (FCP)**

- Community Resource Building – Koonwarra $3,000
- Performing Arts Centre – Mallacoota $3,000
<table>
<thead>
<tr>
<th>Project Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Walkway &amp; Avenue – Cann River</td>
<td>$2,502</td>
</tr>
<tr>
<td>Federation Kitchen Project – Woodside</td>
<td>$750</td>
</tr>
<tr>
<td>Grandstand – Toongabbie</td>
<td>$3,000</td>
</tr>
</tbody>
</table>

**Playing Australia (PA); Festivals Australia (FA); Contemporary Music Touring Program (CMTP)**

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gravel Pit Opera – Mallacoota Arts Council (FA)</td>
<td>$22,700</td>
</tr>
<tr>
<td><em>Prawns with Horns, to Wonthaggi – Prawns with Horns (CMTP)</em></td>
<td>$10,000</td>
</tr>
<tr>
<td>*Girl Talk, to Bairnsdale – HIT Productions (PA)</td>
<td>$50,000</td>
</tr>
<tr>
<td>*Rigoletto, to Sale – OzOpera (PA)</td>
<td>$238,442</td>
</tr>
<tr>
<td><em>At the Crossroads, to Bairnsdale – Women on a Shoestring (PA)</em></td>
<td>$21,528</td>
</tr>
</tbody>
</table>

* Denotes grants for tours into this electorate. Please note that the amount of money refers to the total grant, and that the program may visit a number of venues. It is not possible to show the amount of the grant relevant to any particular electorate or venue.

Visions of Australia Nil.

(c) 2001-2002

**Federation Fund**

- Gippsland Regional Art Gallery $30,000

**Regional Arts Fund (RAF)**

- Koorie Youth our future – East Gippsland Aboriginal Arts Corp. $15,000
- Quick Response Grant – East Gippsland Aboriginal Arts Corp. $1,000
- Quick Response Grant – Cowwarr Arts Network $1,000
- Bute Utes – Nowa Nowa Community Development Assoc. $15,500
- Decadent and Delicious – Mallacoota Arts Council $3,750

**Playing Australia (PA); Festivals Australia (FA); Contemporary Music Touring Program (CMTP)**

- Flying Fruit Fly Circus – Bruthen & Dists Citz Assoc (FA) $12,795
- Shores of the Ancient Sea – Buchan & Dists Art Craft Inc. (FA) $13,000
- Collide-a-scope – Mallacoota Arts Council (FA) $20,000
- *Love Child, to Wonthaggi – HIT Productions (PA) $48,699

*Denotes grants for tours into this electorate. Please note that the amount of money refers to the total grant, and that the program may visit a number of venues. It is not possible to show the amount of the grant relevant to any particular electorate or venue.

Visions of Australia Nil.

(4) Funding appropriated under these programs and/or grants in the 2002-03 financial year.

- Federation Fund Nil.
<table>
<thead>
<tr>
<th>Program</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regional Arts Fund</td>
<td>$2.5 million</td>
</tr>
<tr>
<td>Playing Australia</td>
<td>$3.657 million;</td>
</tr>
<tr>
<td>Festivals Australia</td>
<td>$0.852 million</td>
</tr>
<tr>
<td>Contemporary Music Touring Program</td>
<td>$0.250 million.</td>
</tr>
<tr>
<td>Visions of Australia</td>
<td>$1.79 million</td>
</tr>
</tbody>
</table>

These are national allocations. None of this funding is tied to particular regions or electorates.

(5) Funding appropriated and/or approved under these programs and/or grants to assist organisations and individuals in the electorate of Gippsland in the 2002-03 financial year.

<table>
<thead>
<tr>
<th>Program</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federation Fund</td>
<td>Nil</td>
</tr>
<tr>
<td>Federation Community Projects (FCP)</td>
<td>Nil</td>
</tr>
<tr>
<td>Regional Arts Fund</td>
<td>$2,000</td>
</tr>
<tr>
<td>Playing Australia</td>
<td>$130,000</td>
</tr>
<tr>
<td>Festivals Australia</td>
<td>Nil</td>
</tr>
<tr>
<td>Contemporary Music Touring Program</td>
<td>$10,000</td>
</tr>
<tr>
<td>Visions of Australia</td>
<td>Nil</td>
</tr>
</tbody>
</table>

Note: the amount of money refers to the total grant, and that the program may tour a number of venues. It is not possible to show the amount of the grant relevant to any particular electorate or venue.

ScreenSound Australia

(1) The following two programs include activities in the federal electorate of Gippsland:

<table>
<thead>
<tr>
<th>Program</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Big Screen</td>
<td></td>
</tr>
<tr>
<td>A national film touring program that visits regional communities across Australia. Big Screen has a national focus and impact beyond individual electorate or</td>
<td></td>
</tr>
</tbody>
</table>
regional boundaries. Big Screen is not possible to apportion program funds to specific electorates.

Whilst it would be reasonable to say that Big Screen has had some impact in the electorate of Gippsland, it is not possible to specify and allocate definitive funding amounts to any discrete electorate film program which tours regional and rural centres nationally.

Big Screen visited Yarram in 2001 and in May 2003.

The People’s Voice Project, A national community history website project, which has involved at least 7 communities from the Gippsland electorate to date.

(2) The Big Screen film program began in 2001.

(3) There was no funding for either project specifically identified for the electorate of Gippsland.

(4) Big Screen 2003
   The Department of Communications Information Technology and the Arts, including ScreenSound Australia, has appropriated $106,000 toward overall funding for Big Screen 2003.

People’s Voice Project
   No separate Departmental or ScreenSound funding has been appropriated for People’s Voice Project.

(5) For 2003, no separate funding has been identified for the electorate of Gippsland.

**COMMUNICATIONS PROGRAMS**

**BROADCASTING**

**Television Black Spots Program**

(1) The Television Black Spots Program (TVBSP) assisted the people living in the federal electorate of Gippsland

(2) The Television Black Spots Program (TVBSP) commenced in October 2000.

(3) (a) Not Applicable for 1999 - 2000
   (b) One grant was made in FY 2000-01 to the Bemm River Progress Association of Bemm River of $275 for a new service needs survey.
   (c) One grant was made in FY 2001-02 to the Waratah Bay Ratepayers and Progress Association Inc of Waratah Bay of $1907 for a new service needs survey.

   In both cases payments were reimbursements for the technical surveys that are required of community groups when they submit Expressions of Interest for New Services under the Television Black Spots Program.

(4) Funds allocated for 2002-03 are $22,794 million.

(5) Up to $350,000 has been reserved for 3 black spots, namely Bemm River, Ensay and Swifts Creek in the electorate of Gippsland. However these funds will not be released until the TV Fund Unit receives formal application paperwork, including fully costed budgets.

**TELECOMMUNICATIONS**

**Networking the Nation**

(1) The Government has developed several different initiatives to improve telecommunications services across Australia.

<table>
<thead>
<tr>
<th>The People’s Voice Project</th>
<th>A national community history website project, which has involved at least 7 communities from the Gippsland electorate to date.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(3) There was no funding for either project specifically identified for the electorate of Gippsland.</td>
<td></td>
</tr>
<tr>
<td>(4) Big Screen 2003</td>
<td>The Department of Communications Information Technology and the Arts, including ScreenSound Australia, has appropriated $106,000 toward overall funding for Big Screen 2003.</td>
</tr>
<tr>
<td>People’s Voice Project</td>
<td>No separate Departmental or ScreenSound funding has been appropriated for People’s Voice Project.</td>
</tr>
<tr>
<td>(5) For 2003, no separate funding has been identified for the electorate of Gippsland.</td>
<td></td>
</tr>
</tbody>
</table>

**COMMUNICATIONS PROGRAMS**

**BROADCASTING**

**Television Black Spots Program**

(1) The Television Black Spots Program (TVBSP) assisted the people living in the federal electorate of Gippsland

(2) The Television Black Spots Program (TVBSP) commenced in October 2000.

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   (b) One grant was made in FY 2000-01 to the Bemm River Progress Association of Bemm River of $275 for a new service needs survey.
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   In both cases payments were reimbursements for the technical surveys that are required of community groups when they submit Expressions of Interest for New Services under the Television Black Spots Program.

(4) Funds allocated for 2002-03 are $22,794 million.

(5) Up to $350,000 has been reserved for 3 black spots, namely Bemm River, Ensay and Swifts Creek in the electorate of Gippsland. However these funds will not be released until the TV Fund Unit receives formal application paperwork, including fully costed budgets.
Networking The Nation

A list of grants administered by Networking the Nation that provide assistance to the people living in the federal electorate of Gippsland is given at Attachment A. The list includes grants specific to the electorate of Gippsland as well as grants made to Regionwide, Statewide and Multistate projects that brought benefit to Gippsland.

Towns Over 500 and Regional Mobile Phone Programs

The Government entered into agreements with Telstra under the Towns Over 500 and Regional Mobile Phone Programs, to improve mobile phone coverage in selected towns and segments of regional highways, including areas in Gippsland. Under the Regional Mobile Phone Program, funding is provided for improved mobile phone coverage in towns with population less than 500 and 34 selected regional highways. In Gippsland, the towns of Bruthen, Heyfield, Stratford and Marlo, and the Cann Highway and the Great Alpine Road will receive improved coverage under these Programs.

Mobile Phones on Highways

The $25m Mobile Phones on Highways contract with Vodafone provides for near continuous mobile phone coverage for 16 of Australia’s major highways. This includes the Princes Highway through Gippsland.

Satellite Phone Subsidy Scheme

In addition, the Satellite Phone Subsidy Scheme is a Commonwealth initiative that provides a subsidy of up to $1,100 (including GST) towards the purchase of a mobile satellite phone for people living and/or working in areas beyond the reach of CDMA or GSM mobile coverage. Gippsland residents who currently do not receive terrestrial mobile phone coverage may be eligible for the subsidy.


The Towns over 500 Program commenced in 2001-02.

The Regional Mobile Phone Program commenced in 2002-03.

The Mobile Phones on Highways Program commenced in 2000-01.

(3) The following funding has been provided through Networking The Nation grants for the people of Gippsland in:

(a) 1999-2000, $745,500

(b) 2000-01, $913,200

(c) 2001-02, $444,223

No funding was provided specifically for Gippsland in these years under the Towns Over 500, Regional Mobile Phone or Mobile Phones on Highways Programs.

(4) The funding available to the Programs in the 2002-03 financial year is as follows:

<table>
<thead>
<tr>
<th>Program</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Networking The Nation</td>
<td>$65.7m</td>
</tr>
<tr>
<td>Towns Over 500 Program</td>
<td>$13.1m</td>
</tr>
<tr>
<td>Regional Mobile Phone Program</td>
<td>$17.4m</td>
</tr>
<tr>
<td>Mobile Phones on Highways Program</td>
<td>$18.9m</td>
</tr>
</tbody>
</table>

(5) Fund appropriated for the programs for 2002-03
**Networking The Nation:**

The amount of funding approved out of the NTN Program’s General Fund to assist organisations and individuals in the electorate of Gippsland in the 2002-03 financial year is $420,240. This figure is exclusive of GST.

**Towns Over 500:**

Funding under the Towns Over 500 program contributed to improved coverage at two sites in Gippsland. Funding under the Regional Mobile Phone Program contributed to improved coverage at a further three sites in Gippsland. For reasons of commercial confidentiality, the actual funding provided for these sites cannot be identified.

**Mobile Phones on Highways Program:**

No funding was specifically allocated to Gippsland under the Mobile Phones on Highways Program, although work was carried out on the Princes Highway that goes through Gippsland.

**Networking the Nation**

**Electorate of Gippsland specific projects**

There are 16 projects with a total commitment of $2,693,163 that have received funding from the NTN General Fund benefiting the electorate of Gippsland.

**Project Code: VIC1998/070**

Project Title: Uniting our Rural Communities—Technology and Community Leadership  
Applicant: Uniting our Rural Communities Steering Committee  
Funding: $328,200  
Funding Source: Networking the Nation—General Fund  
Project Description: The project has raised the awareness of and provided training in information and communications technologies for six communities (Bairnsdale, Leongatha, Maffra, Omeo, Orbost, Yarram) in Gippsland, by providing a series of workshops and discussion groups, a mentoring scheme, a web site and discussion list and a roving trainer.  
Project Acquitted: Yes

**Project Code: VIC1998/079**

Project Title: Goongerah Hall Telecommunications Project  
Applicant: Goongerah Community Hall Committee  
Funding: $16,000  
Funding Source: Networking the Nation—General Fund  
Project Description: The project established a public Internet access facility and provided IT training in the Gippsland community of Goongerah.  
Project Acquitted: Yes

**Project Code: VIC1998/080**

Project Title: GIPPSCOMM  
Applicant: Gippsland Development Limited  
Funding: $709,666  
Funding Source: Networking the Nation—General Fund  
Project Description: The project enabled Gippsland Development Limited (GDL) to: develop a business case to attract new and better quality ICT services in the region; establish points of presence (POPs) in unserved areas of Gippsland;  

QUESTIONS ON NOTICE
implement a range of technical support, training and implementation assistance for new users through the establishment of VICNET East.

Project Completed: Yes

**Project Code: VIC1999/095**

Project Title: Linking the Community: Telecommunications Solutions for East Gippsland

Applicant: East Gippsland Shire

Funding: $20,000

Funding Source: Networking the Nation—General Fund

Project Description: The project conducted research into the mobile telecommunications needs of the East Gippsland Shire including the development of a 12 month satellite mobile phone trial and the need for, and sustainability of, additional GSM or CDMA digital base stations in the Shire.

Project Acquitted: Yes

**Project Code: VIC1999/131**

Project Title: Installation of a Mobile Phone Base Station at Omeo

Applicant: East Gippsland Shire Council

Funding: $190,000

Funding Source: Networking the Nation—General Fund

Project Description: An outcome of VIC1995/095, provided mobile telephone coverage to Omeo and surrounding areas.

Project Acquitted: Yes

**Project Code: VIC1999/115**

Project Title: Gippsland Regional Internet Access Point

Applicant: Monash University

Funding: $20,000

Funding Source: Networking the Nation—General Fund

Project Description: Funding for the development of a Business Plan for the establishment of a local ISP peering system.

Project Completed: Yes

**Project Code: VIC2000/148**

Project Title: Access Through Outreach

Applicant: East Gippsland Institute of TAFE

Funding: $257,420

Funding Source: Networking the Nation—General Fund

Project Description: To promote electronic services including on-line banking, MAXI services, B-Pay, etc in rural communities, and broadly develop skills/study access by providing public Internet access (including out-of-hours) at the established East Gippsland Institute of TAFE outreach centres at Yarram, Heyfield, Swifts Creek, Buchan, Orbost and Mallacoota

Project Acquitted: Yes

**Project Code: VIC2001/223**

Project Title: Access Through Outreach Stage 2

Applicant: East Gippsland Institute of TAFE
QUESTIONS ON NOTICE

Funding: $201,335
Funding Source: Networking the Nation—General Fund
Project Description: Extended the work of VIC2000/148 for a second year and provided upgrade of training and equipment. Skilled mentoring of public access to the Internet continued for six outreach sites of the East Gippsland TAFE, in Yarram, Heyfield, Orbost, Swifts Creek, Buchan and Mallacoota. Maffra was included as a seventh site for training purposes. A strategic business plan is being developed for on-going public access to these facilities.
Project Completed: No

Project Code: VIC2000/149
Project Title: Communityhall.Net
Applicant: Maffra Area International Inc
Funding: $190,137
Funding Source: Networking the Nation—General Fund
Project Description: A rural electronic networking model has been established which can be rolled out intra regionally within Gippsland and beyond. The initial action has established an Electronic Learning Facility in Maffra in a building in central Maffra, in the event separate to the community hall, which has been of major benefit to young people. Appreciation of IT and Internet usage among the dairying industry has been an important sub-set of the work.
Project Completed: Yes

Project Code: VIC2001/282
Project Title: IT for LTAT
Applicant: Bungyarnda CDEP Co-Operative Limited & Lake Tyers Aboriginal Trust
Amount Approved: $65,000
Funding Source: Networking the Nation—General Fund
Project Description: This project is establishing a public Internet access centre on the Trust’s land at Lake Tyers, East Gippsland.
Project Completed: No

Project Code: VIC2000/174
Project Title: Bendoc Information Terminal
Applicant: Bendoc Progress Association Inc.
Funding: $8,000
Funding Source: Networking the Nation—General Fund
Project Description: The project will provide equipment for a public Internet access centre in Bendoc, North Eastern Victoria.
Project Completed: No

Project Code: VIC2000/201
Project Title: Wonthaggi Community Cyber Cafe
Applicant: The Salvation Army (Victoria) Property Trust
Funding: $172,000
Funding Source: Networking the Nation—General Fund
Project Description: The project has established a public Internet access centre and café in Wonthaggi. This facility aims to contribute to the employment and training opportunities available to disadvantaged people in Wonthaggi.
Project Completed: No

**Project Code: VIC2000/202**
Project Title: Koorie Community Information Technology Access Centre
Applicant: Woolum Bellum Koorie Open Door Education School, Kurnai College
Funding: $108,760
Funding Source: Networking the Nation—General Fund
Project Description: The project has established a public Internet access centre at the Woolum Bellum Koorie Open Door Education School that provides basic training and mentoring in IT and the Internet for community members.
Project Completed: No

**Project Code: VIC2000/208**
Project Title: Gippsland Aboriginal Information Technology Project
Applicant: Djeetgun Kurnai Women’s Aboriginal Corporation
Funding: $106,645
Funding Source: Networking the Nation—General Fund
Project Description: The project will improve information technology and Internet access facilities in Aboriginal Education Centres at Bruthen and Newborough, and establish a bank of mobile equipment to operate throughout the Gippsland region, particularly Morwell Hostel, Moogji and East Gippsland Co-operative.
Project Completed: No

**Project Code: VIC2001/238**
Project Title: Gippsland Community Training: Advanced Internet Skills for the Gippsland Region.
Applicant: VICNET: Victoria Government’s Network
Funding: $250,000
Funding Source: Networking the Nation—General Fund
Project Description: This project is delivering a range of ICT training services to the Gippsland region of Victoria via a mobile training service.
Project Complete: No

**Project Code: VIC2002/294**
Project Title: Indigenous Information Technology Centre
Applicant: East Gippsland A.C.D.E.P.
Funding: $50,000
Funding Source: Networking the Nation—General Fund
Project Description: The project has established and is operating an Indigenous orientated public Internet access centre in Bairnsdale, Gippsland.
Project Completed: No
Project Code: VIC1998/071  
Project Title: Victorian Rural Libraries Online  
Applicant: State Library of Victoria  
Funding: $3,479,407  
Funding Source: Networking the Nation—General Fund  
Project Description: The project aims to ensure the delivery of online information and Internet services and activities to the communities of rural Victoria through developing network connectivity to all branch libraries within rural and regional Victoria. It aims to provide local call access for all Victorian regional and rural libraries; and to increase connectivity for public access to these libraries.  
Project Completed: No

Project Code: VIC2000/175  
Project Title: Victorian Local Government Online Service Delivery  
Applicant: Municipal Association of Victoria  
Funding: $5,773,334  
Funding Source: Networking the Nation—Local Government Fund  
Project Description: This project is funding Victorian Local Government to implement an online services environment that complements, enhances and extends existing service delivery channels and provides new opportunities for local communities.  
Project Completed: No

Project Code: VIC1998/069  
Project Title: Skills.net in Schools  
Applicant: VICNET  
Funding: $275,000  
Funding Source: Networking the Nation—General Fund  
Project Description: The project provided 21 Skills.net Community Internet Access and Training venues in schools in regional Victoria (Bannockburn Primary, Blackwood Centre for Adolescent Development, Dederang Primary, East Loddon College, Glenrowan Primary, Harcourt Valley Primary, Hawkesdale College, Katunga South Primary, Kialla Primary, Kinglake West Primary, Lancaster Primary, Bright P-12 College, Mooroopna North Primary, Rawson Primary, St Joseph’s Primary, Torquay Primary, Underbool Primary, Wellington District, Welshpool and District, Westernport Secondary).  
Project Acquitted: Yes

Project Code: MST2000/86  
Project Title: Skills.net in Schools II
Applicant: VICNET
Funding: $500,000
Funding Source: Networking the Nation—General Fund
Project Description: The project built on the success of the Skills.net in Schools project. This project has provided some 27 additional Skills.net in Schools projects, across regional and rural Victoria that involved training groups of people in various computer skills (Seymour East Primary, Peranbin Primary – Violet Town, Corryong Consolidated School, Great Valley Primary – Greta South, Lavers Hill P-12 College, Clifton Creek Primary, Tungamah Primary, Benambra Primary, Noojee Primary, Woolum Bellum Koori Open Door Ed. – Morwell, Eaglehawk Secondary – Bendigo, Wanganui Park SC – Shepparton, Lowanna College – Moe, Latrobe Valley, Lockwood Primary, New Gisborne Primary, Emmanuel College, Tarwin Lower Primary, Thoona Primary, Kialla West Primary, Ripplebrook Primary, Yinnar Primary, Wunghnu Primary, Nathalia Primary, Murchison Primary, Yarrambat Primary, Dimboola Memorial Secondary, Toomanba Primary, Lismore Primary, Ocean Grove Primary, Garfield Primary, Lake Bolac College, Congupna Primary, Kaniva Secondary, Bunyip Primary, Avenel Primary, King Valley Learning Exchange).
Project Completed: Yes
Project Code: VIC2000/186
Project Title: Skills.net for Small Business
Applicant: Skills.net Association Co-op Ltd
Funding: $26,620
Funding Source: Networking the Nation—General Fund
Project Description: This project conducted a detailed needs analysis, examined the most effective delivery mechanism/s for delivering e-commerce and electronic delivery awareness raising and training to SMEs in rural Victoria and developed an implementation strategy. See project VIC2001/283 below.
Project Acquitted: Yes
Project Code: VIC2001/228
Project Title: Skills.net in Schools III
Applicant: VICNET: Victoria’s Government Network
Funding: $580,800
Funding Source: Networking the Nation—General Fund
Project Description: The project intends to provide public Internet access and training services on existing equipment and infrastructure in at least 40 public schools in regional and rural Victoria to expand the availability of low cost Internet access and training to small rural and regional communities where the school is the primary community focus. (Eskdale Primary, Tawonga Primary, Edi Upper, Benalla East Primary, Melrose Primary, Ocean Grove Primary, Harrietville Primary, Newcomb Secondary, St Patrick’s School – Port Fairy, Lavalla Catholic School – Traralgon, Irymple Primary, Boolarra Primary, Nar Nar Goon Primary, Orbost North Primary, Katunga Primary, Gowrie Street Primary – Shepparton, Koroi and District Primary, Rosewall Primary – Corio, Wodonga High, Longwarry Primary, Lakes Entrance Primary, Tallangatta Secondary, Swifts Creek Secondary).
Project Completed: No
Project Code: VIC2001/283
Project Title: Building Best Practice in E-Commerce Training
Applicant: Skills.net Association Co-op Ltd
Funding: $227,900
Funding Source: Networking the Nation—General Fund

Project Description: This project is developing and implementing a statewide e-commerce training program for SMEs.

Project Completed: No

**Project Code: VIC2001/237**

Project Title: access@schools—Community ICT Access

Applicant: Department of Education, Employment and Training, Victoria

Funding: $2,500,000

Funding Source: Networking the Nation—General Fund

Project Description: This project will use the infrastructure of government schools to offer free or affordable Internet access and introductory training to as many as 279 rural communities across Victoria.

Project Completed: No

**Project Code: VIC1999/087**

Project Title: Linking Regional and Rural ACE Providers

Applicant: The Adult Community and Further Education Board

Funding: $1,925,500

Funding Source: Networking the Nation—General Fund

Project Description: The project will improve access to the Internet through an increase in the number of computer workstations and new network connections to country Victorian ACE Funding Recipients, mostly in smaller communities.

Project Completed: No

**Project Code: VIC1999/114**

Project Title: Scoping of Implementation Strategy for Tele-legal Services in Regional Victoria

Applicant: Victoria Legal Aid

Funding: $12,500

Funding Source: Networking the Nation—General Fund

Project Description: Funding enabled Victoria Legal Aid to undertake consultation and develop a strategy for implementation of legal aid video-conferencing services throughout Victoria.

Project Acquitted: Yes

**Project Code: VIC1999/123**

Project Title: Farm Management 500.WEB

Applicant: Farm Management 500

Funding: $202,000

Funding Source: Networking the Nation—General Fund

Project Description: This project has provided training and awareness through a series of workshops to farm groups throughout the State.

Project Completed: No

**Networking the Nation**

**Regionwide Projects with some Benefit to Gippsland**

**Project Code: VIC1997/011**

Project Title: Installation of Broadband Digital Wireless Network
Applicant: Bass Coast Shire Council
Funding: $50,000
Funding Source: Networking the nation—General Fund
Project Description: Communities in the region were to benefit from free local calls between subscribers, cheaper calls outside the STD zone and improved speed for Internet access. This was to be achieved through the installation of a broadband wireless local access network with a microwave link connecting to carrier gateways in Melbourne. The private sector partner withdrew after initial investigations and the project was terminated.
Project Completed: Yes
Project Code: VIC1997/013
Project Title: Networking Dog
Applicant: La Trobe Shire Council and Monash University Centre for Electronic Commerce
Funding: $415,000
Funding Source: Networking the Nation—General Fund
Project Description: The project developed an electronic commerce training and awareness program for small to medium enterprises and communities in regional and rural areas.
Project Acquitted: Yes
Project Code: VIC1998/025
Project Title: GippsComm
Applicant: Gippsland Development Ltd
Funding: $50,000
Funding Source: Networking the Nation—General Fund
Project Description: This project allowed Gippsland Development Limited to audit and evaluate existing and planned telecommunications infrastructure in the Gippsland region, and to authenticate current perceived community need. The project resulted in the identification of the most appropriate information technology and telecommunications infrastructure to suit the needs of the region.
Project Acquitted: Yes
Project Code: VIC1998/027
Project Title: Bass Coast—Technology Centre and IT Platform
Applicant: Casey Institute of Technical and Further Education
Funding: $84,000
Funding Source: Networking the Nation—General Fund
Project Description: The project established a “Technology Centre” in the Chisholm Institute of Technical and Further Education in Wonthaggi to increase awareness and improve local information technology training facilities.
Project Completed: Yes
Project Code: VIC2000/167
Project Title: Community Access Technology Centres
Applicant: Education Trust Victoria Ltd.
Funding: $131,500
Funding Source: Networking the Nation—General Fund
Project Description: The project has funded computers networked to the Internet and other IT equipment in Westernport Secondary College, Hastings and salary for public access oversight out of school hours. It also provided IT equipment to Mitchell Secondary College, Wodonga to strengthen the public access being offered; and similarly provided IT equipment to Poowong Consolidated School in South Gippsland for public access to the Internet.

Project Completed: No

**Project Code: VIC2001/284**

**Project Title:** Networking the Clubs

**Applicant:** Victorian Association of Youth in Communities

**Funding:** $40,000

**Funding Source:** Networking the Nation—General Fund.

**Project Description:** Two computers and associated equipment will be provided and connected to the Internet in youth clubs in six rural communities where there is no alternate public access to the Internet (Apollo Bay, Bellarine, Belmont, Koorong Vale, Licola, Yarrawalla). The facilities will be made available to the public.

Project Completed: No

**Networking the Nation**

**Multistate Projects Providing Some Benefit to Gippsland**

Funding shown is from Victorian funds only

**Project Code: MST2001/120**

**Project Title:** Delegate/NE Gippsland Mobile Telephone Coverage

**Applicant:** Bombala Council

**Funding:** $65,000

**Funding Source:** Networking the Nation—General Fund

**Project Description:** This project involves provision of digital mobile phone coverage in the area surrounding Delegate Hill in Gippsland Shire on the NSW/Victorian border.

Project Completed: No

**Project Code: MST2001/124**

**Project Title:** Riverina Highlands/Upper Murray Mobile Telephone Coverage

**Applicant:** Tumbarumba Shire Council, Holbrook Shire Council and Towong Shire Council

**Funding:** $39,750

**Funding Source:** Networking the Nation—General Fund

**Project Description:** This project involves provision of digital mobile phone coverage in Khancoban and Jingellic in NSW and Walwa in Victoria, and the surrounding areas.

Project Completed: No

**Trade: Blueberry Exports**

*(Question No. 1206)*

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 25 February 2003:

(1) What was the volume and value of exports of blueberries from Australia in the past 3 financial years.
(2) What was the volume and value of exports of blueberries from Australia to Japan in the past 3 financial years.

(3) From which regions in Australia are blueberry exports sourced.

(4) Can details be provided of the alleged incident in November 2002 involving two shipments of blueberries to Japan containing high levels of the insecticide malathion, including: (a) when the shipments were made; (b) the origin and destination of the shipments; (c) the name of the blueberry company and, if applicable, the export company concerned; (d) the details of maximum allowable residue levels in blueberry exports to Japan; (e) the details of the detected residue and level of residue present in each of these shipments; (f) the details of the general inspection regime, if any, for exports of blueberries to Japan; (g) the details of the pre-export inspection, if any, of these two shipments; (h) when the unacceptable residue level was detected by the Japanese authorities; (i) the action taken by the Japanese authorities following the residue detection; (j) the resulting consequences for Australian blueberry exporters and exporters of other agricultural products, including additional testing requirements and loss of market share; and (k) details of action taken by the Minister and/or his department in relation to this matter.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) (2) and (3) Data specific to blueberries is not available, as blueberries are not separately identified in the Australian export tariff. Instead data is collected on Australia’s exports of berries of the genus Vaccinium, which includes blueberries, cranberries, bilberries etc.

(4) Details of alleged incident in November 2002 involving two shipments of blueberries to Japan containing high levels of the insecticide Malathion.

(a) The first shipment of contaminated blueberries arrived at Narita International Airport on 27 October 2002. The second shipment of contaminated blueberries arrived at Narita International Airport on 18 November 2002.

(b) The product origin of the first shipment was recorded as Queensland, Australia. The product origin of the second shipment was recorded as New South Wales, Australia.

(c) The blueberry company and exporter involved was Blueberry Farms of Australia.

(d) The maximum residue limit (MRL) of Malathion allowed in blueberry exports to Japan is 0.5 parts per million (ppm).

(e) In a routine residue survey on 1 November 2002, the Japanese Ministry of Health, Labour and Welfare (MHLW) recorded a Malathion residue of 0.85 ppm in the first shipment. The second shipment was detected to have a Malathion residue level of 0.67 ppm.

(f) The Australian Quarantine and Inspection Service (AQIS) undertakes inspections of blueberries on a consignment basis - where a consignment is defined as the product declared on a single phytosanitary certificate. A representative sample is randomly selected from the consignment and visually inspected for the presence of live quarantine insects/diseases. Each piece of produce in the inspection sample is closely examined, and any suspect produce is further examined using a X10 hand lens. The packaging is also checked for the presence of live insects. The entire consignment will pass or fail based on the outcome of the inspection. AQIS does not examine or test fresh fruit or vegetables for chemical residues or for quality issues.

Unless a different sampling rate is specified by the importing country (i.e. under a protocol arrangement), the inspection sample is to comprise 600 units (unit is 1 piece of fruit or vegetable) - or for small consignments, 2% of the cartons in the consignment. In the case of blueberries, which are packed in small punnets, the inspection sample is selected on the following basis: Random selection of 6 trays/cartons per consignment and full inspection of 2 punnets per...
tray/carton (equivalent to 50 berries per punnet). This will give a sample size of 600 units. Alternatively, 2% of the number of trays can be sampled with the minimum sample being 3 punnets per tray.

(g) AQIS understands that the pre-export inspections for these two shipments were performed according to the above criteria.

(h) The excessive residue level of Malathion was detected in the first shipment on 1 November 2002. MHLW notified the Australian Embassy in Tokyo of the second Malathion residue detection on 25 November 2002.

(i) After the detection of the first violation of the MRL in the first shipment of blueberries, the Japanese government implemented a 50% enhanced inspection order in accordance with Japanese legislation. Japanese authorities notified the Australian exporters of the high Malathion residues on 5 November 2002 for the first consignment and 25 November 2002 for the second consignment. On 26 November 2002, MHLW notified by press release, the implementation of an enhanced inspection order for blueberry fruit from Australia. The order required sampling and Malathion testing of all (100%) blueberry fruit imported into Japan. This order stipulated that MHLW would approve customs clearance of Australian blueberries after MHLW-certified laboratories confirmed non-violation of the MRL for Malathion.

MHLW conducted a review of the existing inspection orders during March, and have implemented the enhanced inspection order from 1 April 2003 until 31 March 2004. All Australian blueberries, (excluding those which are accompanied by an Australian Government certificate for completion of chemical residue tests), will be subject to inspections by MHLW-certified laboratories for Malathion residues.

(j) Between when the first violation was detected and remedial action taken, and 28 January 2003, 83,931 trays of blueberries in 187 containers have been exported to Japan by Blueberry Farms of Australia and tested for Malathion residues. All have been cleared for release. Furthermore, since the 100% inspection and testing requirement was imposed by MHLW on 26 November 2002, and 28 January 2003, 38,501 trays of fruit in 55 consignments have been successfully imported into Japan in 58 AV containers. All shipments to other countries, including the UK, have met all of these countries’ food safety standards and MRLs. Up until 28 January 2003, this was in excess of 122 consignments totalling more than 28,620 trays.

(k) After notification of the detection of the Malathion residue violation on 5 November 2002, remedial actions commenced immediately by AFFA. Malathion is now applied to blueberries at 50% label rate and not used at all on small blueberry bushes. After the second violation was reported, all Malathion applications to blocks for Japan ceased and the chemical is no longer used for pest control.

Exporters information was obtained from importers to aid the trace back of fruit by AFFA.

An AQIS audit visit was conducted on 3 December 2002. The auditor verified that the violation of the MRL was not due to deficiencies in AQIS regulated procedures.

Correspondence and representations by staff have been exchanged between the Australian Embassy in Japan and MHLW on a number of occasions providing technical and other information outlining remedial action taken to prevent recurrence of residues of Malathion over the Japanese MRL. MHLW has also been approached by AFFA regarding alternative arrangements for certified organic fruits from Australia.

Iraq
(Question No. 1452)

Senator Nettle asked the Minister for Defence, upon notice, on 12 May 2003:
(1) Will detailed information regarding the recent activities of the Australian Defence Force (ADF) in Iraq be made available to the Australian public; if so, when; if not, why not.

(2) (a) What are the casualty figures (deaths and injuries) of Iraqi citizens that directly resulted from action taken by the ADF; (b) how many of these casualties were (i) military, and (ii) civilian; and (c) in what circumstances did these casualties occur.

(3) Was the ADF involved in any coalition operations that involved the use of cluster bomb munitions.

**Senator Hill**—The answers to the honourable senator’s questions are as follows:

(1) Defence has released accurate and detailed information regarding the activities of Australian Defence Forces (ADF) throughout its operations in Iraq. Information has only been withheld if deemed necessary for the security of ADF and Coalition personnel. I have given frequent media statements and Defence has made ongoing efforts throughout the Operation to keep the Australian Public informed of our efforts. This has been achieved with the development of an unclassified website; daily operations briefings from ADF spokesmen and numerous public statements from CDF, Service Chiefs and other senior officers, both in Australia and the Middle East Area of Operations. Also, official Defence historians are deployed in theatre to record significant events. At the completion of the Operation, and given the appropriate period for publication the official, historians’ report will be readily available to the public.

(2) The types of operations conducted by the different ADF elements makes it impossible to give an accurate figure of Iraqi casualties, either military or civilian and any attempt to do so has the potential to be misleading.

(3) No. Australia does not use cluster munitions and the ADF does not have cluster munitions in its inventory. Actions by others in the wider battle sometimes involved the use of cluster munitions. It is possible that ADF forces were indirectly involved in operations in which others used cluster munitions. Therefore, although I am able to confirm that cluster munitions were not used by the ADF, I am unable to confirm that ADF elements were not involved in operations where those munitions were employed.

Iraq

**Senator Brown** asked the Minister for Defence, upon notice, on 15 May 2003:

With reference to the answers to question on notice nos 1160 to 1162 (Senate Hansard, 14 May 2003, p.10967):

(1) Have Australian Defence Force (ADF) personnel been instructed to prevent objects of archaeological or cultural significance from being taken out of Iraq.

(2) (a) What instructions have been given to ADF personnel about the movement of items of archaeological or cultural significance; and (b) can a copy of the instruction be provided.

(3) (a) Are ADF personnel able to search people leaving Iraq; and (b) do ADF personnel search people leaving Iraq; if so: (i) under what circumstances, and (ii) have any archaeological or cultural items been recovered.

(4) (a) Can a copy be provided of the analysis relating to cultural property, including archaeological sites, which was prepared for the military operations in Iraq as referred to in your previous answer; and (b) if a different analysis has been prepared for the occupation of Iraq, can a copy of that also be provided.

(5) Is Australia required to analyse the effectiveness of its compliance with the Hague Convention; if so: (a) when and how will that be done; and (b) when will it be published.

**Senator Hill**—The answers to the honourable senator’s questions are as follows:
(1) Australia is subject to a range of obligations under international and domestic law governing cultural property. Cultural property is protected under the laws of armed conflict and specific conventions. For each specific operational deployment, Australian Defence Force (ADF) personnel receive training that concentrates on an individual’s obligations under the laws of armed conflict including the obligation to respect cultural property. For Operation FALCONER, the training has included individual member’s obligations under the Hague Convention (1954) and the First Additional Protocol to the Geneva Convention (1949).

(2) (a) and (b) Defence has issued policy giving specific guidance on collection restrictions, the approval process, in-theatre preparation and the management of non-Australian imported materiel into Australia. The following is taken from ADF policy: ‘No private property is to be taken from civilians and no religious or cultural material is to be taken’. The policy is classified at a level restricting it from being viewed in the public domain.

(3) (a) Yes. (b) Yes. (i) Australian Defence Force personnel are empowered to conduct searches of persons and property under mission specific circumstances. Search of persons and their baggage embarking on ADF aircraft, vessels and vehicles is also permitted. (ii) No.

(4) (a) and (b) As noted in the response to Senate Questions on Notice Nos 1160-1162 of 14 February 2003, information on protected buildings and objects in Iraq was derived from a variety of intelligence sources and it is not the Government’s policy to divulge those sources or their product. The classification of the analysis does not allow it to be tabled in the public domain. That analysis complied with the laws of armed conflict including the Hague Convention, its definitions of archaeological and cultural sites. A separate analysis has not been conducted for the occupation of Iraq.

(5) (a) and (b) Under article 26(2) of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, Australia has an obligation to periodically report on measures being taken, prepared or contemplated by the Government of Australia in fulfilment of that Convention. However, Australia does not formally have an obligation to conduct an analysis of the effectiveness of its compliance, with respect to the operations of Australian forces during activities such as Operation FALCONER with the Convention.