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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 12.30 p.m., and read prayers.

AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [No. 2]

In Committee

Consideration resumed from 19 June.

The CHAIRMAN—Order! The committee is considering the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2] and opposition amendments Nos 4 and 5 on sheet 2953. The question is that the amendments be agreed to.

Senator NETTLE (New South Wales) (12.31 p.m.)—These amendments relate to the onus of proof and reversing the burden that is currently on those held by ASIO under this legislation to prove to the ASIO interrogators that they do not have the information that the ASIO interrogators believe they do have. So rather than as in a normal courtroom, where a person is innocent until proven guilty, this piece of legislation seeks to turn around a fundamental principle of our legal system and set forward a situation where a person is guilty until they prove themselves innocent. The job for the person being interrogated by ASIO is then to prove that they do not have information that ASIO believes they do have.

The Australian Greens will be supporting these amendments, and I know that these amendments in particular have been of concern to the media and to journalists, who, in particular, are caught in the wide net of this legislation—that is, innocent people, journalists, who may happen to have information about something that ASIO is interested in and who are called for an interrogation lasting for however long we determine as this debate continues on. The question currently before those journalists is that they must prove that they do not have the information, rather than the prescribed authority in this instance having to prove that they do have the information. I know that these amendments are of particular concern to media organisations in terms of protecting innocent journalists who will be caught up in this legislation. For that reason, the Australian Greens believe it would be appropriate for those putting forward these amendments to insist on them to ensure that we see a return to the innocent until proven guilty scenario that currently exists in our legal system, rather than turning it around. The Australian Greens will be supporting these amendments and would like to see the opposition insisting on these amendments so that it is not so much these innocent journalists having to prove that they do not have the information but, rather, the other way around and the prescribed authority and ASIO having to prove that those people do have that information.

Senator BROWN (Tasmania) (12.34 p.m.)—The bill before us says in subsection 34G(3)—under section 34G, relating to giving information and producing things—that the person who has been brought in who is not considered guilty of any terrorist act or potential terrorist act but who has information that ASIO may want is, under this clause, required to give the information requested. It says:

A person who is before a prescribed authority for questioning under a warrant must not fail to give any information requested in accordance with the warrant.

So the warrant says you have got to give information that is specified there whether or not you have got it, and five years in jail is the penalty for not giving that information. However, the next subsection says:
Subsection (3) does not apply if the person does not have the information.

We are caught in a situation where a person under warrant and under the threat of five years jail has to produce information specified on the warrant unless they do not have it. But the burden is on them to prove they do not have it. So you are stuck there in this inquisition in secret, potentially without your lawyer, and you have to prove you do not have the information. As Senator Nettle says, that cuts right across established law in this country—it cuts right to the fundamentals of it, not just right across it. It is at a time when a person is most vulnerable, because either they do not have legal assistance or, if they do, it is not necessary the legal assistance of their choice—it depends on what ASIO thinks—and they are put in this impossible situation.

Two things come out of this. Firstly, could the Minister for Justice and Customs explain how a person who is required to produce a piece of information and who says they do not have it is going to prove that? Could he put himself in that situation and explain to the committee how he would do that? Secondly, could the minister explain the process from there? If you are required to prove that you do not have the information, what is the process as you go towards this penalty of five years? Which court are you brought before? When you are brought before the court, how does the court deal with the reversal of the onus of proof in this situation under this piece of legislation?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.37 p.m.)—Senator Brown has asked how a person who is required to produce a piece of information and who says they do not have it is going to prove that? Could he put himself in that situation and explain to the committee how he would do that? Secondly, could the minister explain the process from there? If you are required to prove that you do not have the information, what is the process as you go towards this penalty of five years? Which court are you brought before? When you are brought before the court, how does the court deal with the reversal of the onus of proof in this situation under this piece of legislation?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.37 p.m.)—Senator Brown has asked how a person would be dealt with if they did not have the information that was being sought. It really depends on the circumstances. If a person says, ‘I gave that to another person, X’—they can say that—that can then be followed up. Obviously that would be the subject of investigation by ASIO; they would want to know that, as well as to whom the person gave the information and how the information was disposed of. There would be further inquiry about that. It is not such an issue, although Senator Brown says it is.

With regard to prosecution, I understand that any court exercising federal jurisdiction would be able to deal with the matter. The jurisdictional limits would depend on the varying state requirements—that is, whether it would be dealt with by a Court of Petty Sessions or dealt with on indictment would depend on the state law concerned, because some of them have varying caps for the jurisdiction of petty sessions courts. On the issue of whether a person had that information, one can appreciate that in all manner of situations you would have some evidence of whether or not you had that information or what you had done with it. You could say: ‘Look, I had that information; I gave it to someone. There is the person. You can go and ask them.’ It really does depend on the circumstances.

Senator BROWN (Tasmania) (12.39 p.m.)—I have a simple question for the minister: has the minister ever lost a notebook or a tape?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.40 p.m.)—Yes, and in those circumstances you can say: ‘Well, I had that—I admit I had it—but I don’t have it anymore. I misplaced it,’ and give details surrounding that. You could also say, though, where you got the copy or the tape or who gave you the notebook, if someone gave it to you. Those are circumstances that do not cause any issue or problem but that could assist the authorities. They can say: ‘We’ll look into that—that’s fine. Thanks for that.’ It is that sort of intelligence gathering that has to be understood here. To
read something into it that is not there really does not help the debate on this issue.

Senator BROWN (Tasmania) (12.40 p.m.)—No, it is quite the opposite: to dismiss this as being an easy matter of everybody settling for that—‘Oh well, we’ll take the word of this witness that they don’t have this information, somebody else took it off them or they lost it’—is a joke. It is a very serious failure to come to terms with the importance of this break from the way that common-law justice works in this country, which is that it is up to the prosecutors to prove the guilt of the person committed for trial for any matter, not the other way around. There are justice systems in other countries that do it that way, but we do not do that in this country.

Suddenly, in a situation where a person is more vulnerable than in any other circumstances I know of under the law in this country, the government is trying to reverse the burden of proof in this bill. The opposition has moved to omit the note at subsection 34G(4)—the amendment also applies to the same note at subsection (7)—which says:

A defendant—that is, the person being interrogated by ASIO—bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the Criminal Code).

I submit that it is not simply a case of this person saying, ‘I lost it’ or ‘Somebody else took it.’ The person would then be charged with refusing to give the information that an ASIO operative thought this person had in their possession—because they overheard them in a restaurant or in a home, talking with somebody else and taking notes or making a file or tape—but that was no longer available. Remember, we could be talking about an interrogation taking place 12 months later.

As the minister says—and it applies to me as well and, I am sure, to everybody else here—we do not keep records of many things and we lose things. But we are now putting the onus on the defendant to produce that item. It is a very dangerous proposition because there is a five-year jail term, not based on ASIO’s ability to prove you have this information and are not producing it but based on your ability to prove that (a) you do not have it and (b) it is not your fault that you do not have it. It is totally wrong. Could the minister explain to the committee why this change in common law has been introduced at this stage—why it is that the usual system of justice does not apply in these circumstances? Could the minister explain that to the committee, while we try to evaluate what on earth the government’s argument is for opposing this amendment?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.44 p.m.)—Commonwealth criminal law policy on reversing the onus of proof is that it should only be allowed in cases where the matters to be proved are peculiarly within the knowledge of the defendant and are difficult and costly for the prosecution to disprove beyond a reasonable doubt. If the matter is peculiarly within the knowledge of the defendant, it will therefore be within his or her ability to prove or disprove. That is a policy which runs across Commonwealth criminal law; it is not something which has just been thought of. It has been there for some time and it runs across the whole criminal law jurisdiction.

What we have here is a situation where a person is questioned who could well have information which only they know of. It is something which is peculiarly within their own knowledge. We are saying that that person should be able to say where this information is, where it has got to and whether they had it or not. That is at the interview stage
and, as I say, that depends on the circumstances. What Senator Brown is taking further is the actual prosecution. He is saying, ‘You should have this formal process at the interview stage,’ and that we are abrogating individual rights at that interview stage, because we are not ascribing to it those formal standards and burdens of proof that are present in a prosecution stage. The investigation stage is simply that—one of trying to garner more intelligence and find out where the information is. That is it.

However, when you find that someone is withholding information and there are grounds for a prosecution, then you have a prosecution. That is when you deal with the question of the burden and onus of proof. We are saying that the person then, if they are charged, has to merely adduce evidence as to the information and its whereabouts, but that it is still for the prosecution to prove beyond a reasonable doubt that the person has withheld information—that is, to dispel the evidence of the defendant.

That is something which is not unknown in the criminal jurisdiction of the Commonwealth, and to confuse that with the interview stage, I think, is really muddying the waters. There is an interview and ASIO ask the person: ‘Where is the information? You’ve got to tell us. What is your last knowledge of where you had it? Did you have it to start with?’ The burden of proof only arises if the matter is prosecuted, and that arises if ASIO are of a view that a charge should be laid, because the person has withheld information. There is really nothing untoward or unusual in this proposal. It is something which we find elsewhere in the criminal jurisdiction of the Commonwealth. To try and imply that this is something that has been brought in which is unusual or unique is wrong.

**Senator BROWN (Tasmania) (12.48 p.m.)**—I ask the minister: is it usual in Commonwealth law that the burden and the onus of proof is on the defendant? Secondly, would the minister give an example of a case in which these sections will apply?

**Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.49 p.m.)**—As I have said, it is not unusual to have this requirement where the facts are peculiarly within the knowledge of the person being questioned. Of course this does not apply across the board generally, because in many cases the facts of the issue are not peculiarly within the knowledge of the person being questioned. As I have said, it only applies where you have that situation, and in that situation it is not unusual for the Commonwealth to have this exemption. In relation to where it exists elsewhere in criminal law, I will have to take that on notice. We can provide examples to the committee, and I should be able to obtain those shortly.

**Senator BROWN (Tasmania) (12.50 p.m.)**—We have established that it is not usual. To quote the minister—who uses a double negative—he says, ‘It is not unusual,’ but that is not the fact. I really wish he would give us an example of where a person under interrogation is going to be required to produce this evidence—a clear and simple case that has entered the minds of those who have devised this piece of legislation. The note in this bill says, ‘Go to subsection 13.3 of the Criminal Code.’ In tracking this down in the Criminal Code, section 13.4 is also relevant. That section states:

A burden of proof that a law imposes on the defendant is a legal burden if and only if the law expressly:

(a) specifies that the burden of proof in relation to the matter in question is a legal burden; or

(b) requires the defendant to prove the matter; or
(c) creates a presumption that the matter exists unless the contrary is proved—
Section 13.3 states:
Evidential burden of proof—defence
(1) Subject to section 13.4, a burden of proof ... is an evidential burden only.
(2) A defendant who wishes to deny criminal responsibility by relying on a provision of Part 2.3 (other than section 7.3) bears an evidential burden in relation to that matter.

What I want the minister to do, because this is a very important law we are dealing with, is explain to the committee what all that means. What is meant by the term ‘evidential burden only’?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.52 p.m.)—The evidential burden means you merely have to raise the issue—that is, you say, ‘Look, I don’t have it for this reason,’ and you raise that. The prosecution then has to dispel that beyond a reasonable doubt. So the onus is still on the prosecution to prove the matter beyond a reasonable doubt.

In relation to this aspect of knowledge, I can refer Senator Brown to subsection 136.1(2) of the Criminal Code Act 1995, where it talks about knowledge. Subsection (1) talks about a person being guilty of false statements, and subsection (2) states:

Subsection (1) does not apply ... if the statement is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3).

Where you have a general section dealing with knowledge and false statements, the Criminal Code still outlines there the circumstances where a person has an evidential burden. It outlines that, in particular, in relation to persons guilty of an offence if persons make a statement knowing that the statement (1) is false or misleading or (2) omits any matter or thing without which the statement is misleading; so it means where you make a false statement or you omit anything which then makes it false or misleading.

But you will see very clearly that it states there that a defendant bears an evidential burden in relation to the matter in subsection (2). So we have here a comprehensive statement in relation to knowledge and how it works in the criminal jurisdiction. Here we have a set of circumstances where a person is questioned by ASIO and we ensure that it is consistent with the general application of Commonwealth criminal law. Where a person is questioned and has facts which are peculiar to their own knowledge, then that person has an evidentiary burden only—that is, merely to raise it; they have to say where the information is to the best of their knowledge, what they did with it, whether they gave the tape to anybody. If they lost it, they say they lost it. They have to say whether they made notes, when they made them and what they were of. They can say: ‘Look, I’ve lost the notebook, but I can tell you I made notes of this, that and the other. As best I can recollect, this is what I noted.’ That is what it is about.

At that point, if ASIO is of a view that the person is guilty under this section, it charges the person but still has to prove beyond a reasonable doubt that the evidence or the statement is wrong or is false. The defendant has an evidentiary burden of saying, ‘Yes, I had this information and this is what it said,’ but once that has been raised it is then for the prosecution to dispel that beyond a reasonable doubt. So the burden is still with the prosecution.

Senator BROWN (Tasmania) (12.56 p.m.)—We are moving along here. The minister has said that the defendant, either in the interrogation period with ASIO or in the consequent court proceedings where they have
been charged by ASIO, saying, ‘I lost the information,’ is sufficient, that that will discharge the evidentiary burden. If that is not so, I would like to hear from the minister what he meant when he said that ‘I lost it’ would be sufficient. I simply do not believe that.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.56 p.m.)—I want to correct the record. I did not say that if someone said they lost information that could be the grounding for a prosecution. I did not say that at all. I do not pre-empt in any way what ASIO might or might not do. I simply was demonstrating an instance where a person might say what had happened to information. But, of course, if a person is deliberately failing to give information, deliberately withholding information or deliberately making a false statement, that is another matter. It is another matter if a person is making a false statement to ASIO. But I am not saying that, because they cannot find the information, they will be charged. That is totally wrong. If Senator Brown is trying to say that is what I have said, he is misrepresenting what I have said.

Senator BROWN (Tasmania) (12.57 p.m.)—This debate is very important. That is what I heard the minister say, but he has now instantly backed off from it. The fact is that the Australian Security Intelligence Organisa-
tion Legislation Amendment (Terrorism) Bill as it stands puts the burden of proof on persons who otherwise are blameless, who are known to be innocent but now, because it is thought by ASIO they have some information, are interrogated by ASIO and told, ‘You have this piece of information. We want it. Where is it?’ and have to prove they do not have it. It is no good saying, ‘I lost it,’ or ‘I never had it in the first place.’ ASIO says, ‘We have this piece of evidence that says you do have it, and you have to prove you do not.’ That is a very dangerous circumstance.

Moreover, it becomes a bit intimidating if you do not have legal advice present, which this legislation allows for, and the interrogat-
ing officer or indeed the faceless judge who is also present, says, ‘If you cannot settle this matter here, you face five years in prison.’ This is putting people in a police state situation and, moreover, it is allowing people to be set up. This is fraught with problems.

I take the committee’s mind back, for ex-
ample, to the International Commission of Jurists, which said that this legislation is more likely to grab people who are innocent and not terrorists. It is legislation about getting information. We have laws to have plot-
ting terrorists and terrorists arrested and put out of action. This is about getting information back along the line. It is specifically aimed at getting information from people who are innocent of even the suspicion of terrorism. But here we have such people po-
tentially put in a position where, if they can-
not prove in court that they do not have evi-
dence that they are accused of having—and the whole surveillance and policing authority of ASIO is on the other side saying, ‘This person does have this’—they face five years in jail. But ASIO does not have to prove it: they do. They have to prove that they do not have it. Of course the minister backed off from saying that it is sufficient to say, ‘I lost it,’ or ‘I did not have it in the first place.’ That will hold no water whatsoever in this circumstance—none. The minister has effec-
tively admitted that.

This is not a situation that is simply an ex-
tension of the Criminal Code—that is, the working of the law of this country for people who are guilty. Under this piece of legisla-
tion, we are talking about people brought forward who are known to be innocent. It is a totally different circumstance. But a provi-
sion in the Criminal Code is being applied here. It becomes double jeopardy for that person because (a) they are innocent in the
first place, and (b) they are being saddled with proving that they are innocent. What worries me is that, with this amendment, the opposition say that they will strike out the part that puts the evidentiary burden on the defendant but that they will not stick by it. The opposition have sent a signal to the Howard government that, when push comes to shove, they are going to back off. So we are actually debating a situation where the opposition are going to support knocking out their own amendment and support what the government are doing. That is a frightening prospect and is one that, I believe, we are going to be faced with before the end of the week.

Lawyers will be looking through Hansard further down the line. It is very important that the hapless people caught up by this legislation know exactly where they stood and what was in the minister’s mind—not what was in Senator Nettle’s mind or Senator Greig’s mind or Senator Faulkner’s mind, but what was in the mind of the government—with this piece of legislation. That is why I think it is very important. It is incumbent on the minister to say exactly what the circumstances are that would lead to a person being charged because they did not produce evidence that ASIO says they have. This is a person suddenly taken off the street who has no time to think of a defence and does not necessarily even know why they have been taken off the street. Nor does their lawyer know, if they are lucky enough to have one.

In the meantime, ASIO has been investigating this person full-on. As we all know, no such institution is infallible. Let us not stray into the area of any police organisation ever deliberately trying to set somebody up. We do not need to. No organisation is infallible and that is why the burden of proof is on the prosecution to show that a person is guilty. But not here—that is being reversed. We have secret police powers, without the usual checks and balances, being used against a person who is innocent. It is very dangerous. It should not prevail.

On behalf of the Greens, I ask that the opposition again reconsider this failure to stand, whereby the opposition amendments are going to fail if the government puts pressure on. The signal has been sent to the Attorney-General and the Howard government: stand on the legislation unamended and you will get your way, because the opposition is going to support you a little further down the line. Again, a very important point is being made here. It is not just the government’s responsibility; it is the opposition’s as well.

Senator NETTLE (New South Wales) (1.05 p.m.)—I have two questions for the minister. The minister was describing before an instance where someone was being interrogated by ASIO and was able to say to ASIO: ‘I do not have the notebook. I do not have the tape. I have lost it.’ Information in this instance is not always tangible, and people do not have a piece of evidence in relation to the particular information that ASIO is trying to gather. Perhaps the minister could elaborate for us on how he would see that situation playing out for someone being interrogated who did not have a piece of evidence in relation to the particular information that ASIO was seeking from them. Then perhaps the minister could explain what suggestions he would make to someone who, in this instance, was being interrogated and was known to be innocent, who was being asked for information and who had never had the information in the first place. They are clearly not able to say: ‘I lost it. I do not have the tape. I gave it to somebody else,’ because they never had the information in the first place. Let us remember that they have been brought in by ASIO, which believes they have that information. Can the minister outline the steps that that individual
would take to prove that they have no evi-
dence and do not have that information?

Senator ELLISON (Western Australia—
Minister for Justice and Customs) (1.06
p.m.)—To start with, they do not have to
prove that they do not have the information.
That is a false premise on which Senator
Nettle asks this question. Senator Nettle
should look at section 34G of the bill. We are
talking about someone who has said, ‘I just
never had the information.’ The section
states:

(3) A person who is before a prescribed author-
ity for questioning under a warrant must not fail
to give any information requested in accordance
with the warrant.

That is, they must not fail to give that infor-
mation. There is a penalty of five years im-
prisonment. The next subsection says:

Subsection (3) does not apply if the person does
not have the information.

That means that if you do not have it, you
cannot fail in not giving it. And if you have
never had it, it even applies further. You
would simply say: ‘I have never had that
information. I do not know. I do not know
what you are talking about.’ It is as simple as
that. It is commonsense. There is no burden
of proof on the person to say that they never
knew or never had the information. There is
no requirement for proof—evidential burden
is not that. But we are only dealing with the
interview stage. The evidential burden only
comes in if there is a prosecution. If a person
says, ‘I do not have it; I have never had it,’
that is what you would say. If ASIO are un-
happy about that, they then have to find the
basis of a case to found a prosecution to
show that you did have it and that you are
lying. What we have to remember through-
out all this is that the prosecutor has to de-
terminate whether there is a prima facie case
on which to base a prosecution. In the nor-
mal course of events that would be done by
the DPP, not ASIO. So the DPP would have
to, in any event, say to ASIO: ‘Look, the per-
son said they never had it. What have you
got to show that that is wrong? Where is the
basis for a prosecution?’ Both Senator Nettle
and Senator Brown are shying at shadows in
relation to what is a relatively straightfor-
ward situation.

Senator BROWN (Tasmania) (1.09
p.m.)—That is simply not so. This is the
minister’s legislation, after all. We are in a
situation where a person has not been asked
whether they have information or not. ASIO
have been granted a warrant to arrest this
person and secretly interrogate them, so im-
portant is the information that ASIO believe
they have. We are not talking about people
who have been asked in the street or through
a doorknock at home, ‘Do you have informa-
tion about so-and-so?’ and have said no.
These people have been arrested under a
warrant. ASIO have definitive information
about this person and want information ex-
tracted from them on the basis of that infor-
mation. It is ludicrous for the minister to ex-
plain that to the committee by saying that if
the person says they do not have the infor-
mation they will be set free. Of course they
will not. This is a specific situation in which
they have been arrested to get that informa-
tion from them. It would be culpable and
laughable of ASIO to do that if the person
was able to rejoinder by saying: ‘No: I have
been arrested; I have been brought here to
this secret place; nobody knows where I am;
I have got no lawyer—you will not give me a
lawyer—I have not even been told why I am
here; you want this information and I do not
have it,’ and ASIO said, ‘Oh, well, you can
go.’ The minister’s argument on that point is
baseless.

Senator Nettle and I are talking about real
people who are the subject of real investiga-
tion by ASIO, with all the potential faults in
that process, who are not going to be be-
lieved—in every case—when they say, ‘We do not have the information.’ ASIO would be absolutely remiss in its job if it had such a person in its clutches under those circumstances. Of course ASIO is not going to accept that and is going to be there with evidence that that is not the case. None of us has to be an expert in law and to have read the history of law to know that this person could be subject to an enormous mistake being made but not have evidence as to how that mistake has occurred. This person could be subject to a set-up and not be aware of how that had occurred. It is going to be a very serious situation, not a trite one as the minister describes where you say, ‘I do not have the information and I never had it,’ the door opens and you walk out.

This is a situation which is of extreme gravity. The person is deprived of their usual rights, then the onus of proof is on them. We cannot accept that from the minister. I again ask the minister: what are the circumstances? Is there a protocol being developed which lays out the conditions under which a warrant can be issued? Is there a protocol on the requirements for evidence that a person has information? I think there must be, because what we are hearing from the minister is farcical. You cannot have a situation where people can be hauled off the street under this legislation. It is a very grave situation indeed. And then the minister says there is an escape clause—the person says: ‘I do not have the information and I never had it or I lost it,’ and that is satisfactory to give them an escape from the situation. Of course it is not. Let us develop this a little further. Is there a protocol about the requirements for ASIO’s evidence before a warrant is issued? If so, where is that protocol? Furthermore, what is the protocol about the burden of proof? Is there a protocol which lays out some of the things the minister has been talking about? If you say, ‘Oh, I lost it,’ will you be okay? If you say, ‘I never did have it,’ will you be okay? I frankly do not believe that that is the case.

The TEMPORARY CHAIRMAN (Senator Ferguson)—The question is that the amendments moved by Senator Faulkner be agreed to.

Senator Brown—It is very important that we get a response from the minister on this matter.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.14 p.m.)—The protocol I mentioned earlier—and we have talked about this repeatedly—deals with detention and questioning. The question that Senator Brown raises is in relation to the guidelines for prosecution. The normal guidelines for prosecution would apply in this case, as they do in any other matter. I think those guidelines are available. I will take it on notice to see if I can get a copy of those guidelines for Senator Brown.

Senator BROWN (Tasmania) (1.15 p.m.)—It is important that, when the minister says that he will take that on notice and give us information, we have that information before we deal with the matter, otherwise the process falls down in this chamber. Secondly, I was not talking about the prosecution. Had the minister been listening he would know that I was talking about the issuing of warrants and whether there is a protocol—a requirement in relation to the substance of evidence—that is put forward to the judge before a warrant can be issued.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.15 p.m.)—In relation to the process of the issuing of warrants, we have gone through that at length. We have gone through all this before—the minister’s satisfaction, the question of the application by ASIO—and I can take it no further.
Senator BROWN (Tasmania) (1.16 p.m.)—The minister cannot answer the fundamental question here. Yes, we have been through it before. It is a very serious matter. Evidence is against a person. A person is arrested and held in secret and the person is in a very invidious position to be able to say, ‘I don’t have that information,’ even though in reality they do not. The burden of proof then comes onto them: they have to furnish the information. Effectively, the minister is conceding that that is the situation. All that talk about saying that you lost it or you did not have it and that you will be okay is nonsense. That is what the minister is conceding here.

Question agreed to.

Senator GREIG (Western Australia) (1.17 p.m.)—I move Democrats amendment (8) on sheet 2923 revised:

(8) Schedule 1, item 24, page 19 (line 17), at the end of subsection (9), add:

; (c) information obtained as a consequence of anything said by the person or any document or thing produced by the person while before a prescribed authority for questioning under a warrant, in response to a request made in accordance with the warrant for the person to give information or to produce a document or thing.

This amendment goes to the issue of admissibility in evidence. It goes to the heart of whether the regime that would be established by this bill is an intelligence gathering regime or a criminal investigation regime. We Democrats firmly believe that it must be one or the other, and if the government insists on giving ASIO these powers, as it is keen to do, then it must be an intelligence gathering regime only. If people detained under this legislation are to be deprived of fundamental rights and liberties and they cannot be subjected to prosecution, they cannot be forced to provide information under threat of imprisonment with only a limited right to legal advice if they might ultimately be prosecuted for what they say. On the other hand, if the government wants to prosecute individuals, it should come up with a very different regime—one which protects the well-established rights that currently apply within our criminal justice system. For these reasons, this amendment seeks to apply a limited derivative use immunity to information obtained during questioning.

As it stands, in its present form, the bill provides that nothing at all that a person says during questioning, nor any document or thing that they might produce, can be used as evidence against them in criminal proceedings other than an offence under the proposed act. In other words, the bill provides for a use immunity in relation to information obtained during questioning, but there is no derivative use immunity attaching to such information.

A lot of debate has focused on the appropriateness of ASIO as an intelligence agency being invested with what are essentially police powers. However, it has been emphasised that the primary purpose of the bill is to enable ASIO to collect intelligence relating to terrorism. If this is the case, then I think a limited derivative use immunity is consistent with this purpose and it should apply. If passed, this Democrats amendment would mean that any evidence obtained as a result of information given by a person during questioning could not be used against that person. However, such evidence would still be able to be used in criminal proceedings against other persons. The Democrats believe that this is consistent with the purpose of the legislation and would not unduly hinder ASIO in its task of gathering evidence concerning terrorism, nor the Australian Federal Police who would be investigating terrorist offences. I ask that the committee give con-
sideration to supporting this amendment and, in doing so, go some way to better protecting the civil liberties of Australians, which have, to some considerable degree thus far, been eroded through the evolutionary process of this legislation to the point where we now find it.

Question negatived.

Senator GREIG (Western Australia) (1.21 p.m.)—by leave—I move Democrat amendments (9), (R10) and (11) on sheet 2923 revised:

(9) Schedule 1, item 24, page 19 (lines 19 to 23), omit subsection (1), substitute:

(1) This section applies if a person who is before a prescribed authority for questioning under a warrant requests the presence of an interpreter or if the prescribed authority before whom the person first appears believes on reasonable grounds that the person is unable, because of inadequate knowledge of the English language or a physical disability, to communicate with reasonable fluency in that language.

(R10) Schedule 1, item 24, page 20 (lines 1 to 6), omit all words from and including “,” unless” to the end of subsection (2).

(11) Schedule 1, item 24, page 20 (lines 14 to 21), omit subclause (4), substitute:

(4) If questioning under the warrant commences before the person being questioned requests the presence of an interpreter and the person subsequently makes such a request:

(a) a person exercising authority under the warrant must defer any further questioning until the interpreter is present; and

(b) when the interpreter is present, the prescribed authority must again inform the person of anything of which he or she was previously informed under section 34E.

Collectively, these amendments seek to ensure that a person who is interrogated by ASIO under the regime will have access to an interpreter on request. Under section 34HAA in its present form, the government has sought to place what we would argue is an unnecessary and unjustifiable limitation on this right. The section provides that a person has the right to an interpreter on request, but if the prescribed authority believes that a person does not require an interpreter then he or she may deny the request for one. We Democrats can see no strong or valid reason for that limitation.

This legislation introduces what has rightly and widely been described as a draconian detention regime. It seriously infringes on the rights and liberties of the person being questioned, and severe penalties, as we know, are associated with any non-compliance with the warrant. So it is imperative that the person being questioned is able to fully understand the requirements being made of him or her, the questions that he or she must answer and the ramifications of noncompliance. Whether or not the person is in a position to understand the questions being put to them is not a matter for the prescribed authority to determine, in our view. For these reasons, the person being questioned should—indeed, must—have the right to an interpreter upon his or her request at any time during their questioning.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.23 p.m.)—I think we touched on this aspect of the provision of interpreters the other day. The government’s comments made then still stand in relation to that and I believe they are applicable here. It is an important issue, and we have provided for the provision of an interpreter. Obviously the Democrats and the government have different views as to how that is to be provided, but we covered this
the other day and I will take it no further. We oppose the amendments.

Senator BROWN (Tasmania) (1.24 p.m.)—What are the circumstances in which a judge in this secret interrogation could turn down a request for an interpreter by an Indigenous person or a person whose first language was a foreign language?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.24 p.m.)—The Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2] provides that an interpreter may be provided at the request of the prescribed authority—and that is the person that Senator Brown refers to—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. We believe that covers the situation adequately. In fact, there is a provision that a person who knowingly fails to provide the subject of a warrant with an interpreter, if necessary, and fails to defer questioning until the interpreter is present will commit an offence punishable by a maximum of two years imprisonment. So there is a penalty there if an interpreter is not provided when they should be. We believe that that sanction is sufficient to safeguard the appropriate provision of an interpreter. As I said earlier in relation to another Democrat amendment, we believe there is no need for an interpreter. There is a requirement that an interpreter be provided, and if one is not provided then there is a penalty.

Senator BROWN (Tasmania) (1.25 p.m.)—No, that is not right. There is a requirement that an interpreter be provided if the faceless judge says that, in his or her opinion, a request for an interpreter should be agreed to. However, let us look at Senate committee experience in this matter. In the matter of mandatory sentencing in the Northern Territory, the committee looking into the serial detention of children—and I am talking about hundreds of children—uncovered the situation in Australian courts where time and again Indigenous people, including children, were not provided with an interpreter in court where one would have thought that the delivery of justice mandated it. We spoke personally to people who had been through court proceedings and had been locked up and did not understand why. They did not even know what the charge was because the court had presumed that they spoke English whereas they did not; it was neither their first language nor their second language.

It was not until it was mandated that people should have access to their first language that this unjust situation in the Northern Territory was addressed. Here we have a situation where again the court, and it is a secret court, is going to be able to decide whether or not there will be an interpreter. I do not believe that is good enough. I think that if a person under these potentially terrifying circumstances is brought before a secret court like this and requests an interpreter then they should have one. Failing that, there should be a very clear protocol which guides the judge as to the circumstances in which they can refuse a request. I ask the minister again: will there be a protocol on this matter? Has one been developed, is one being developed or is it left to a judge—appointed by the minister, remember, and in secret—to make a determination without guidance from this parliament?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.28 p.m.)—We believe that the legislation sets out sufficiently the criteria in relation to the provision of an interpreter. As I have mentioned, there is even a sanction of up to two years imprisonment applicable if those re-
requirements are not met. I can advise the committee that, in relation to prosecution guidelines, they are available on the Internet at www.cdpp.gov.au.

Senator BROWN (Tasmania) (1.28 p.m.)—That is not right again. The ASIO operative may be subject to this, but is the minister trying to tell this committee that the faceless judge is under any threat of penalty at all if an interpreter is not provided? Because that is not right. There is immunity there. The ducking and weaving on this is not going to prevail. This is a very serious situation. We are talking about a judge appointed by the minister. I do not think that gives any assurance at all to this committee that that judge is going to be a friend of the witness, particularly the witness who has no legal advice available. Under those circumstances, the judge simply says, ‘No, you don’t get an interpreter’, ASIO proceeds and there is no comeback.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.30 p.m.)—I am trying to find the provision I mentioned in relation to the failure to provide an interpreter so that I can refer Senator Brown to it. Of course, the actions of a prescribed authority are subject to review, and I mentioned that before. We have been through that. Clause 34NB deals with the provision of interpreters—I think it is best that we refer to that one in relation to the sanction which I mentioned.

Senator BROWN (Tasmania) (1.33 p.m.)—Earlier on, the Minister for Justice and Customs said that we should refer to the relevant clause. It took him a long while to find it himself. But having got there—and I am referring here to clause 34HAA(2) on page 20—we see that it reads:

A person exercising authority under the warrant must arrange for the presence of an interpreter...

Senator ELLISON—Which one?

Senator BROWN—It is clause 34HAA, ‘Interpreter provided at request of person being questioned’, and also clause 34H, ‘Interpreter provided at request of prescribed authority’, remembering that both can request that an interpreter be present. So clauses 34H and 34HAA are the relevant clauses dealing with the provision of an interpreter. Failure to provide one in those circumstances attracts the sanction that I mentioned.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.35 p.m.)—I move government amendment (29) on sheet RA231:

(29) Schedule 1, item 24, page 21 (after line 34), after section 34J, insert:

34JA Entering premises to take person into custody

(1) If:
(a) either a warrant issued under section 34D or subsection 34F(6) authorises a person to be taken into custody; and
(b) a police officer believes on reasonable grounds that the person is on any premises;
the officer may enter the premises, using such force as is necessary and reasonable in the circumstances, at any time of the day or night for the purpose of searching the premises for the person or taking the person into custody.

(2) However, if subsection 34F(6) authorises a person to be taken into custody, a police officer must not enter a dwelling house under subsection (1) of this section at any time during the period:
(a) commencing at 9 pm on a day; and
(b) ending at 6 am on the following day;
unless the officer believes on reasonable grounds that it would not be practicable to take the person into custody under subsection 34F(6), either at the dwelling house or elsewhere, at another time.

(3) In this section:

dwelling house includes an aircraft, vehicle or vessel, and a room in a hotel, motel, boarding house or club, in which people ordinarily retire for the night.
premises includes any land, place, vehicle, vessel or aircraft.

34JB Use of force in taking person into custody and detaining person

(1) A police officer may use such force as is necessary and reasonable in:
(a) taking a person into custody under:
(i) a warrant issued under section 34D; or
(ii) subsection 34F(6); or
(b) preventing the escape of a person from such custody; or
(c) bringing a person before a prescribed authority for questioning under such a warrant; or
(d) detaining a person in connection with such a warrant.

(2) However, a police officer must not, in the course of an act described in subsection (1) in relation to a person, use more force, or subject the person to greater indignity, than is necessary and reasonable to do the act.

(3) Without limiting the operation of subsection (2), a police officer must not, in the course of an act described in subsection (1) in relation to a person:
(a) do anything that is likely to cause the death of, or grievous bodily harm to, the person unless the officer believes on reasonable grounds that doing that thing is necessary to protect life or to prevent serious injury to another person (including the officer); or
(b) if the person is attempting to escape being taken into custody by fleeing—do such a thing unless:
(i) the officer believes on reasonable grounds that doing that thing is necessary to protect life or to prevent serious injury to another person (including the officer); and
(ii) the person has, if practicable, been called on to surrender and the officer believes on reasonable grounds that the person cannot be taken into custody in any other manner.

This amendment deals with the taking of a person into custody and detention. The government intends to amend the process for
taking persons into custody and detaining them, and it has put forward provisions which deal with this. The regime provides that a police officer may enter premises to take a person who is the subject of a warrant or a direction of a prescribed authority into custody and that the police officer may use such force as is necessary and reasonable in the circumstances.

If the police officer is acting to take into custody a person who has failed to appear before a prescribed authority, the police officer must not enter the premises between the hours of 9 p.m. and 6 a.m. unless it would not be practicable to enter the premises at another time. The provisions are quite specific. Proposed section 34JB provides that a police officer may use such force as is necessary and reasonable in the circumstances to take the subject of a warrant or a direction of a prescribed authority into custody, detain the person, prevent the person from escaping custody or bring the person before a prescribed authority for questioning.

In the course of such an act, proposed subsection 34JB(2) prevents a police officer from using greater force or from subjecting the person to greater indignity than is necessary and reasonable. Proposed subsection 34JB(3) further provides that a police officer must not do anything that is likely to cause the death of or grievous bodily harm to the person unless the police officer believes on reasonable grounds that such action is necessary in order to protect the life of or to prevent serious injury to another person or, where the person is seeking to avoid being taken into custody by fleeing, that person cannot be taken into custody in any other matter. This deals with a situation where you have to put into effect the provisions of the warrant that is taking the person into custody and detention. We have carefully spelt out the provisions relating to a police officer, what they can and cannot do. The government acknowledges this is a serious issue and it requires the necessary safeguards, and I have enumerated those in relation to these amendments. The government commends this amendment to the committee.

**Senator BROWN** (Tasmania) (1.38 p.m.)—I ask the minister: does this section in effect mean that a police officer may under certain circumstances kill a person because there are no other reasonable grounds that the person could be taken into custody in any other manner?

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (1.39 p.m.)—Proposed subsection 34JB(3) says ‘without limiting the operation of subsection (2)’, and that is that a police officer should not subject a person to any indignity or use more force than is necessary. So, without limiting the operation of that subsection:

... a police officer must not, in the course of an act described in subsection (1) in relation to a person:

(a) do anything that is likely to cause the death of ... the person unless the officer believes on reasonable grounds that doing that thing is necessary to protect life or to prevent serious injury to another person (including the officer); or

(b) if the person is attempting to escape being taken into custody by fleeing—do such a thing unless:

(i) the officer believes on reasonable grounds that doing that thing is necessary to protect life or to prevent serious injury to another person (including the officer); and

(ii) the person has, if practicable, been called on to surrender and the officer believes on reasonable grounds that the person cannot be taken into custody in any other manner.

The primary directive here of course is that you are talking about the protection of life...
and the prevention of serious injury to another person. You will notice that there are two aspects to proposed subsection (3); firstly, that the police officer must not cause the death of or grievous bodily harm to the person unless it ‘is necessary to protect life or to prevent serious injury’. So that is the first choice. If you are there to take someone into detention, that person has, let us say, a loaded weapon and the person might have even started firing at other people—it might be in a block of flats and there are people around the area—obviously the question of protection of life and prevention of serious injury to other people is a consideration. That is what would happen in any event. Police have powers to deal with a situation like that.

The other part of proposed subsection (3) is if the person is attempting to escape. The officer has to be satisfied on reasonable grounds that doing the thing is necessary to protect life or prevent serious injury, again, if in the course of escaping the person is endangering other lives and the person has been called upon, if practicable, to surrender and the officer believes that the person cannot be taken into custody in any other way. So the second part deals with someone who is trying to flee but in the course of that escape is endangering the lives of other people. There is a second requirement that, if practicable, the person has been called upon to surrender, which adds another burden, if you like, on the officer concerned. But of course it does say ‘if practicable’, because you might not get the chance to call upon someone to surrender—you knock on the door, the person goes out the back window and is running through the yard, and you do not have a chance to call upon them to surrender. But, if that person is armed and threatening people in the area, of course a police officer has to act with such appropriate force as to protect life and to prevent serious injury. So that is the ground upon which an officer can act in these circumstances.

**Senator BROWN** (Tasmania)  (1.43 p.m.)—The first question I ask the minister is: why is this section necessary? Is it not covered in other Commonwealth law? Secondly, where subclause (3)(b)(1) states ‘the officer believes on reasonable grounds that doing that thing’—that is, killing or committing grievous bodily harm to the person being chased—’is necessary to protect life or to prevent serious injury to another person’, does that include the circumstance where this person is suspected of plotting terrorism—that is, endangering life through terrorism, so it is not the immediate circumstances that we are worrying about here—and is being pursued?

**Senator ELLISON** (Western Australia—Minister for Justice and Customs)  (1.44 p.m.)—These provisions are taken from the Crimes Act. We have not referred to the Crimes Act by simply saying, ‘Refer to the appropriate section of the Crimes Act,’ because those provisions are relative to the purposes of the Crimes Act—that is, where an arrest is being effected for the purposes of law enforcement—but these provisions are otherwise identical to those in the Crimes Act.

In relation to Senator Brown’s second question—‘Is it possible to say that the potential threat to life is the person’s terrorist activities or suspected terrorist activities?’—that is not what is envisaged here at all. What is envisaged here is an immediate threat to people who are present at the situation at hand. That is what is envisaged in the Crimes Act and it is the provision we have taken out and put in here. It is not a question of ‘We think this person is a terrorist; therefore, we can apply lethal force because that person at some stage is going to threaten life.’
all about the immediate situation where the person is taken into custody.

If this person is not armed and does not have the means at their disposal to cause serious injury at that point or to take life, I cannot envisage how an officer in those circumstances could use the force that is mentioned here, because there is no immediate threat to any other person. That is how this is read. It has been taken to be that in relation to the Crimes Act, where police officers are acting to effect an arrest of a criminal suspect. It does not relate to the question of a person’s suspected terrorist activities. What would be relevant is if they had a bomb there and then. But if it is because you think they might have been involved in the making of a bomb and they are jumping over the back fence to flee—that is not what is envisaged here.

The TEMPORARY CHAIRMAN (Senator Cook)—Senator Brown, before I call you, I indicate that the next amendment on the running sheet is from the Australian Democrats. It is an amendment to the amendment before the chair now, so they may wish to move that at some time.

Senator GREIG (Western Australia) (1.47 p.m.)—Perhaps now is the best juncture at which to do that. I move Democrat amendment (18) on sheet 2923 revised, which is an amendment to government amendment (29):

(18) Amendment to government amendment (29), omit subsection 36JA(2), substitute:

(2) However, a police officer must not enter a dwelling house under subsection (1) of this section at any time during the period:

(a) commencing at 9 pm on a day; and

(b) ending at 6 am on the following day;

unless the officer believes on reasonable grounds that it would not be practicable to search the premises or take the person into custody under section 34D or subsection 34F(6), either at the dwelling house or elsewhere, at another time.

The government’s proposed section 34JA enables a police officer to enter premises at any time in the day or night for the purpose of searching the premises or taking a person into custody. However, there is a limitation on that power. If the premises are a dwelling, a house, and the person is being taken into custody, the police must not enter the premises between the hours of 9 p.m. and 6 a.m. unless it is not practicable to take the person into custody at another time or place.

We Democrats welcome that limitation very much, but we see no good reason for it to apply only when a person is being taken into custody. The police should also avoid searching premises, if they are a dwelling, a house, between the hours of 9 p.m. and 6 a.m. The same principle applies. People who are not—and I stress ‘not’—terrorist suspects and who are not to be taken into custody should not have fewer legal protections than those who are to be taken into custody.

These people too are entitled to the benefit of rest in the privacy of their own homes without the prospect of their house being raided in the middle of the night. If for some reason it is not practicable to search the premises at another time, then an exemption applies and the police may search the premises during those hours, but the Democrats believe firmly that this section should require the police to endeavour to avoid raiding the homes of Australians who are not terrorist suspects in the middle of the night.

Question negatived.

Original question agreed to.
Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.50 p.m.)—by leave—I move government amendments (30) to (37) and (39) on sheet RA2311 together:

(30) Schedule 1, item 24, page 23 (line 22), omit “14”, substitute “16”.

(31) Schedule 1, item 24, page 23 (line 24), omit “14”, substitute “16”.

(32) Schedule 1, item 24, page 25 (line 10), omit “14”, substitute “16”.

(33) Schedule 1, item 24, page 25 (line 12), omit “14”, substitute “16”.

(34) Schedule 1, item 24, page 25 (line 16), omit “14”, substitute “16”.

(35) Schedule 1, item 24, page 25 (line 25), omit “14”, substitute “16”.

(36) Schedule 1, item 24, page 25 (line 29), omit “14”, substitute “16”.

(37) Schedule 1, item 24, page 26 (line 3), omit “14”, substitute “16”.

(39) Schedule 1, item 24, page 27 (line 4), omit “14”, substitute “16”.

The government proposes to increase the age of application of the bill from 14 years of age to 16 years. This is one of the aspects that was mentioned in the second reading speech and forms a key part of the government’s amendments to this bill. The special regime currently provided for in proposed section 34NA in the bill remains the same except that it would only apply to those aged from 16 to 18 years of age.

This regime provides additional safeguards for individuals under the age of 18, including the presence of a parent, guardian or other acceptable representative, and questioning to be conducted for no longer than two hours without a break. The provisions relating to those persons aged 18 years and above remain the same. The government believes that it is appropriate that we move these amendments, and of course there are safeguards that I have mentioned in relation to those who are questioned who fit into that age group of between 16 and 18. The government believes that this is an appropriate amendment and I commend it to the chamber.

Senator NETTLE (New South Wales) (1.52 p.m.)—Given that these government amendments are in conflict with the Australian Greens amendments, I want to check whether now is an appropriate time for me to move the Australian Greens amendments.

The TEMPORARY CHAIRMAN (Senator Cook)—Senator Nettle, we can deal with yours separately, after we have dealt with these. It is for the debate to determine, I suppose, whether they are in conflict.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (1.52 p.m.)—I must say that your last statement is wise counsel, Mr Temporary Chairman. Effectively, I think we ought to have the capacity to have a cognate debate on these amendments. I think that is the spirit of what you have suggested and, of course, they will be put separately. I suppose the issue is when they will be moved by Senator Nettle on behalf of the Australian Greens. I think that is the spirit of what you have suggested. I suspect that what Senator Nettle has suggested to the committee is that she wishes to address the issue contained within the government amendments and to put forward an alternative approach to the committee, which we probably have enough flexibility to be able to handle.

Senator NETTLE (New South Wales) (1.53 p.m.)—That being the case, I might formally move Australian Greens amendments (3) to (8) on sheet 2957 revised. I believe I have to seek leave to move amendments (3) to (8) together. I am happy to take advice if there is another suggestion.

The TEMPORARY CHAIRMAN—I am advised that you cannot move them at the
moment, because there are amendments before the chair. We will sort out in which order we should take these, and it may be that there is some way in which they can be done. You can speak to the item and certainly refer to them.

Senator BROWN (Tasmania) (1.54 p.m.)—We will take it as the amendments being dealt with together. The Greens believe that the government and opposition provision that 16- and 17-year-olds should be treated as adults for the purposes of this piece of legislation flies right against the concept of the delivery of law in this country. I have seen all sorts of comment and speculation in the media about these matters and I would ask the minister whether he could give justification for subjecting 16- and 17-year-old minors to strip searches, interrogation in two-hourly blocks and detention for long periods of time with or without a lawyer and with or without a parent present under the extraordinary circumstances provided for in this legislation.

It would be helpful to know right at the outset what the government’s argument is against the jurists who have given evidence that this is a clear breach of the International Covenant on the Rights of the Child. Forcibly detaining a child, an under-18-year-old, under our law with their rights suspended is a very clear breach of that international covenant. Can the minister say what his advice is to the contrary in defence of that clear claim?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.56 p.m.)—At the outset, we do not believe it is in breach of that covenant; more so, we are governed by security matters. We have seen suicide bombers recently in the Middle East who have been as young as 16 or 17. We have increased the age of application of the bill from 14-year-olds to 16-year-olds. We did that in an effort to secure the passage of this important legislation. Despite concerns that even though someone who is over 14 years of age can have criminal responsibility and is capable of being involved in terrorist activity, we believe that taking the application of the bill to the age of 16 was appropriate.

Senator Brown should also have a look at what we have seen overseas—that is, the involvement of people of the ages of 16 or 17. It is a tragic and unfortunate situation but it is a fact of life. We have inbuilt safeguards here, which I mentioned when I moved the amendments concerned, and, of course, a warrant will only be issued in relation to a young person if the Attorney-General is satisfied that they have committed, will commit or are committing a terrorist offence. In addition there are other safeguards: young people who are detained may have a parent, guardian or other acceptable representative there and the questioning may not be conducted for longer than two hours without a break. We believe that is a sufficient balance to provide that safeguard to the young person involved, but at the same time it gives us the ability to address what is an emerging trend internationally of young people being involved in terrorism. It is a tragic fact of life and we have seen it in the Middle East. To turn a blind eye to it would be irresponsible. It might be that it is tragic and unfortunate and we do not like it—of course we do not—but the fact remains that we have to deal with this on the basis of what is in Australia’s best interests. That is what we are doing here and at the same time we are providing sufficient safeguards for the people who are being questioned.

Progress reported.
QUESTIONs WITHOUT NOTICE
Taxation: Family Payments

Senator BUCKLAND (2.00 p.m.)—My question is addressed to the Minister for Family and Community Services, but I have a bit of a difficulty here because the minister is not here. I will ask the question anyway and see if one of her colleagues might be able to help.

The PRESIDENT—The senator is adjacent to the chamber, I believe.

Senator BUCKLAND—Can the minister explain why families who claim all or part of their family tax benefit entitlement through the tax system as a top-up are not afforded four years to claim that money when the tax system allows for this in all cases apart from in the case of family payments?

Senator VANSTONE—I apologise for being a couple of seconds late. Yes, Senator Buckland, I can explain. The new family tax benefit system—which I should not call ‘new’ anymore, since it was introduced for the financial tax year 2000-01 and we are now ending the 2002-03 year and are about to enter the 2003-04 one—the system to which you refer, as I have indicated before in this place, puts another $2 billion into the pockets of Australian families, pays more to families and (this is the key aspect) pays the same amount at the end of the year to a family in the same circumstances as it does to another family of the same income and with the same number of children. It does that through the mechanism of aligning itself to the tax system—that is why it is called the family tax benefit. People do not have to wait until the end of the year to get this annual payment. They can receive it in advance during the year, on the basis of an estimate—that is the basic outline of the system.

It is not in itself, however, the tax system; it is not part of the tax legislation. Because money is paid out in advance, it is consid-
**Drought**

**Senator SANDY MACDONALD** (2.04 p.m.)—My question is addressed to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Ian Macdonald. Minister, will you update the Senate on the amount of assistance that the Howard-Anderson government has provided to the people affected by the drought? Is the minister aware of any other assistance being provided to these farmers, in light of the most recent deceit by the NSW government and other state governments in failing to properly lodge EC applications?

**Senator IAN MACDONALD**—I know Senator Sandy Macdonald travels widely around the state of NSW, and he will know that, in spite of some very welcome rains recently in some areas, the drought is still having a major impact on much of Australia and it is also, of course, having a very serious impact on the Australian economy. Not only are farmers and rural communities being impacted upon but our economic wellbeing as Australians in general is being very severely impacted upon by the drought. For example, the growth in gross domestic product for the current financial year is expected to fall from something like 3.75 per cent to three per cent. As well, the drought is having an impact on food prices, and all of us will start to notice that on the shelves of the grocery stores in the very near future, if we have not already.

The Commonwealth government has a very great concern as to the ability of farmers to move forward when the drought eventually breaks, as it will inevitably do at some time. Because of our concern about the need for farmers to go forward when it breaks and, of course, to help them through this period of very great difficulty, we have budgeted for hundreds of millions of dollars in assistance to farmers. We expect that we will be required to pay anything from $740 million to $950 million.

**Senator O’Brien**—What about the National Farmers Federation?

**Senator IAN MACDONALD**—In spite of some misleading and quite unfair and irresponsible comments by Senator O’Brien, the opposition spokesman, the Howard government will pay whatever it takes to help farmers who fit the criteria. Labor were very misleading and irresponsible in the way they frightened farmers about an alleged cutback. We will be paying whatever it takes to actually meet the commitment to farmers.

Our support comes in the form of income support. Already 16,000 applicants have received approval for this assistance—some for two years, some for the interim period of six months. In addition, some almost 4,200 applicants have received interest rate subsidies. Unfortunately, the amount the Commonwealth is paying is not met, in any sense of the word, by the states. Their relative support is infinitesimal, and even their announced support is met 10 times over by the Commonwealth. The states have been mean and misleading in their support for those affected by drought. For example, of the $28 million in drought assistance announced by the Premier of Senator Sandy Macdonald’s state of New South Wales in February this year, I understand that only two of the new measures and less than half of those funds—that is, around $14 million—will provide direct assistance to farmers.

In the state of Victoria, as the Commonwealth has paid money for exceptional circumstances the Victorian government has actually withdrawn the funds that it provided for farmers in difficult circumstances. I think Mr Bracks’s announcement was just pathetic, and I call upon him to reverse that decision and continue state funding for those in drought. The states seem to play politics.
They prepare the applications, not very well and usually late. Again I mention Senator Sandy Macdonald’s state of New South Wales: although acceptance of applications for interim relief was supposed to finish on 10 June, the New South Wales government unfortunately could not get its applications in on time. I call upon the states to contribute more in funding to farmers.

**Taxation: Family Payments**

Senator CROSSIN (2.08 p.m.)—My question is to the Minister for Family and Community Services, Senator Vanstone. Does the minister stand by her description of her family tax payments scheme on 14 May this year and repeated here in the Senate last week? She said:

It is designed to ensure that at the end of the year one family in a set of circumstances gets the same amount of money as another family in the same circumstances.

Can the minister explain why families like the Gaggins from Wollongong, who the SSAAT has ruled should get the $4,000 top-up your department has denied them, should get less than another family in a similar financial situation?

Senator VANSTONE—I thank the senator for the question. It is a system, as Senator Crossin rightly said and as has been described by me on many occasions—I do not know about 14 May—that entitles a family with the same income and children of the same age as another family to get the same amount of money as that other family. It follows that they have to follow the rules to do that, and one of the rules is that if you want to be paid this benefit, which is paid in advance on the basis of your estimations, you have to put in your tax return within 12 months of the end of the financial year. It means that at a point in time, on the basis of your estimate, we start paying you in advance and we pay you for 12 months. And at the end of that 12 months, we give you another 12 months in which to finalise your affairs. While I was not minister when this was designed and put in place, I can see the merit of a compliance mechanism that says, ‘If you don’t put your tax return in within 12 months of our paying you for 12 months, you lose the opportunity for a top-up.’ Those may be the circumstances of the family to which you referred.

Senator CROSSIN—Mr President, I ask a supplementary question. It is unfortunate that the minister did not get to the second part of my first question. Is the minister aware that Alan Jones wrote to the Prime Minister about the 25,000 families denied a top-up last year and that the Prime Minister responded to him on air on 4 June that the problem would be part of his examination of the family payments? Is the minister’s failure to acknowledge the system is unfair and in need of fixing the reason why the Prime Minister has had to take control of this critical policy area?

Senator VANSTONE—I thank the senator for her question and repeat for her what I have said in this place on previous occasions and which I think is widely public knowledge: we have an IDC looking into work and family pressures, and that IDC will be looking at a whole range of matters, including the family tax benefit payments. That will provide an opportunity for a whole range of things to be considered.

Senator Crossin—People do not know about it.

Senator VANSTONE—It has not been a secret. I am sorry it has taken your close reading of Alan Jones transcripts—which, frankly, surprises me on your part; nonetheless, if you are fascinated, go to it and order as many transcripts as you choose—to discover this. The rest of the world has known this for a long time.
Insurance: Medical Indemnity

Senator BARNETT (2.12 p.m.)—My question is to the Minister for Health and Ageing, Senator Kay Patterson. Will the minister inform the Senate of recent measures announced by the Howard government that will help ensure the ongoing provision of important medical services to the Australian community?

Senator PATTERSON—The issue of medical indemnity is probably one of the most serious issues to confront health in the history of Australia but was not entirely in the gift of the health portfolio. It required enormous cooperation between Health and Treasury, and I want to pay tribute to Senator Coonan here for the enormous cooperation we had in addressing what was a very complex issue, despite the fact that we did not always get absolute cooperation from the states in driving the issue of tort law reform. Some states were much better than others, and there are still some lagging in what they need to do to ensure that premiums are in fact viable and sustainable.

From today, some 3,500 obstetricians, neurosurgeons and GPs undertaking procedures billed under Medicare will be able to apply for subsidies to assist them in meeting their medical indemnity by making them more affordable. The subsidies will be worth about $140 million over four years and can be applied for as of today, backdated to 1 January 2003. They will range from several thousand dollars to over $30,000 per annum for medical practitioners who are being charged the highest premiums. The general subsidy will be equivalent to 50 per cent of the difference between the cost of their premiums plus the incurred but not reported contribution, if it is applicable, to the MDO to which they subscribe or belong and the corresponding costs for gynaecologists, general surgeons and non-procedural GPs respectively in their state or territory.

This was to ensure that we did not disadvantage people who chose to do obstetrics and inadvertently have them going back to just doing gynaecology or have GPs not undertaking procedures such as anaesthetics or obstetrics. Additional levels of subsidy will be available for neurosurgeons and specialist obstetricians working in rural and regional areas of Australia, recognising that these doctors have high insurance costs relative to their income. Application forms can be obtained by either contacting the medical indemnity free call information line, which is 1800 007 757, or accessing the department’s web site at www.health.gov.au and following the links.

The availability of the subsidy is in addition to a number of other measures and announcements by the government regarding medical indemnity. We have brought in new regulations to ensure the availability of affordable medical indemnity in retirement, initiated a study of options to deliver affordable retirement cover over the longer term and established a new program to address what the doctors explained to us as the blue sky issue where they were concerned that claims may exceed the industry threshold of insurance. The blue sky scheme will cover doctors if they have a claim over $20 million.

We must remember, however, that the medical indemnity issue was not one of any government’s making. But the Howard government has put in significant effort working with doctors to develop a major package of assistance to ensure that Australians have access to important medical services and that they do not suffer as a result of the problems incurred in medical indemnity. I want to put on the public record my gratitude to not only the doctors groups—all of whom put a lot of
effort into this—but also, as I said to Senator Coonan, to the public servants who have worked almost day and night since last April to address what has been a very difficult problem. I call on the states who have not undertaken their tort law reform as fast as they should have to get on with the business to ensure that we keep a downward pressure on medical indemnity premiums.

Centrelink: Debt Recovery

Senator JACINTA COLLINS (2.16 p.m.)—My question is to Senator Vanstone, Minister for Family and Community Services. Can the minister confirm Centrelink testimony at recent budget estimates hearings that its web site gave credit cards as a first option for the repayment of family payment debts and that call centre staff have encouraged families to pay debts using credit instead of taking reduced future payments? Does the minister concede that a family who has to repay an overpayment at 17 per cent interest ends up much worse than a family with similar or like means?

Senator VANSTONE—I thank the senator for the question. The senator is like her lower house leader: the Prime Minister describes him as having form in verballing people. I was at the estimates and the bits I recall in relation to the estimates included an acknowledgment that it is an option provided to families. If they want to pay their overpayment back promptly, they can do so in a number of ways, including using a credit card.

As I recall, the CEO of Centrelink, Ms Vardon, interjected on some of this questioning—which may or may not have been from Senator Collins—and pointed out that in fact the option to pay back by credit card was included by Centrelink because it was asked for by clients. I will have a look at the Hansard and check the further allegations that the senator makes. But that is the aspect that I recall from estimates—namely, it is an option; it is provided to families to do that.

Some people, of course, who can afford to pay cash up front and write a cheque would choose to pay by credit card, because we all know some people, who do not travel as much as we do, desperately seek Fly Buys as they want to travel more—not a situation presumably any of us are in. There is a situation in law firms, for example, where the partners argue over who will pay the telephone account by Visa so they can get the Fly Buys. That would be an option for some families. The key point is that what the senator continues to refer to as a debt is an overpayment—a family has had more in the previous year than another family in the same circumstances and they are required to pay that back. It seems fair to pay a family in the same circumstances the same amount of money. I do not see a proposal from the Labor Party that suggests that one family should be able to underestimate their income, get more money and keep more than a neighbouring family in the same situation.

Senator JACINTA COLLINS—Mr President, I ask a supplementary question. Minister, I was not verballing anybody in my question; I was seeking confirmation. The confirmation I am seeking is whether the department is encouraging people to access 17 per cent debt. Can the minister also confirm that 7,037 family payment debts worth in excess of $5 million have been sold to the mercantile agents Dun and Bradstreet for collection? Can the minister confirm how many of these 7,000 families have received letters threatening sale of assets or credit black-listing?

Senator VANSTONE—I note the senator’s sensitivity to the suggestion that she is verballing. I go back to the original answer I gave the senator: this is a choice that is provided. Families do not have to take up the
choice if they do not want to; there are other choices available. It is up to the family to choose the repayment method that they prefer. As to the suggestion of a certain number of debts being sold for collection, I will pursue that matter and get back to the senator.

**Environment: Paradise Dam**

Senator BARTLETT (2.20 p.m.)—My question is to the Minister representing the Minister for the Environment and Heritage, Senator Hill. Minister, can you confirm the approval last year by the Minister for the Environment and Heritage for the construction and operation of the Burnett River dam, or Paradise dam, under the EPBC Act? Those conditions attached to the approval required Burnett Water Pty Ltd to prepare a plan to mitigate the impacts of the action by securing compensatory habitat at Mount Blandy and also required Burnett Water Pty Ltd to submit to the minister a plan to manage the impacts of the dam on listed migratory species in the Burnett River estuary. Given that construction has now started in the riverbed, can the minister now confirm whether or not a plan has been submitted by Burnett Water and, if so, whether it has been approved and could be tabled? Has the plan in relation to the management of listed migratory species in the estuary also been provided to the minister and approved and, if so, could it be tabled?

Senator HILL—Without notice, I cannot provide that information but I will get an answer from Dr Kemp and give it to the honourable senator as quickly as possible.

Senator BARTLETT—Mr President, I ask a supplementary question. Following on from that—and I appreciate the minister’s commitment—can the minister confirm that the Burnett River is one of the top 10 rivers impacting on the Great Barrier Reef water quality targets that the government has made so much noise about the importance of in recent times? Could the minister also get an explanation from the relevant minister as to why the conditions of the approval under the EPBC Act did not require Burnett Water Pty Ltd to actually comply with its terms or implement its plan?

Senator HILL—I do not understand the supplementary question. If there were an obligation to provide the plan, I would think it logically follows that there is an obligation to comply with the plan. But I will read the supplementary question again and pass it on to Dr Kemp and see whether we can provide some further information.

**Foreign Affairs: Travel Advice**

Senator KIRK (2.23 p.m.)—My question is to Senator Hill, the Minister representing the Prime Minister and the Minister for Foreign Affairs. I refer to ONA’s statement to a Senate inquiry last Friday that at a June 2002 briefing ONA advised the Minister for Foreign Affairs that Bali and other locations were attractive terrorist targets for Jemaah Islamiah. Does the minister recall Mr Downer’s statement of 17 June this year that ‘this observation was based on speculation’? Is the minister aware of Senator Brandis’s question to ONA last Friday that this was a ‘speculative possibility rather than a predictive statement’ and of the reply by David Farmer, Senior Indonesia Analyst of ONA: ‘No, it was a considered analysis of all the information available. That is not speculation’? Given that ONA has now stated explicitly that its analysis to Mr Downer was not ‘speculation’ but ‘a considered analysis’, why did Minister Downer then choose not to incorporate this advice into his subsequent travel advisory for Indonesia dated 12 July 2002, which continued to advise that tourist services in Indonesia were operating normally, including Bali?

The PRESIDENT—Order! That is a very long question, Senator.

CHAMBER
Senator HILL—Why wasn’t it included specifically in future travel advisories? I presume it was because, as I recall from the press anyway, Mr Downer asked that question as to whether it should lead to changes in travel advisories and did not receive a response that suggested that it should. Second, as to why I think it is referred to as part of a discussion or speculation, it is because it was not even considered of such note by ONA for them to have put it in writing to Mr Downer. As the Senate knows from previous question times, the travel advisory for Indonesia was updated several times during that year and there were warnings about the possibility of bombings and the risks associated with public places. As to why Bali was not the subject of a specific travel advisory, it was because there was no specific evidence of such a threat. That was the finding made by Mr Blick, the independent arbiter, in his inquiry.

Senator KIRK—Mr President, I ask a supplementary question. In relation to ONA’s briefing of Mr Downer in June 2002, I ask the minister whether he recalls the Prime Minister telling parliament:

This observation was based on speculation about what Jemaah Islamiah had the potential to do, not on any intelligence—I repeat, not on any intelligence.

I ask the minister how this is consistent with the statement by ONA’s senior Indonesia analyst when he told a Senate committee last Friday:

No, it was a considered analysis of all the information available. That is not speculation.

What action will the Prime Minister now take to ascertain the true state of ONA’s information provided to Mr Downer, and what action will he take to correct the public record?

Senator HILL—There was no intelligence of a specific threat in relation to Bali. That was the finding of Mr Blick, the independent arbiter who looked at all the intelligence from all of the agencies over a considerable period. That is why I think it is referred to more generally as speculation or discussion during this very long briefing that Mr Downer received. Obviously it was not of sufficient stature to cause the agency to believe that they should put it in writing or to specifically request a change in the travel advisory.

Indigenous Affairs: Domestic Violence and Child Abuse

Senator HARRADINE (2.27 p.m.)—My question is to Senator Ellison, the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs. I refer to the recent call by respected Aboriginal leader Professor Mick Dodson for ‘extreme action’—those were his words—to stop the increasing brutality against women and children in Aboriginal communities. Mr Dodson said:

Child violence includes neglect, incest and assault by adult carers, paedophilia, and rape of infants by youths. Our children are experiencing horrific levels of violence and sexual abuse beyond comprehension.

I ask the minister: what is the government doing to urgently tackle this appalling violence, which is shattering Aboriginal communities?

Senator ELLISON—This matter of course touches various areas of government and the government has this as a priority. The question that Senator Harradine has raised is of utmost concern to the government. Last year the Prime Minister put to the Council of Australian Governments the issue of family violence and child abuse in Indigenous communities. In response to the comments by Mick Dodson, the Prime Minister indicated that certainly Indigenous leaders, both in the Aboriginal and Torres Strait Is-
lander area and generally in the Indigenous community, had a key role to play.

This issue also has been taken up by ATSIC. On 20 June it released a statement in relation to more funding to deal with this particular issue. New funding in addition to the federal government’s budget initiative of $11 million to reduce family violence has been announced by ATSIC. Senator Vanstone’s portfolio, Family and Community Services, has wide-ranging measures which deal with this issue.

The crime prevention area in my portfolio has a number of issues which go to violence in the Indigenous sector. Firstly, we have an agreement with the Northern Territory which establishes a pre-charge juvenile diversion scheme. That also involves a jointly funded Aboriginal interpreter service. There is the prisoners and their families project. There is a joint project with the South Australian government to mentor at-risk Aboriginal youth. We are also working with the Western Australian government to address cyclical offending by young Aboriginal people. One issue in which I have taken a personal interest is domestic violence in the Derby area. We are directly funding a crime prevention program that I have had personal dealings with. It does demonstrate that, with the cooperation of a community—in this case the Mowanjum community, local government and others in the community—you can achieve successful results. But, of course, the Commonwealth government cannot win this battle on its own; it does require the efforts of states and territories working with the Commonwealth government, as well as local government, but particularly with the Indigenous communities. That is what the Prime Minister has said. It is essential that leaders from the Indigenous communities are involved in these efforts to combat domestic violence and the abuse of children.

In my home state of Western Australia there is a community where there have been horrific tales of child abuse. Of course, both the state and Commonwealth governments are acting to remedy that situation. This is a matter of great concern to the government. Senator Harradine has raised a very important issue which is being dealt with through a whole-of-government approach. As I have said, it ranges from Family and Community Services, where Senator Vanstone has a number of programs, through to Aboriginal justice, where my portfolio is involved. The Prime Minister is taking a personal interest in this matter and has elevated it to the Council of Australian Governments.

Senator HARRADINE—Mr President, I ask a supplementary question. I thank the minister. I do not wish him to take it personally at all, because I know of his personal concern and work in this area. I refer to the state governments and the need for them to be involved. The study by Memmott et al, which is now three years old, states:

A typical cluster of violent types in such a dysfunctional community—

that is, in certain areas of outback Queensland—

would be male-on-male and female-on-female fighting, child abuse, alcohol violence, male suicide, pack rape, infant rape, rape of grandparents, self-mutilation, spouse assaults and homicide ... such communities need to be viewed as in states of dire emergency.

That was three years ago. What is the outcome of the measures that have been taken thus far? Are things improving or not?

Senator ELLISON—I do not know whether I misunderstood Senator Harradine to be referring to a particular instance in Queensland. I will take that aspect on notice and refer it to the minister with responsibility for Indigenous affairs. But certainly, across the board, this is going to be a slow process.
It is a very big problem. Recently, through our whole-of-government approach, which deals with state, territory and Commonwealth governments, we have nominated or are nominating 10 sites across Australia. The key aspect it is going to look at is how we succeed in dealing with domestic violence, abuse of children and general violent behaviour in Indigenous communities. I believe that we are likely to achieve much more by concentrating on this whole-of-government approach than if we just dealt with it on a piecemeal basis.

Industry: Reform

Senator GEORGE CAMPBELL (2.34 p.m.)—My question is to Senator Minchin, representing the Minister for Industry, Tourism and Resources. In relation to the Industry Capability Network, formerly known as ISONET, can the minister confirm that unless ISONET Ltd shifts to a full cost recovery basis it will cease to exist in two years time, as stated at the budget estimates by Mr Ken Pettifer, an official of the department of industry? Does the minister agree with Mr Pettifer that a lot of the services provided by ISONET are unidentifiable to any particular company? If this is the case, how is it possible to gain full cost recovery when the beneficiaries of some of the services are unidentifiable?

Senator MINCHIN—I thank Senator Campbell for his question. The government has provided unprecedented support to ISONET and to the SAMP program—Supplier Access to Major Projects. The total support since 1997 is about $10 million of government money. A further $2.5 million will be available over the next two years. We think that has established ISONET as a very strong platform and that ISONET is delivering a commendable service to business—it is a business service. But we do believe after some years of this arrangement that, with Commonwealth government support, it is time for ISONET to move to greater cost recovery. Private firms are receiving the benefit of ISONET’s work. It goes direct to those firms. So we think it is appropriate. ISONET claims that the Supplier Access to Major Projects program has delivered almost $800 million of contracts to Australian companies. We therefore think it is reasonable to expect firms receiving these benefits to help meet the cost, particularly of SAMP services. Cost recovery already applies to some similar services offered by state industrial supplies offices. SAMP has always required some industry contribution. We have given ISONET a pretty generous period of time to make the transition to a more commercial basis. As I understand it, it has been given a three-year transition period. We think it is appropriate. It has been a good program and I think that is widely acknowledged. It is delivering benefits for industry. But in recognition of the fact that taxpayers end up paying, when the benefits are going to private industry, we think it is appropriate to make the move, over a generous transition period, to greater cost recovery.

Senator GEORGE CAMPBELL—Mr President, I ask a supplementary question. Is the minister aware that Australian Economic Consultants Ltd have demonstrated that over $300,000 of tax revenue is generated for every additional $1 million of successful new or retained domestic manufacturing that ISONET achieves? Can the minister explain why the government, in order to save less than $1 million, is putting in jeopardy a network which has redirected over $3 billion to local firms and generated nearly $1 billion of tax revenue?

Senator MINCHIN—we do not think we are putting this program in jeopardy at all. It is a strong program. It has now had some six years of Commonwealth government investment and it will get three more years
before cost recovery becomes fully effective. I have not seen the Australian Economic Consultants report but, as my colleague just mentioned, multiplier effects are argued in all these cases. That is just an argument for investing billions and billions of taxpayers' dollars to get some return. We heard the argument from the state governments in the late eighties and early nineties that they could overcome all their problems if they became private sector investors, and look where that ended up. That is a very shallow argument that we are not persuaded by. Nevertheless, this has been a successful program, but we do believe it is now so well founded after some years of government support that it is in a position to increase its cost recovery.

Northern Territory: Liquefied Natural Gas Project

Senator SCULLION (2.38 p.m.)—My question is to the Minister representing the Minister for Industry, Tourism and Resources, Senator Minchin. Will the minister inform the Senate of the benefits for the Northern Territory, and Australia generally, of the Bayu-Undan liquefied natural gas project which has now been given final approval to commence? What opportunities does this major, world-class project present for Australia to build on its economic performance and record of strong industrial growth and exports?

Senator MINCHIN—I thank Senator Scullion for that very good question and acknowledge his great interest in the economic development of the Northern Territory, particularly through the LNG industry. During our seven years of government we have done a lot to help build the LNG industry in Australia. Indeed, it is going from strength to strength under our government. Just last week, as Senator Scullion would know well, the Timor Sea designated authority gave final approval for the construction of a $2.25 billion gas pipeline and liquefaction plant in Darwin. This is the latest in a very long string of very major developments for this great industry. It has received the strong backing of our government.

This Timor Sea development is not only very good for Australia but is particularly good for the Northern Territory, which is in need of these sorts of developments. But it is also very important for the people of East Timor, and that should not be forgotten. It is the government's estimate that, under the Timor Gap treaty that we signed in March, East Timor can expect to receive up to $5 billion as a result of this project. Australia is also expected to receive substantial downstream benefits from bringing this Bayu-Undan gas onshore and processing it in Darwin. This $2.25 billion project is expected to create over 1,000 jobs during the construction phase, a further 100 permanent jobs at the plant and around $1 billion in tax revenue over the life of the project. This latest announcement cements our growing reputation as a major international gas hub. It builds on the earlier $2.7 billion Bayu-Undan first stage development, which is meant to come on stream in the first half of next year.

This is a massive project. When you include this latest announcement in relation to Bayu-Undan, revenues over the life of the whole Bayu-Undan development in the Timor Sea are expected to exceed $30 billion. May I say as a South Australian senator that I am pleased that Santos, our biggest private company, will be playing a very significant role in this development. It is the biggest investment ever made by Santos—about $550 million on their part. As John Ellice-Flint, the very good Managing Director of Santos, said, it puts the ‘NT back into Santos’. It is a great project between our respective state and territory.
The second stage will enhance our reputation as a major exporter of LNG. Senators will recall that only last year, as a result of a great joint Australian effort on the part of successive federal and state and territory governments, we negotiated the largest ever single export contract in Australia’s history: $25 billion of LNG exports to China; a billion dollars a year in LNG exports for the next 25 years. That brings total exports to $3 billion a year for LNG alone.

This is a very significant industry. It has had a lot of support from our government. We had an LNG action agenda with this industry completed just two years ago. We have made our position very clear in relation to greenhouse policy. A critical issue for this industry was that they have certainty about the greenhouse rules that will apply in Australia so they can export this greenhouse friendly energy source to the rest of the world. This latest development, which Senator Scullion has asked me about, is a further strong commitment by this government and by Australia to a great Australian industry that is going to be enormously beneficial to the Northern Territory and to East Timor.

Senator PATTERSON—What I can tell Senator Stephens is that people living in regional areas are now more likely to be able to find a doctor than they were under Labor. That is very important: they can actually access a doctor. When we came into government we had an absolute maldistribution of general practitioners: far too many in the inner city areas, far too few in rural areas and far too few in outer metropolitan areas. The Labor Party is fixated on bulk-billing. We are focused on fairness and access. Just looking at the bulk-billing headline rates does not tell anybody about whether patients have access to general practitioners or not. We have spent $562 million getting more doctors into rural areas. We have incentives for general practitioners to go and work in rural areas. We have incentives for young registrars to undertake their GP specialist training in rural areas. We have seen a 4.7 per cent increase in doctors in rural areas over the last 12 months, the most significant turnaround in the number of doctors in rural areas ever in Australia’s history—a 4.7 per cent increase in estimated full-time doctors.

With regard to the outer metropolitan areas, where again we inherited an absolute maldistribution of doctors, we have an $80 million program which we are accelerating to achieve relocating 150 doctors over four years. That program started in January this year, and 75 doctors have now committed and signed up to it or have already moved to outer metropolitan areas, and a significant number are in the pipeline, so we are well ahead of schedule in redressing what was an appalling maldistribution of general practitioners.

About seven out of 10 visits to general practitioners are still bulk-billed. What concerns me is that people in inner city areas on
high incomes have access to a bulk-billing doctor, while people in rural areas have never seen a bulk-billing doctor since the inception of Medicare. If the Labor Party thought it was presiding over a fair Medicare when it was in government, it was deluded. It was deluded because there were people who had never seen a bulk-billing doctor; it was deluded because there were people who had great difficulty in accessing a doctor. We have had $562 million worth of programs to get doctors into rural areas, as I said, and $80 million to get doctors into outer metropolitan areas. As of next year we will have increased the number of doctors in training by 234 in medical schools and 150 new GP registrars will be on the ground. Labor is focused and fixated on bulk-billing; we are focused on making sure that people have access to doctors where they need them.

Senator STEPHENS—Mr President, I ask a supplementary question. I will take that answer as a yes. Is the minister aware of the study recently conducted by the Queensland health department which predicts that, as a result of the government’s changes to Medicare, half a million more Queenslanders will attend public hospital emergency wards each year simply because they cannot find a bulk-billing doctor? Why will the government not take pressure off public hospital emergency departments by increasing the availability of bulk-billing for all Australians?

Senator PATTERSON—When Medicare was first introduced, it was never intended that bulk-billing would be for all Australians; that is a myth. Your program will not deliver bulk-billing to all Australians. Our program is about ensuring that those on the lowest incomes will have a greater likelihood of being bulk-billed. As for taking pressure off hospitals, our private health insurance measures and the rebate have taken enormous pressure off public hospitals. We have had 245,000 more people treated in private hospitals and 15,000 fewer patients treated in public hospitals. So, if you want to talk about taking pressure off public hospitals, talk about the rebate and tell Australians what you are going to do about the rebate. Come clean and tell us whether you are going to get rid of the rebate, because I do not see how you are going to pay for your package, other than by either increasing Medicare levies or taking off the rebate. Come clean and tell Australians how you are going to pay for your package.

The PRESIDENT—I remind you, Minister, that in future your remarks should be directed through the chair.

Defence: Depleted Uranium

Senator ALLISON—My question is to the Minister for Defence and the Minister representing the Minister for Foreign Affairs. Is the minister aware that Dr Douglas Rokke, a former nuclear health physicist with the US Armed Forces, responsible for the attempts to clean up depleted uranium after the 1991 Gulf War, said this morning that it is very likely that Australian troops were exposed to waste from depleted uranium and other hazardous chemicals? Will the minister acknowledge that both the US and British troops used weapons containing depleted uranium in Iraq and that our troops, like the Iraqi civilian population, were in the vicinity? Isn’t it the case that Iraq is the most toxic war zone in the world, with depleted uranium used in huge quantities, nerve agents and hazardous chemicals left over from the Gulf War, endemic disease and toxic chemicals and pesticides? And why won’t the minister insist that the testing of Australian troops for levels of uranium exposure is necessary?

Senator HILL—This subject was debated at length during the estimates hearings when honourable senators—
Senator Faulkner—You should be right across it then.

Senator Hill—I think I reasonably am. I was just saying that honourable senators had the opportunity to question the senior health officials within the Department of Defence: those who are expert, have been studying this situation for a long time and obviously have a vital interest in the health of the members of the ADF. I am only making the point that senators who have an interest in this matter were able to, and some in fact did, examine health officials within Defence on this matter.

It is true, as I understand it, that depleted uranium weapons were used by our coalition partners but not in regions where our troops were deployed. I am advised that incidental exposures to depleted uranium contaminated dust would have been very low. I am advised that global position monitoring data has been recorded for our deployed units and special forces in Iraq. Similar data has been recorded by our allies. In the long term this data will be useful in future health outcome studies. As I have said before in this place, and as the officials said during estimates, there is no conclusive evidence to indicate that ammunition containing depleted uranium poses a significant adverse health risk to ADF personnel operating in Iraq. There is therefore no need for restrictions based on this criteria. However, all persons in Iraq that may have been exposed to very low levels of DU contaminated dust would be subject to review, as is determined from time to time. The officials did say that they were aware of new scientific research concerning exposure to low-level radiation from depleted uranium, which may be what Senator Allison is referring to today. The officials said that they were assessing this new research and if, as a result of that, there was any necessity to make adjustments to ADF health advice and screening procedures, they would do so.

Senator Allison—I thank the minister for his answer and I ask a supplementary question. From answers given at estimates it is my understanding that it was anticipated that a data set or map of environmentally hazardous regions in Iraq would be provided. I ask the minister: has that been provided? If not, when will it be provided? Is the minister aware that some US troops have been found to have 5,000 to 7,000 times the permissible limit for uranium in their urine? Do you acknowledge that Dr Rokke would have far more of an idea of what our Australian troops were exposed to than the Australian government? Again I ask: why is it that you will not take his advice and conduct radio bio-assay tests on our troops? What, otherwise, are the government trying to hide?

Senator Hill—The government, obviously, are not trying to hide anything. We have a vital interest in the health of our forces, and if you do not believe that of the politicians I would have thought that you would believe it of the ADF doctors, who have a concern on a daily basis for the health of ADF personnel. As I said, GP monitoring does enable us now to track the position of Australian forces against data that could be gathered and examined relating to the use of these munitions by our coalition colleagues. So if in future it is necessary to refer back to that data to assist our health officials in their task they will be able to do so.

Medicare: Bulk-Billing

Senator Moore (2.53 p.m.)—My question is to Senator Patterson, the Minister for Health and Ageing. Can the minister confirm that the Department of Health and Ageing admitted in Senate estimates that the government neither sought nor received any advice about the impact of its Medicare package on bulk-billing rates or increases in patient costs? How can the government justify proceeding with its Medicare package in the
absence of any such inquiry into its likely effects on bulk-billing or its inflationary consequences? Is this why the government has been unable to give a guarantee that, under its package, bulk-billing will not go into further decline or a guarantee that patient costs will not rise?

Senator PATTERSON—It has always been the case that the government are unable to tell doctors what gap to charge. Most Labor senators understand—I think some of them do not want to understand—that bulk-billing was never meant to be for every single member of the Australian community. We cannot guarantee what doctors will charge. What concerns me is that we have a system which has had inequities in it. Some people who have low incomes or who are on health care cards have not, in the history of Medicare, been able to see a bulk-billing doctor. One of the issues that affect whether people get bulk-billed or not is not just what we pay doctors but also the number of doctors and where they are located. High bulk-billing rates are often found in areas of very high income where doctors choose to live and, in order to make a living, actually bulk-bill all their patients—some of them on low incomes, many of them on high incomes. It has never been equitable.

People on very low incomes in areas where there are too few doctors tend to find that they cannot find a bulk-billing doctor. Hopefully, if we ever get it through the Senate, we will put in place a package which will increase the likelihood of people on lower incomes being bulk-billed. Part of the package is about increasing the number of doctors who are available. As I said before—and I do not know why the opposition keeps asking me this question over and over—what we inherited was a maldistribution of doctors with too few GPs in rural areas, too few in outer metropolitan areas and far too many in the city.

Senator McLucas—We are not asking you that.

Senator PATTERSON—Senator McLucas says that they are not asking me that. The opposition do not understand that where you have too few doctors you will see a decrease in bulk-billing. We have increased rebates to doctors by over 20 per cent. With the PIP payments and other incentive payments to get our immunisation up to world levels, we have increased doctors’ incomes by 24 per cent. Over the same period of time, with high inflation and high interest rates, the Labor Party increased incomes by nine per cent. So if any party has anything to answer for in terms of doctors’ incomes it is the Labor Party. They put a freeze on rebates for doctors and increased their rebates by only nine per cent in a period of high inflation and high interest rates. In a period of low inflation and low interest rates—and that has an effect on doctors, who buy houses, cars, practices and equipment—we have had a 20 per cent increase in rebates, and that becomes 24 per cent if you take the rest of the payments into account.

So the record shows that the government have done a lot more for doctors and a lot more to ensure that we get doctors where we need them so that patients have access to doctors. As I said, we have had an increase of 4.7 per cent in the number of estimated full-time doctors in rural areas. That is a significant turnaround—added to, over the last four years, an 11 per cent increase in the number of doctors in rural areas. We are seeing more doctors going to rural areas, more doctors going to outer metropolitan areas and improving access for patients—which you neither cared about nor did anything about.

Senator MOORE—Mr President, I ask a supplementary question. Can the minister also confirm—despite the fact that I did not hear an answer to my first question—that the
government did not prepare any regulatory impact statement on its proposed changes to its Medicare package? Doesn’t Treasury state that the normal requirements for a regulatory impact statement are that it ‘ensures that a comprehensive assessment of all policy options, and the associated costs and benefits, is undertaken’ and, further, ‘provides a comprehensive checklist that outlines public policy decision-making best practice’? Why did the government sidestep this requirement for a regulatory impact statement, despite the fact this Medicare package represents the greatest change to Medicare in 20 years?

Senator PATTERSON—This is a question that really denies the fact that what we have done is increase payments to doctors. The department has estimated that the vast majority of doctors will be better off if they sign up to the package. Also, if you go and talk to people in Medicare offices, you will find that the public do not want, if the doctor charges a gap, as many do now, the inconvenience of going down to the Medicare office or sending off a cheque and waiting for their Medicare rebate to come back. This package is about convenience. It is also about ensuring that those people on low incomes, particularly those on health care cards, are more likely to be bulk-billed. The package also involves increasing the number of doctors in outer metropolitan areas and in rural areas through our GP registrars to ensure that people have access to general practitioners.

Howard Government: Law Enforcement Initiatives

Senator FERGUSON (2.59 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison. Will the minister update the Senate on law enforcement initiatives taken by the Howard government to combat transnational crime in the region, including drug running, people-smuggling, trafficking in persons and terrorism?

Senator ELLISON—This is a very important question from Senator Ferguson which all Australians will be interested in. What we are talking about here is expanding the resources for the Australian Federal Police to carry out investigations into transnational crime, dealing with such things as human trafficking, people-smuggling, drug trafficking and also threats to our national security. It was a commitment at the last election that we would boost funding for the overseas network for the Australian Federal Police and we have done so—an additional $47 million, which equates to a 40 per cent increase in that program. In fact, we are expanding it to a total of 57 officers in 26 countries.

More recently, we have also seen some announcements that are extremely good for the work that the AFP is doing in the region. We have opened an office in Ho Chi Minh City in Vietnam. It is the first office of its kind, of a foreign law enforcement body, to be opened. That is a testament to the high regard in which the Australian Federal Police is held. We have also opened an office in Chiang Mai in Thailand which is essential for the fight against human trafficking and drug trafficking. The question of human trafficking has been mentioned in the press recently. Last week we saw the arrest and charging of three people in relation to that. The charges relate to three Indonesian women who were allegedly recruited to Australia and provided with false documents to assist in their entry. It is alleged that the women were lured to Australia with the promise of jobs in the hospitality industry, but they were told when they arrived in Sydney that they would be required to work in the sex industry.
This is just one aspect of a very important fight against organised crime. As I said, it relates not only to human trafficking and sex trafficking but also to the trafficking in drugs. It is essential that the Australian Federal Police has a strong overseas presence in not only gathering intelligence on these matters but also working with overseas law enforcement. We have seen this in the number of MOUs that the Australian Federal Police has signed with overseas law enforcement—the most dramatic example, of course, being Indonesia, with the great joint effort we had in relation to the investigation of the Bali bombing. That has set a template for how we will work with law enforcement in the region in fighting these issues of transnational crime.

One might think that this is all overseas. It is not. Transnational crime in one country is local crime in another. That is why it is so important that we join with the region and international law enforcement in fighting these issues. We remain totally committed to funding the Australian Federal Police in this regard. It was an election commitment. We have increased our overseas presence by 40 per cent in relation to the funding that we have provided and we are also carrying out feasibility studies into a number of other new posts, including three dedicated counter-terrorism liaison officer posts in Washington, London and Kuala Lumpur. This also relates to the fight against terrorism—an essential aspect of law enforcement and looking after Australia’s best interests.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Medicare: Bulk-Billing

Senator MOORE (Queensland) (3.04 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Health and Ageing (Senator Patterson) to questions without notice asked by Senators Stephens and Moore today relating to Medicare and the decline in the rate of bulk-billing.

Today the Minister for Health and Ageing, Senator Patterson, acknowledged that people on this side of the chamber seem to be focused and fixated on issues to do with bulk-billing. We accept that allegation. We do accept that we seem to be focused and fixated on issues to do with bulk-billing. But people on this side of the chamber are not the only people in the community who are focused and fixated on this issue. Indeed, when the figures came out on Friday, there was great interest in the issues to do with the numbers—

The DEPUTY PRESIDENT—Please resume your seat, Senator Moore. Senators leaving the chamber, please move out quickly.

Senator MOORE—As I was saying, it is indeed not only people on this side of the chamber who are focused and fixated on bulk-billing rates. When the figures came out on Friday—and we await those figures with interest; sometimes we wait but they do come out regularly—a range of people across the community were checking to see what had happened to the figures. The disappointing and I think sometimes worrying aspect of that situation is that no longer are they waiting to see which way the figures are going. In fact, what is happening now is that, when we know the HIC figures are coming out, people in the community are watching for exactly how far down they have gone. No longer is it an issue of which way they are going but an issue of how far down.

It is not, as the minister implied today in her responses, only in regional and rural Australia that bulk-billing is difficult to find. As I have mentioned before in this place, for
people who are living in the centre of Brisbane, which is not regional and remote—maybe it is if you are in Canberra, but it is certainly not regional and remote if you are living in Brisbane—in the suburbs of Toowong and Indooroopilly, and in Lilley, an inner-city seat, bulk-billing has gone down significantly. When people read about these figures, they are interested. They are asking, indeed, what is happening to the costs and also what the impact is on services in their locality. They are interested that the government is providing increased numbers of doctors—and that increase is welcome—but that is missing the point about the costs of going to the doctor now.

When we see the figures in bulk-billing—and they are public—we see that there have been significant reductions in areas of the Sunshine Coast. In the federal electorates of Fairfax and Fisher, the numbers have gone down significantly, as have those in Lilley and Ryan, as I said. In suburbs of the outer city, in Longman we have figures going down almost 20 per cent in 12 months. That is not good enough. People can hear the department’s and the minister’s responses about what programs will be in place in the future. It is welcome that there will be programs in place in the future. What people want to know is how, why and when they will receive effective service now.

The figures hide a great number of things. Figures are statistics, but statistics inevitably are human beings and families. When we are doing mobile stands and visitations in our electorates and people come and talk to us, their major concern is health. This is not just for members on this side of the chamber. I note with interest that the federal member for Herbert is now circulating a mail campaign in his electorate, which covers the area of Townsville, with deep concerns about what is happening in the public hospital system in Queensland. This is worth while, but what we are finding is that the number of people not just receiving care in the major wards of the public hospitals but also in the accident and emergency areas of our public hospitals, for which there is no Medicare rebate of course, continues to rise. The number of people presenting to those areas continues to rise.

Why is the number of people going to public areas in hospitals rising? It is rising because people in our cities and our regions across the country are unable to find doctors who can provide bulk-billing services. We have talked previously in this place about having to make budgetary choices about accessing medical help. Those choices are forcing people to wait for extended hours in the waiting areas of public hospitals or to travel great distances, as we heard today in question time, to find someone who can provide a bulk-billing service. That is not fair; that is not equitable. We have a right to expect more. We have a right to expect more not just in the future with some proposed changes but now. We need to have better service. We need to have confidence in our health service. We need to have some sense of fairness so that people who seek medical attention can get it when they need it and have some confidence that their Medicare will be provided to them and that they will be able to access bulk-billing at their own location, not far away, not in another city and certainly not necessarily from the public areas in public hospitals. (Time expired)

Senator BARNETT (Tasmania) (3.09 p.m.)—I am so pleased today that the Labor Party has brought on the discussion to take note of answers with respect to health and Medicare, and specifically access to doctors in rural and regional areas. Do you know why? The facts speak for themselves. We have the runs on the board. We have the record. Under the Howard government, since 1996 the Medicare rebate has actually in-
increased by 20 per cent. Compare that with the last six years of the Labor government. What was it? It was nine per cent. Come on—let us compare like with like, apples with apples.

The federal Minister for Health and Ageing mentioned access to GPs in rural and regional areas today. There has been an increase in the number of GPs in rural and regional areas under this Howard coalition government. That is good news. Why not acknowledge it? Put it on the table and say, ‘Yes, thank you; you are improving in that area.’ I live in Tasmania and much of Tasmania is a rural and regional community. I know that those people, like many other people in rural and regional Australia, are keen and thankful that they have access to doctors in many places in rural and regional areas. The whole point is that there has been an increase under the Howard government and we are trying to make it better. We are not saying the position is perfect; we are not saying the system is perfect—no, by no means. But what we are saying is that improvements are going to be made.

If you believed Labor, you would be thinking that we are actually slashing funding to Medicare, that we are actually cutting funding to health. What nonsense. What diatribe and absolute falsity. These allegations are unfounded.

Senator Marshall—they are in the budget.

Senator BARNETT—We are actually injecting another $917 million into the Medicare system. We are making it stronger and more affordable for Australians. Labor are simply not acknowledging that. Let us see where some of that money is going. There is funding for 234 new medical places in this country—234 every year. Only last week I was talking to Professor Alan Carmichael, who is the boss of the medical school at the University of Tasmania. Do you know what he said? ‘Congratulations, thank you, well done; we are very thankful for the commitment and the initiative of the federal Liberal government.’ He is saying thank you for that. We have had an increase in Tasmania from 62 places up to 83. We have an extra 21 places in Tasmania. That is coming on every year. Come on—acknowledge the facts.

Senator Marshall—you are just robbing Peter to pay Paul.

Senator BARNETT—This is happening around Australia in different states, different medical schools. Senator Moore, Queensland has some new places and a new medical school, and I would like you to acknowledge that.

Senator Moore—I did acknowledge that.

Senator BARNETT—Thank you for acknowledging that. Western Australia has a new medical school and new places there as well, and it is happening all around Australia. I am so pleased that you mentioned Peter Lindsay, the honourable member for Herbert in Queensland. What a fine, upstanding member of parliament he is, and congratulations to him on trying to get the Beattie state Labor government to come to the party to fix the state hospital system up there. He knows, like we know, there has been an offer on the table of an extra 17 per cent real increase in funding to the public hospital system. This is the biggest commitment to the public hospital system in the history of Australia. That has not been acknowledged, and I hope it will be by the Labor Party. This is a $10 billion increase over that five-year period. They have been caught unawares. The facts speak against them. These are simply rhetorical allegations that are unfounded. Let us look at the case in Tasmania. An extra $220 million has been offered to Tasmania.
Senator Marshall—Where is it coming from? It is coming out of the public hospital budget.

Senator BARNETT—It is coming from the federal government.


Senator BARNETT—Thank you, Mr Deputy President. I am happy to take any of these interjections because I am thoroughly enjoying the process of rebutting the Labor arguments. In Tasmania we have had an offer of a $220 million increase in funding to the public hospital system. I say to the state Labor government: come on board, match the increase and you will get that increase; that will reduce the waiting lists and waiting times in Tasmania. That will happen right across Australia. It is for the good of the people that the state government sign up.

Senator MARSHALL (Victoria) (3.14 p.m.)—I also rise to take note of the answers to questions from the opposition today by the Minister for Health and Ageing. The Minister for Health and Ageing in her answers to questions today said that bulk-billing had nothing to do with fairness or access. The minister was absolutely dead wrong in that respect. Bulk-billing rates have everything to do with access to a good health care system, with fairness to that access and with equity in our community.

Let us look at the government’s record on bulk-billing rates. We have seen, over the years of the Howard government, a 12 per cent reduction in the rates of bulk-billing. We have seen a 55 per cent increase in costs for non-bulk-billed patients, and we have seen a massive reduction in GPs that bulk-bill in the outer metropolitan, rural and regional areas. Let us look at my state of Victoria over just the last three years. In the seat of Aston, we see a 12.6 per cent reduction in bulk-billing for GPs; in Ballarat, we see a 22.9 per cent reduction; in Batman, a 7.6 per cent reduction; in Bendigo, a four per cent reduction; in Casey, a 12.4 per cent reduction; in Deakin, a 14 per cent reduction; in Dunkley, a 28.8 per cent reduction; in Flinders, a 23.5 per cent reduction; in Isaacs, a 17.5 per cent reduction; and, in La Trobe, a 16.5 per cent reduction. The list goes on and on.

If we just want to look at the most recent figures, we can look at the figures in Ballarat over the last three months alone—the March quarter. In December 2002 bulk-billing was at a low of 52.8 per cent. By March 2003 it had dropped to 43.8 per cent—a nine per cent reduction in a three-month period. If we go to Gippsland—another seat in Victoria—we see that it went from a low of 52.1 per cent down to 46.7 per cent, a 5.4 per cent reduction in bulk-billing in that area.

Hundreds of thousands of Australians are now unable to access a bulk-billing doctor. Hundreds of thousands of Australians have been driven into the emergency departments of our public hospital system. This government is absolutely ideologically opposed to Medicare and it is no wonder at all that its policies are all framed around destroying this Medicare system and not about ‘A Fairer Medicare’ package, which is Orwellian doublespeak.

Let us look at what Mr Howard said about Medicare back in the 1980s. It is worth remembering what he said in the eighties, just to understand his ideological hatred of this system. He labelled Medicare a ‘miserable, cruel fraud’. He called it a ‘scandal’, ‘a total and complete failure’, ‘a quagmire’, ‘a total disaster’, ‘a financial monster’, ‘a human nightmare’. These are all words coming from the now Prime Minister. He threatened to pull Medicare right apart to get rid of the bulk-billing system, and that is what the A Fairer Medicare system is attempting to do.
He is trying to get rid of the bulk-billing system. Bulk-billing, Mr Howard said, was an ‘absolute rot’. Isn’t it surprising that his own seat of Bennelong has one of the highest bulk-billing rates? It is quite ironic that the constituents in the electorate of the very man that is trying to destroy the Medicare system actually have one of the highest levels of accessibility to a bulk-billing practitioner.

I had a few other things to talk about but I want to come to the budget situation because Senator Barnett raised the issue of the budget documents. I notice that Senator Barnett has now left the chamber, but I want to draw his attention to page 179 of Budget Paper No. 2. There the figures are absolutely clear. We see the health care agreements funding cut. In 2003-04 the federal government will cut to the states $108.9 million. In 2004-05 there will be a further cut of $172 million. In 2005-06 there will be another cut, of $264.6 million, and in 2006-07 we can look forward to another cut, of $372.9 million. (Time expired)

Senator EGGLESTON (Western Australia) (3.19 p.m.)—The Labor Party is peddling the idea that in some way the coalition is undermining the universality of the Medicare system by the changes that have been proposed. The reality is that, far from undermining the Medicare system and its universality, the government is strengthening it. It has never, ever been the case that Medicare was conceived to provide 100 per cent bulk-billing. The Labor senators seem to have forgotten what it was that the Labor Party created in 1984 and which ran until 1996 when the Howard government came into office—and that was a system under which doctors had the choice of bulk-billing, or direct billing, to Medicare the fees for procedures and services provided to patients, or not. They could charge them private fees and the patients would have to pay them.

It is very interesting—if you look across the spectrum of medicine, you will find that surgeons, for example, have never, ever bulk-billed very many people. Very few surgeons bulk-bill and they do it for few services indeed. At the other end of the scale, pathologists and radiologists bulk-bill a great number of services. In the middle there are people like psychiatrists, physicians and general practitioners who, on the whole, in recent years have been bulk-billing more than 50 per cent of their services—up to 70 per cent in many areas. Bulk-billing was never, ever—I repeat ‘never, ever’ because the Labor Party seem to have a certain amount of amnesia about what they created—designed to be a 100 per cent practice. It was an option available to doctors, who could bulk-bill those patients whom they chose to.

What has been universal about Medicare is free treatment in public hospitals. That remains. That is the unique and universal feature of Medicare—any Australian can go to a public hospital and be treated free of charge, regardless of their income and regardless of what it is that they need to have done in the way of services, operations or hospital in-patient care. That universality remains. Many people take out private health insurance to access the private hospital system, but even people who do have private health insurance are entitled to access free treatment in public hospitals, and that is what the universality of Medicare is all about.

I think it is time the Labor Party stopped misleading the Australian population about what the government proposes under the A Fairer Medicare proposals. The simple fact is that the A Fairer Medicare proposals mean that an extra $917 million will be paid into the Medicare system. It has been carefully designed to strengthen both the availability of bulk-billing and the affordability of general practitioner services—it does not affect
any other services particularly—for concession card holders.

This package provides incentives to general practitioners across this country to continue to bulk-bill cardholders, of which I believe there are now some seven million in Australia. Under this package, those people will be guaranteed that they will find a general practitioner who will bulk-bill them. To achieve this the government has offered incentives to doctors to bulk-bill concession card holders. These range from $3,500 per GP in urban and outer metropolitan areas to an average of $22,050 to GPs in rural and remote areas. For practices with higher than average concessional patient workloads the amounts will be higher.

One of the points that Senator Moore has made—and I hope she has understood all that, by the way—is that people in rural areas will be worse off under the A Fairer Medicare package. I would like to put on the record a quote from Graham Jacobs, the President of the Rural Doctors Association of WA. When commenting on the coalition package on 16 May, he said:

I believe that this measure, in conjunction with others, will make a positive difference to our medical manpower problem in the bush.

By contrast, the Labor proposals treat people in rural areas as second-class citizens. (Time expired)

Senator STEPHENS (New South Wales) (3.24 p.m.)—I too rise to take note of answers to the questions asked today of Senator Patterson, the Minister for Health and Ageing, on the issue of dwindling bulk-billing rates. I note that Senator Patterson was reluctant to admit that the figures released by the Health Insurance Commission indicated a dramatic drop of nine per cent in bulk-billing rates within the first three months of this year. From her response today, I think Senator Patterson wants us to believe that the government’s Medicare reforms and associated measures will make a significant difference for country people, and certainly that was her response to me today.

But the minister cannot defend the fact that, on 2 June 2003, the Department of Health and Ageing representatives at the Senate estimates committee hearing were unable to provide a substantive case as to why a cost blow-out would not occur with the Medicare threshold and that, far from offering any economic modelling—again, during question time today Senator Patterson was reluctant to admit that had not occurred—there was only a belief and a hope and a faith that doctors’ fees would not rise under the government’s new health care package.

I refer to Dr Guerin of Molong, who advised us that to administer the changes will cost him twice as much as he will receive for the privilege of helping to run Medicare. He suggested that taking up this whole process represents a direct cost shift from Medicare offices to doctors’ offices. For rural doctors such as he, the struggle is that they are part of their communities; they are embedded in their communities and are not just seen to be running a local business. As such they are often obliged, or feel obliged, particularly when they work in rural communities that are experiencing drought, to offer bulk-billing to some farmers, farm workers and others who are affected by drought but who do not have a concession card. There are some serious issues for those people, and he asks, ‘What are they going to do now?’ Are they going to have to bear an extra $15 or perhaps $20 or $25 down the track? He is suggesting, of course, that he will be subsidising his service through the goodness of his heart, but that is not necessarily the case for many others. It is certainly no incentive to encourage doctors into regional areas. The government’s answer now is a new private
health insurance product to insure against the
gap for non-concessional patients, but an
extra $52 a year for gap insurance with a
$1,000 excess is hardly an attractive option.

I would suggest, too, that one of the issues
about the government’s package is that it has
chosen not to recognise the fact that GPs’
fees being likely to rise is a measure of the
weakness of the package and perhaps a true
indication of its intention to shift the costs of
health in this country more and more onto
the people: first of all onto the states and
then onto the people, particularly people in
our regional communities.

Senator Ellison spoke just a moment ago
about the increases to the Medicare package.
Budget Paper No. 2 indicates exactly that:
the increase to the Medicare package be-
tween 2002-03 and 2006-07 totals $917 mil-
lion. How coincidental that the health care
agreements funding cut is exactly that—or
almost, it is $918 million! So the cuts will
come from, and will be borne by, the public
hospital system. In many rural and regional
communities, where there is no option for
access to a bulk-billing doctor, we will be
forcing people into accident and emergency
wards at a rate of knots. That seems to be a
fairly extraordinary lack of recognition of the
pressure that public hospitals are under. So
we have a situation now where Medicare will
be just for some of us, not for all of us. We
will be reminded for a long time to come just
what the Prime Minister is suggesting when
he says that Medicare is ‘for all of us’: it will
not be for all of us. *(Time expired)*

Question agreed to.

**Environment: Paradise Dam**

Senator CHERRY (Queensland) (3.30
p.m.)—I move:

That the Senate take note of the answer given
by the Minister for Defence (Senator Hill) to a
question without notice asked by the Leader of
the Australian Democrats (Senator Bartlett) today
relating to the construction of Paradise Dam.
It was a very important question. We are still
actually waiting for an answer. It is very hard
to note an answer that was not actually
given, but we have that occupational hazard
in this chamber all the time. On this particu-
lar matter, Senator Bartlett asked a question
about the Paradise Dam, which is a very
large dam being built in the Burnett River,
outside Bundaberg. This dam has been mired
in controversy now for many years. It was
approved by the Queensland government in
the lead-up to the last state election without a
proper environmental assessment and with-
out even a proper economic assessment—it
was purely on the basis of an electoral as-
sessment. All hope rested on the Minister for
the Environment and Heritage to ensure that,
because this dam required approval under the
Environment Protection and Biodiversity
Conservation Act, he would do his job prop-
erly and ensure that the environmental im-
acts of this dam were properly and correctly
looked at. But again, waiting for the Howard
government to make a right and proper envi-
ronmental decision is like waiting for
Christmas: sometimes it just does not
come—in this particular case, it certainly did
not.

Senator Tchen—It always comes.

Senator CHERRY—It does not come for
some, Senator Tchen. In this case, the minis-
ter approved the dam with only a minimal
environmental impact. He did, however, add
some conditions to that approval. The first
condition was that Burnett Water, which is
the company building the dam, must prepare
and submit for the minister’s approval a plan
to mitigate the impacts of the action on the
black-breasted button quail by securing
compensatory habitat at Mount Blandy. The
Burnett River dam may not be operated until
the plan is approved, and the approved plan
must be implemented. We are still waiting
for that plan; we are still waiting to see what that plan says and we are still waiting to see whether that plan will be effective. Certainly the Democrats want to see that plan in this chamber as soon as possible so the community can look at whether it will in fact be effective in protecting what is clearly a significant endangered species.

The second condition was that Burnett Water must prepare and submit for the minister’s approval at least one year prior to the commencement of the operation of the dam a plan to manage the effects of the dam on listed migratory species in the Burnett River estuary. The plan had to include the surveying of listed migratory species, sufficient monitoring of water quality and environmental flows and measures to be taken if the information derived from the above indicated that the action was having an adverse effect on listed migratory species. We are still waiting for that plan as well, and we are still waiting to see whether this government will ensure that the minimal and minuscule conditions that were put on this approval are properly followed through.

But there is a third issue, which has always concerned the Democrats, and that is the lungfish. The lungfish is a living fossil that effectively lives in the Burnett River estuary. This species, as we understand it, has now been nominated for inclusion on the list of threatened species. With a whopping great, huge dam about to be built in its principal habitat, if it was threatened last year then in a few years time it will be completely threatened. We want to know where that application is up to. If the government do in fact list the lungfish as a threatened species, what does that mean in terms of the management of the Burnett River dam? That is something which this government need to address. Again, they need try and make sure that they do their job under their own piece of legislation to ensure that the environmental impacts of this dam are properly dealt with.

We are also concerned that last year the Prime Minister signed a memorandum of understanding about the impact of run-off into the Great Barrier Reef lagoon. The Burnett River drains into the southern part of the Great Barrier Reef lagoon, and it is certainly very concerning from our point of view that there has not been a proper assessment of the impact that this huge dam will have on run-off into that area. The fishing community is very concerned about this dam, not just from the point of view of environmental impact but from the point of view of economic impact as well, because obviously if you have a lot less fresh water flowing into that lagoon then you change an awful lot of habitats. It was disappointing from our point of view that when this dam was approved those assessments were not properly done—the economic and environmental assessments have not been done at a state or federal level.

Importantly, the federal government has allowed the Queensland government to over-allocate the water from this dam. We are not going to see a proper catchment management plan for the water allocations from this dam. Rather, we see a very strange resources operation plan which actually bypasses proper scrutiny and allows for overallocation without impact assessments done for the community. This dam has been a disaster in terms of public policy from the point of view of its community, environmental and economic impact. I really hope that when the minister comes back with his answer to the Senate he does in fact tell us exactly what is going on and that, for a change, we do get an answer to a question—it would be a good change.

Question agreed to.

PETITIONS

The Clerk—A petition has been lodged for presentation as follows:
Health: Rural, Remote and Metropolitan Area Classification
To the Honourable the President and Members of the Senate in Parliament assembled.

The petition of the undersigned shows that the NSW town of Nimbin has lost 4 GPs in recent years. A major factor in this has been Nimbin’s RRMA3 status, which excludes Nimbin from the incentives designed to attract doctors to rural areas, incentives enjoyed by neighbouring Murwillumbah & Byron (RRMA5) & Ballina (RRMA4). Over 30km from Lismore, Nimbin was originally classified RRMA3 (ie. towns of 25,000-99,999), because it was in the same Statistical Local Area [SLA] as Lismore. In 2001, Nimbin was placed in a new SLA which specifically excluded Lismore, thus entitling Nimbin to RRMA5 status. Repeated approaches to Senator Patterson to revise Nimbin’s RRMA status have been to no avail. The new incentives for GPs to move from the inner to the outer suburbs of Sydney, exacerbate Nimbin’s plight.

Your Petitioners call upon the Senate to ask the Minister for Health and Ageing, Senator The Hon Kay Patterson, to take action and remedy this injustice to Nimbin, and injustice that puts the welfare of 5-6,000 rural Australians at risk.

by Senator Forshaw (from 1,062 citizens).

Petition received.

NOTICES
Presentation

Senator Ferguson to move on the next day of sitting:

That the Parliamentary Standing Committee on Public Works be authorised to hold a public meeting during the sitting of the Senate on Thursday, 26 June 2003, from 9.30 am till 10 am, to take evidence for the committee’s inquiry into the refurbishment of the Australian Institute of Sport.

Senator Bolkus to move on the next day of sitting:

That the Legal and Constitutional References Committee be authorised to meet on Tuesday, 24 June 2003, from 5.30 pm, to take evidence for the committee’s inquiry into progress towards national reconciliation.

Senator Cherry to move on the next day of sitting:

That the following matters be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by the last sitting day in March 2004:

(a) the current and prospective levels of competition in broadband services, including interconnection and pricing in both the wholesale and retail markets;
(b) any impediments to competition and to the uptake of broadband technology; and
(c) the implications of communications technology convergence on competition in broadband and other emerging markets.

Senator Cherry to move on the next day of sitting:

That the time for the presentation of reports of the Environment, Communications, Information Technology and the Arts References Committee be extended as follows:

(a) the role of libraries as providers of public information in the online environment—to 19 August 2003;
(b) environmental performance at the Ranger, Jabiluka, Beverley and Honeymoon uranium operations—to 19 August 2003; and
(c) Australian telecommunications network—to 2 December 2003.

Senator Bartlett to move on Tuesday, 12 August 2003:

That the Senate—

(a) notes that the recent Inter-Governmental Conference, hosted by the Government of the Republic of the Philippines in Manila from 25 to 26 March 2003, agreed to support an international declaration for the welfare of animals, based on four basic principles, and is seeking the support of governments worldwide for this declaration;
(b) notes that the four principles are:

(i) the welfare of animals shall be a common objective for all nations,
(ii) the standards of animal welfare attained by each nation shall be promoted, recognised and observed by improved measures, nationally and internationally, respecting social and economic considerations and religious and cultural traditions,
(iii) all appropriate steps shall be taken by nations to prevent cruelty to animals and to reduce their suffering, and
(iv) appropriate standards on the welfare of animals be further developed and elaborated, including, but not limited to, those governing the use and management of farm animals, companion animals, animals in scientific research, wildlife animals and animals in recreation; and

(c) calls on the Australian Government to support the declaration agreed to at the recent Manila Inter-Governmental Conference.

Senator Bartlett to move on Thursday, 26 June 2003:

That the Senate—

(a) notes that:

(i) the June 2003 edition of the Australian Veterinary Association Journal contained a report from a veterinarian, Dr Petra Sidhom, entitled ‘Welfare of cattle transported from Australia to Egypt’,
(ii) the report described thousands of animals enduring overcrowded and filthy conditions and inadequate ventilation while aboard the livestock carriers at sea,
(iii) the report also detailed that those animals that did survive the journey to Egypt were, upon arrival, turned over to ill-prepared and inexperienced stockmen and slaughtermen, resulting in extreme cruelty and suffering, and
(iv) the author’s statement that she ‘negotiated a range of measures to improve the situation with representatives of LiveCorp, but none has yet been put into practice’;

(b) expresses concern at the prospect of the Government and LiveCorp being far more interested in expanding live export and international trade opportunities than ensuring the welfare of the animals that it exports; and

(c) calls on the Government to introduce, as a minimum, an immediate moratorium on live exports to Egypt, the Persian Gulf, and other areas of the Middle East, until these countries adopt similar animal welfare laws and codes of practice to those of Australia in the areas of transportation and slaughter.

Senator Bartlett to move on Wednesday, 25 June 2003:

That the Senate—

(a) notes that the Primary Industries Ministerial Council (PIMC) has repeatedly considered a national position on banning tail docking of dogs without reaching a consensus, as recently as December 2002 and April 2003;

(b) notes that, although PIMC failed to reach a consensus at its April 2003 meeting, it resolved to finalise a national position on the issue of tail docking of dogs for cosmetic purposes at its meeting on 30 June 2003;

(c) notes that after the April 2003 PIMC meeting the Australian Capital Territory and Western Australian Governments proceeded with the banning of tail docking of dogs for cosmetic reasons, while Queensland put similar regulations in place to be automatically enacted in October 2003; and

(d) calls on the Federal Government to commit to a national ban on tail docking of dogs for cosmetic purposes.

Senator Bartlett to move on Wednesday, 25 June 2003:
That the following bill be introduced: A Bill for an Act to provide for the welfare of animals in Australia, and for related purposes. National Animal Welfare Bill 2003.

Senator Chapman to move on the next day of sitting:

That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate on Thursday, 26 June 2003, from 4.30 pm, to take evidence for the committee’s inquiry into Australia’s insolvency laws.

Senator Bartlett to move, two sitting days after today:

That item [2197] of Schedule 2 to the Migration Amendment Regulations 2003 (No. 3), as contained in Statutory Rules 2003 No. 106 and made under the Migration Act 1958, be disallowed.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) the United Kingdom has changed its regime for taxation of company vehicles so that vehicles are taxed according to their price list value and level of carbon dioxide emissions rather than a combination of list price, age and annual business mileage, and

(ii) according to a PricewaterhouseCoopers survey published on 18 March 2003, 92 percent of employees had selected to drive cars with lower carbon dioxide emissions as a result of the scheme;

(b) recognises the harmful effects of carbon dioxide emissions on global warming and public health, and that a significant percentage of carbon dioxide emissions in urban areas is the result of automobile emissions;

(c) calls upon the Government to move towards a fringe benefits taxation system which encourages the acquisition of low emission vehicles as company cars, and which encourages the use of public transport; and

(d) urges state and territory governments to adopt vehicle registration systems for new vehicles which encourage the acquisition of low emission vehicles.

Senator Forshaw to move on the next day of sitting:

That the time for the presentation of the report of the Finance and Public Administration References Committee on its inquiry into recruitment and training in the Australian Public Service be extended to 18 September 2003.

Senator Ian Campbell to move on the next day of sitting:

That, on Tuesday, 24 June 2003:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm, and 7.30 pm to 11.40 pm;

(b) the routine of business from 7.30 pm to 11 pm shall be government business only; and

(c) the question for the adjournment of the Senate shall be proposed at 11 pm.

Senator TCHEN (Victoria) (3.35 p.m.)—I give notice that on the giving of notices on the next day of sitting I shall withdraw business of the Senate notice of motion No. 2 standing in my name on behalf of the Standing Committee on Regulations and Ordinances for 10 sitting days after today for the disallowance of the Farm Help Re-establishment Grant Scheme Amendment 2003 (No. 1), made under section 52A of the Farm Household Support Act 1992. I seek leave to incorporate in Hansard the committee’s correspondence concerning this instrument.

Leave granted.

The correspondence read as follows—

Farm Help Re-establishment Grant Scheme Amendment 2003 (No.1)

6 March 2003
The Hon Warren Truss MP
Minister for Agriculture, Fisheries and Forestry Parliament House
Dear Minister

I refer to the Farm Help Re-establishment Grant Scheme Amendment 2003 (No 1) made under subsection 52A of the Farm Household Support Act 1992 that provides that recipients of the Sugar Industry Reform Assistance exit grants are not also eligible to receive a Farm Help Re-establishment grant.

The Committee notes that item I in Schedule I introduces into the Scheme a reference to an instrument called the ‘Program Protocol for the delivery of Sugar Industry Reform Assistance’. The amendments also insert a postal address where copies of this Protocol can be obtained. However, the Protocol does not appear to be available on the Internet. This comparative inaccessibility is a matter of concern for the Committee, as the content of the Protocol is unclear. The Explanatory Statement provides no further information on this matter. The Committee therefore seeks your advice about the content and accessibility of this Protocol.

The Committee would appreciate your advice on the above matters as soon as possible, but before 2 May 2003, to enable it to finalise its consideration of this instrument. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely

Tsebin Tchen
Chairman

HON WARREN TRUSS MP
Minister for Agriculture, Fisheries and Forestry
Senator Tsebin Tchen
Chairman
Senate Standing Committee on Regulations and Ordinances
Room SG49
Parliament House
CANBERRA ACT 2600
14 MAY 2003
Dear Senator Tchen

Thank you for your letter of 6 March 2003 regarding the Farm Help Re-establishment Grant Scheme Amendment 2003 (No 1) (“the Scheme Amendment”) that provides that recipients of the Sugar Industry Reform Program exit grant are not also eligible to receive Farm Help Re-establishment grants. I apologise for the delay in responding.

I acknowledge the Committee’s concerns over the content and accessibility of the instrument “Program Protocol for the delivery of Sugar Industry Reform Assistance” (“the Protocol”) referred to in the Scheme Amendment.

The Protocol is an evolving document detailing the contractual arrangement between my Department and Centrelink for the supply of assistance to grantees under the Sugar Industry Reform Program. It is pursuant to the existing Memorandum of Understanding between the agencies, and sets out the level of service agreement, defining the working relationship, reporting requirements and other interaction.

Accordingly, whilst the Protocol does contain references to the eligibility criteria for the various assistance measures, including the exit grants, the content of the document does not lend itself to public accessibility for the purposes of the Scheme.

Given this, I believe the Protocol is not the most appropriate instrument for the purpose of identifying the sugar assistance measures within the Scheme Amendment. Rather, there is a body of information available on the websites of both my Department and Centrelink, which provides all relevant details of the various assistance measures in a comprehensible and accessible form.

I therefore undertake to make a further amendment to the Farm Help Re-establishment Grant Scheme 1997 to provide a more suitable identifying reference to the sugar assistance measures, including this comprehensive, publicly available information. In the interim, the Protocol will remain available at the address cited in the Scheme Amendment.

Thank you for bringing your concerns to my attention.

Yours sincerely

Warren Truss
Senator Brown to move on the next day of sitting:
That there be laid on the table by the Minister representing the Minister for Industry, Tourism and Resources (Senator Minchin) by no later than 3.30 pm on 12 August 2003, all documents produced since 1 January 1999 relating to work undertaken by the public relations company Turnbull Porter Novelli for Biotechnology Australia and the department.

Senator Murray to move on the next day of sitting:
That the Senate—
(a) notes that the effect of the Commonwealth Grants Commission system is to encourage states and territories to increase revenue from gambling and gaming;
(b) notes that on 23 June 2003 the Australian Capital Territory introduced legislation to increase its revenue from poker machines via taxation;
(c) calls upon the Commonwealth to help break the nexus between state and territory revenue needs and gambling and gaming; and
(d) asks the Government to ensure that the Commonwealth Grants Commission ensure that none of its determinations have the effect of encouraging increased state or territory reliance on gambling and gaming.

LEAVE OF ABSENCE
Senator EGGLESTON (Western Australia) (3.37 p.m.)—by leave—I move:
That leave of absence be granted to the following senators:
(a) Senator Payne for the period 23 to 27 June 2003, on account of ill health;
(b) Senator Troeth for the period 23 to 27 June 2003, on account of government business overseas;
(c) Senator Stott Despoja for the period 23 and 24 June 2003, on account of ill health.
Question agreed to.

COMMITTEES
Rural and Regional Affairs and Transport Legislation Committee
Meeting
Senator EGGLESTON (Western Australia) (3.38 p.m.)—by leave—At the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I move:
That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate today, from 7.30 pm, to take evidence for the committee’s inquiry into the application and expenditure of funds by Australian Wool Innovation Ltd.
Question agreed to.

NOTICES
Postponement
Senator NETTLE (New South Wales) (3.39 p.m.)—by leave—I move:
That general business notice of motion no. 486 standing in my 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.

Postponement
An item of business was postponed as follows:
Business of the Senate notice of motion no. 1 standing in the names of Senators Stott Despoja and Bolkus for today, relating to the reference of matters to the Legal and Constitutional Legislation Committee, postponed till 25 June 2003.

DOCUMENTS
Auditor-General’s Reports
Report No. 52 of 2002-03

The DEPUTY PRESIDENT (3.40 p.m.)—Pursuant to standing order 166, I present report No. 52 of the Auditor-General, which was presented to the Deputy President on 20 June 2003. In accordance with the
terms of the standing order, the publication of the document was authorised.

COMMITTEES
Appropriations and Staffing Committee

Reports

The DEPUTY PRESIDENT (3.40 p.m.)—I present two reports of the Standing Committee on Appropriations and Staffing: the 38th report, Estimates for the Department of the Senate, and the 39th report, Review of aspects of parliamentary administration, together with documents presented to the committee.

Ordered that the reports be printed.

Senator ROBERT RAY (Victoria) (3.41 p.m.)—I seek leave to move a motion in relation to the reports.

Leave granted.

Senator ROBERT RAY—I move:

That the Senate take note of the reports.

The biggest appropriation covered in these reports is for the security measures for Parliament House. In the financial year 2003-04, an extra $6.8 million is going to be spent; in the financial years 2004-05 and 2005-06, an extra $6.2 million; and finally in the year 2006-07, an extra $6.4 million. What this reflects is our duty to act properly to protect a national icon, the Parliament House of Australia. It is not just to protect MPs—but it is very unlikely an MP would be affected by an act of terrorism—but to protect the 3,000 people who work in this building and the one million visitors a year who come to this building. I have heard some people complain that about the measures that have been adopted; I personally cannot support that. I know some people do not like the way the aesthetics of the building have been affected but I just think those people are self-indulgent. We must take the necessary steps to protect the building.

This budget provides funds only for the financial year 2003-04. For the three out years, we have to find the funds for those security measures through savings measures—we have to implement savings measures if we are to continue those security measures. Of course it is only the parliamentary departments that have had to find full savings measures. No other government department has had to find full savings measures for the $390 million worth of security measures mentioned in the last budget. If you are the Department of Defence, Foreign Affairs and Trade or the Prime Minister and Cabinet, ‘Here is the money; you have it,’ according to the Department of Finance and Administration in the budget papers. But when it comes to the parliament, our funding is reduced by over $18 million over the three out years. The fact is that some departments have made minor absorptions with regard to security, but the five parliamentary departments are the ones that have to fully fund it after the first financial year. One of the reasons for this is that the Presiding Officers have no leverage whatsoever at the ERC. ‘Come in, chaps; we’ll slap you around and then we’ll get rid of you’—that is basically their attitude. There is no countervailing force that other departmental ministers can bring. They treat them like trash, and I think that is a disgrace.

DOFA argue that the savings can be found via the Podger report. I want to note two points about that. Firstly, DOFA have not tested and verified what is in the Podger report. After all, they did not even access the PriceWaterhouse report. Remember that the Podger report was detailed to Mr Len Early to do on a consultancy, and he then detailed it down to PriceWaterhouse, just like a cleaning contract—it goes to the second subcontractor to get their views. The department of finance have not even looked at the second subcontractor’s views, and that is a concern.
Secondly, even if you take the optimistic view and the Podger report delivers the savings it promises, we will still be down $1.2 million per year in the three out years, so other savings will have to be found. Other cutting, burning and slashing measures around the building have to occur. Why? To support necessary security measures. You do not see the Prime Minister’s department having to slash and burn all over the place to pay for the necessary security measures—only the parliamentary departments.

In the end, of course, the two issues are linked: the Podger report and security. They are linked in the budget papers; I do not have to invent it. What the government is saying is: implement the Podger report and bring about the security measures. Basically, this is blackmail. This is the executive saying to the parliamentary departments, ‘The only way you can ensure security around this building is to take up the amalgamation proposal’—nothing short of blackmail.

It also represents staggering hypocrisy on behalf of coalition senators. Over 22 years I have watched them constantly oppose the amalgamation of the parliamentary departments. Several measures came up in the life of the Labor government and those opposite stood on principle: ‘No, we cannot have amalgamations.’ Oppositionist mentality reigned. We were the evil ones trying to force efficiencies in the parliamentary system. But, now that the orders have come down from on high and the instructions have come down from the executive, you watch all the toadies line up and vote for this proposal.

What happens, of course, if the departments do not support amalgamations? We have to find $6.2 million worth of savings every year. That is going to be extremely difficult. In order to demonstrate that, and having cleared this with the minister, I seek leave to incorporate in Hansard the answer to Senator Murray’s question on notice.

Leave granted.

The document read as follows—

ESTIMATES HEARING 26 MAY 2003
FURTHER INFORMATION

The following further information is provided to the committee in relation to a matter raised at the committee’s hearing on 26 May 2003.

Senator Murray asked the Clerk:

Is it possible for you to advise the Presiding Officer in advance of the areas of savagery that you might be forced to consider if you had to implement the $1.2 million savings? (transcript, p. 25)

The implementation of the $1.2 million reduction in the Senate Department’s budget, postulated by the Department of Finance, to fund additional security measures, could be achieved by the loss of approximately 20 staff or by the elimination of some current activities and by ‘cheeseparing’ administrative expenditure. The most likely approach would be a combination of all three.

Measures which might be taken could include:

- No replacement of senators’ laptop computers and portable printers—$327,210
- No replacement of senators’ scanners—$30,400
- Cease support for the Former Members’ Association—$5,000
- Cancel the intermediary role carried out by staff in Senators’ Services—
  - cease transport services, senators book cars through Comcar directly—$45,000
  - close stationery store—$38,400
- Cease discretionary entitlements for senators—$98,400 (magazine subscriptions, diaries, newspapers, Christmas cards)
- Ditto departmental staff—$13,370
- Charge media organisations and lobbyists an annual bureau fee for use of Table Office inquiries services and cease all mail & freight support to the Press Gallery—$85,000
Sen. ROBERT RAY—There is the indicative list—it is only indicative—of the slashing and burning that will have to occur, and I ask government members to have a good look at that if they want their Senate services—and this covers only the Senate, remember—cut by that particular amount. I think there is worse yet. Whilst the Senate has very little capacity to generate savings without these deep cuts, I can tell you now that the Library have no hope. They either cut their collection—that is about their only choice—or have mass sackings of staff to find the particular amount they would require.

The question comes up: can the Podger report generate the necessary savings that it says? I have to say to you that I think the jury is out. I am not sure that the $5 million per year will in fact be saved. I remind everyone that up front we have to put up $1.2 million to implement this, if we are lucky. More likely, it will cost more. The end result of this—not that the bean counters in the Department of Finance and Administration would care much—is that at least 38 people around this building will lose their jobs. So I hope that every one of us who may vote for this will take the responsibility for that particular action and not say, ‘That is the Presiding Officer’s job’—it is everyone’s job.

You should note in the staffing and appropriations report that there is a resolution that authorises the amalgamation of departments. It is fair enough that that motion comes before us, and it has the rider in the text of the report that that does not bind any members of the staffing appropriation committee to support it when it comes before this chamber. But it was a fair enough thing that the motion had to come to this chamber.

There is no possibility of resolving it this week. We, as an opposition, have not taken it through our party channels. I doubt whether the Liberal and National parties have done the same. Given the very high legislative workload we are going to have this week, it is almost impossible to do. So it will not come up, but it almost certainly will come up in that first sitting week in the spring session in August. It has to be resolved around then so that the Presiding Officers and anyone else can in fact implement the amalgamation, if it is so authorised, to make the savings in time for when the next financial year cuts in.

By then, the Australian Labor Party will have established their position. I hope that the Labor Party will ignore the blackmail gambit. I hope they will ignore the temptation for oppositionism and will treat the proposal on its merits, and maybe—just maybe—we might be consistent. I have consistently supported the amalgamation of parliamentary departments in my time in the Senate and I do not see why on this occasion, unless my colleagues convince me otherwise by having a majority against me, I would change my mind on that particular issue. I always bow to the collective wisdom but I will be there arguing for the amalgamation of those departments just as consistently as I did in 1988 and 1991 and on other subsequent occasions, because it makes sense—as long as we do it in the knowledge of what we are doing.
Senator MURRAY (Western Australia) (3.50 p.m.)—I do not have the same knowledge of the appropriations and staffing deliberations as Senator Ray on these matters, nor do I have the same knowledge that Senator Ray has of the history of these matters. But I did sit through a very instructive and enlightening estimates process when the Senate Clerk and the President were before the Senate Finance and Public Administration Legislation Committee.

The issues are exactly as outlined by Senator Ray and there is not much I could say to disagree with his analysis; in fact, I agree with his analysis. There are two fundamental issues here. One is the joining of Podger and the security matters through financial pressure. I do not think that the use of the word ‘blackmail’ is too exaggerated, because it has exactly that effect. It does not reflect well, frankly, on the government or on the Presiding Officers that they seem to have bowed their heads to that sort of approach.

We really do need, where matters of the Senate are concerned, for the Presiding Officers and senators to rise above both an executive view and a party view and to view these matters as dispassionately and objectively as possible, because you are affecting in the end the separation of powers and the way in which parliamentary houses function. The responsibility on us is therefore great.

I think, frankly, that the linking of the two matters is likely to make people bloody-minded and we may well find that we do not get as objective an analysis as Senator Robert Ray might have hoped for, given his strong support for it. As people know, my party have a conscience vote. I have wondered whether on these issues conscience votes on both sides of the parliament may be better. I am absolutely certain that there are strong views against these mergers as well as strong views for these mergers on the coalition side, and I do not think that the coalition will succumb to the will of the majority. I think the coalition will succumb to the will of the executive, which is entirely different to what will happen in the Labor Party, which will be a numbers determination. So, if you have that distinction between the way in which these things will happen, it may be better to argue for a vote on conscience.

From my study of the matter, such as it is, and the advice I have been given, I think the financial case for the amalgamation either in part or in full is a case not proven. I do not think it is necessarily disproven, but it has certainly not been proven from what I have seen. But the effects of linking the Podger report to the security issues will have the consequence, if it is not carried through, of weakening the Senate. I do not think that is in the interests of government. I think it will just put senators’ backs up and make us a little less intractable and much less informed and much less capable of doing our jobs. In fact, it is the very services that we are provided which enable so much of this chamber to operate so productively, with nearly 98 per cent of all bills passed, with a vast majority of them passed unamended. That is assisted by the kinds of services we get. So I am very uncomfortable with the situation, and I am very pleased at the forceful outline and remarks made by Senator Ray with respect to all this.
Question agreed to.

DOCUMENTS
Auditor-General’s Reports
Reports Nos 53 and 54 of 2002-03

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

Report No. 53—Business support process audit—Business continuity management follow-on audit; and

Report No. 54 of 2002-03—Business support process audit—Capitalisation of software.

PARLIAMENTARY ZONE
Proposal for Works
Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (3.55 p.m.)—In accordance with the provisions of the Parliament Act 1974, I present a proposal for works within the Parliamentary Zone, together with the supporting documentation, relating to landscape and lighting works at the Treasury Building. I seek leave to give a notice of motion in relation to the proposal.

Leave granted.

Senator IAN CAMPBELL—I give notice that, on Wednesday, 25 June 2003, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the design for the Commonwealth Place Forecourt.

COMMITTEES
Electoral Matters Committee
Report
Senator MASON (Queensland) (3.57 p.m.)—On behalf of the Joint Standing Committee on Electoral Matters, I present the report of the committee entitled The 2001 Federal Election, together with the Hansard record of proceedings, minutes of proceedings and submissions received by the committee. I seek leave to move a motion in relation to the report.

Leave granted.

Senator MASON—I move:

That the Senate take note of the report.

Mr Deputy President, I will make just a few very brief comments and I foreshadow that I will then seek leave to incorporate in Hansard the remainder of my tabling statement.

This report on the conduct of the 2001 federal election coincides with the 20th anniversary of the Joint Standing Committee on Electoral Matters and its predecessor, the Joint Select Committee on Electoral Reform. These committees have made an important contribution to the conduct of free and fair Australian federal elections by reviewing the conduct of each election since 1983 and making recommendations for improvements to electoral law and practice in this country.
It is worth noting that this report is the first unanimous post-election report the committee has produced in 13 years. I thank my colleagues on the committee and congratulate them, particularly the chair, Mr Georgiou, and deputy chair, Mr Danby, for their commitment to a consensus process.

Two of the committee’s recommendations in particular would, if implemented, result in quite fundamental changes to electoral procedures. These two recommendations, and I repeat these are unanimous recommendations, are aimed at strengthening electoral roll integrity and they are very important changes: first, a streamlined proof of identity requirement for all applicants for enrolment and re-enrolment and, secondly, voters claiming a provisional vote will now be required to validate their entitlement to vote by providing proof of their name and address.

In concluding these brief introductory remarks, I again thank the chair, Mr Georgiou, and the deputy chair, Mr Danby, and my fellow committee members for all their work. I also thank the committee secretariat, in particular Trevor Rowe and Russell Chafer, for their dedication.

It is worthwhile noting that Senator Ray, who was on this original committee back in 1983, has served on the committee now for 20 years. It is the 20th anniversary of the committee.

Senator Robert Ray—I did have a short break.

Senator MASON—With a short break, I am told. I commend the report to the parliament and I seek leave to incorporate the remainder of my tabling statement in Hansard.

Leave granted.

The statement read as follows—

Australia’s electoral roll is the bridge between the right to vote and the ability to exercise that right. Australian democracy depends on an electoral roll with high integrity and high inclusiveness, that maximises voting by those entitled to do so while minimising the opportunities for electoral manipulation.

There have been a limited number of demonstrated manipulations of the electoral roll, but there is no persuasive evidence of any widespread malpractice. However, the Committee believes that it is not sufficient to rely on the absence of such evidence. The electoral roll must be of the highest integrity and inclusiveness, and it must be publicly demonstrated to be so.

One of the keys to electoral roll integrity is ensuring that enrolments are accurate in respect of the identity and address of the enrollee. The AEC and the Electoral Act do have measures to verify this, but the reality remains that the proof of identity required to enrol to vote to determine the government of Australia, is less than that required to join a video library.

Over the past 10 years, there has been a contentious and protracted debate on proof of identity requirements for enrolment. The Committee believes that the time has come to seek to achieve a consensual, constructive resolution of this matter.

The Committee agreed on a streamlined proof of identity requirement that:

- addresses proven cases of manipulation;
- sets standards that all people entitled to vote can reasonably meet;
- is consistent with proof of identity requirements in other areas of Australian life, and
- reassures the public that barriers against roll manipulation have been strengthened.

The Committee unanimously recommends that all applicants for enrolment and re-enrolment be required to verify their name and address using their driver’s licence or other documents accepted by the AEC, or where that is impossible, by providing a confirmation supplied by two people who are on the electoral roll.

It is recommended that these identification requirements be trialled with a three-year sunset clause.
Another significant issue before the Committee was concern about provisional voters and their entitlement to vote. A person whose name cannot be found on the electoral roll may cast a ‘provisional’ vote. In 2001, nearly 200,000 provisional votes were admitted to the count. This happens after their entitlement to vote is checked by the AEC. However, the AEC submitted that many provisional voters ‘are not living at the address they claim as their enrolled address and may not have lived there for some years’.

The Committee recommends that a person who claims to still be resident within the Division of their last enrolment, but whose name does not appear on the certified list of voters, shall only be issued with a provisional vote where they can validate their entitlement by providing proof of their name and address. The Committee believes that this measure will enhance the integrity of the provisional voting, and complement the more rigorous verification of identity and address on enrolment.

The close of rolls period is the period after the issue of writs for an election—currently seven days—during which people can enrol or change their enrolment details. This has been a controversial issue since 1993. People perceived that the AEC cannot properly check the validity of enrolments made during this time, and that inappropriate enrolments could influence outcomes in marginal seats. Accordingly, there have been proposals to shorten the close of rolls period.

The Committee examined the AEC’s process for checking enrolment transactions during the close of rolls period, and found that it did not differ from the processes that applied at other times. Where the checking processes indicate anomalies in enrolment applications, such applications are not added to the roll.

Given this, the Committee concluded that, particularly in light of its recommendations to strengthen proof of identity requirements for enrolment and re-enrolment, the close of rolls period should remain at seven days.

The Committee also considered submissions concerning the franchise of particular groups of electors.

Australians moving overseas may register as an Eligible Overseas Elector (EOE) three months prior to or up to two years after departure, if they intend to return to Australia within six years. Australians living overseas who are not enrolled to vote may enrol as eligible overseas electors, but only if they are overseas for their career purposes, or those of their spouse. In both cases, EOE status is terminated if the elector does not vote or apply for a postal vote at an election.

Submissions objected to the conditions for admission to EOE status, saying that they derogate from the general right to vote. The Committee sees no justification for differentiating between Australians overseas on the basis of their reasons for moving overseas, and considers that the time limit for enrolling while overseas should be extended. However, the Committee supports the ‘intention to return to Australia’ and the ‘use it or lose it’ requirements, believing it appropriate to require Australians living overseas to demonstrate a continued interest in Australian political affairs in order to retain their right to vote.

Submissions to the Committee contended that the Electoral Act restricts the ability of homeless people to enrol to vote in federal elections.

It is estimated that the Australian homeless population totalled 105,304 at the time of the 1996 census. Estimates of the proportion of homeless people eligible to vote, but not enrolled, vary considerably; estimates for the 2001 federal election range from 29,000 to 80,000.

The Committee acknowledges the difficulties of homeless people in relation to enrolment and voting. It notes that the Electoral Act has provisions for itinerant voters—people who have no real place of living—and these may take in homeless people.

The Committee recommends that the itinerant elector provisions be amended to elucidate their applicability to homeless persons. The AEC should continue its efforts to simplify and clarify the itinerant elector application form, and should target homeless persons in its next public awareness campaign.

It is necessary to balance the right to privacy against the principle that the electoral roll should be open and accessible to all citizens, to facilitate
the verification of their own enrolment and that of others. The Committee recommends that access be enhanced by providing an internet enquiry facility to allow electors to verify their own enrolment details, and to confirm as much of another elector’s details as they are able to provide. Conversely, in light of modern technology enabling electoral roll information to be extracted for commercial purposes, the Committee recommends that the electoral roll no longer be available for sale.

Finally, the Committee believes that the time has come for a focussed inquiry into the administration and funding of the AEC. The Committee will now seek a reference to conduct such an inquiry. Pending this, the Committee has recommended that there be no further co-locations of AEC divisional offices and that the AEC be provided with funding which ensures a minimum of 3 full time electoral staff in each House of Representatives division

In conclusion, the Committee thanks all who made submissions to this inquiry and appeared at public hearings. Participation in such inquiries is an important contribution to the work of the Australian Parliament. I extend my thanks to the Deputy Chair, Mr Michael Danby, and to our fellow Committee members for their work throughout this inquiry and to the Committee Secretariat for their dedication. It is Mr President, worthwhile noting that Senator Robert Ray who was on the original electoral reform Committee in 1983 is also now a member of the Committee on its 20th anniversary. I commend the report to the Parliament.

Senator ROBERT RAY (Victoria) (4.00 p.m.)—I join with Senator Mason in thanking the secretariat for the very good job they did in helping to hold the various hearings and in drafting this report. It is very difficult to do it without good staff and committee work, and they exceeded themselves on this occasion. I would also like to place on record my gratitude to Mr Georgiou for the way in which he has chaired the committee in the time since I have rejoined it, in the last 18 months. He has done it by fostering teamwork and by negotiating his way through a variety of difficult areas, and I think he has performed with exceptional ability and grace in the position. I would also like to thank other members of the committee for their commitment.

This committee is now 20 years old; it has been going for over two decades. It was established in 1983 because Australia had lost its way in terms of electoral law. We led the world back at the start of the 20th century in terms of reforms and institutions and the reinforcement of democracy but, between 1949 and 1983, there were very few changes to the Electoral Act. We even had redistributions knocked over that left us with electorates of 140,000 compared to 29,000 in the same state. In 1983 there was a revolution; the whole Electoral Act was rewritten. What has happened ever since is that this committee has been given the task of looking at the way the previous election functioned and making suggestions for the future. What you have seen is a process through which, after every federal election, more and more improvements are made. We have now probably reached the point where there are very few frontiers to conquer with regard to electoral matters.

Compare us with the United States of America, which does not have real federal electoral laws apart from a couple of funding ones, where local authorities run the election so that within one state you can have a variety of different ballot papers and voting methods. I hope—and I hope Senator Mason will agree with me—that ‘Florida’ is not possible in Australia. The United Kingdom have just set up an electoral commission. Ninety per cent of their electoral organisation is done by local government. I had the opportunity, two years ago, of watching a count of an election in Islington. It took them seven hours to count the ballot. Put three Australians in there and you would have had your result in half an hour. It is unbelievable, the
amateurism with which other countries approach what is a fundamental protection of democracy. I think we have done it fairly well and we now only need to tinker around the edges.

A few issues came out of this inquiry. The most important has been mentioned by Senator Mason, and that is that we have looked very carefully at the issue of proof of identity going onto the electoral roll. It has been contentious in the past; it has also been a partisan issue in the past. Most of us now have form. It is probably helpful to the Labor Party that the Liberal Party in Victoria and elsewhere has had a bit of form too, so we can have a more balanced look at these things. We have recommended that you need your drivers licence as the proof of identity and eventually we hope that, with data matching access, you will not even have to send in a photostat of that because the number alone will be sufficient. But, in the meantime, you will have to send in a photostat. For those who cannot do that—because 10 per cent of people do not have a drivers licence—we need another form of proof. For the very minor group that cannot provide any of that, we need two other people with drivers licences who will attest to the truth on the application form—not to the truth of witnessing it but to the truth of the material facts contained within it. At some point we also recommend an upping of penalties for anyone who signs something they know not to be true. Having fixed that problem into the future, we no longer believe that the electoral rolls have to close early after the issue of the writs. If you have a convenient proof of identity, you will be able to process all those new applications or changes of address that come in in that seven days before the rolls close. The committee has achieved a balance and a way of taking matters forward.

There are just two or three other things I might mention, and I commend the rest of the report for people to read. We have tackled the area of provisional votes, which is always a contentious area and is always an area that may take us into the realm of the Court of Disputed Returns and other things. We have made some explicit reform suggestions in a non-partisan way to try to clean up that area. I want to mention two other issues. One is the placing of computers into those polling booths with the highest absentee voting record, just as an experiment. So many mistakes are made, yet you could have computer access to tell people which electorate they are in and to make sure they get the right ballot papers. That is only a pilot scheme we intend to run at the next federal election to see what happens.

The final issue I want to mention is the amalgamation of AEC divisional offices. This is probably the most controversial issue running at the moment. The Electoral Commission’s evidence and cooperation on this, I have to say, in my view, has been varied. Maybe I am looking at it in the wrong way but, at both estimates committee and at the hearings, I do not believe that initially there was enough transparency on this issue. It is one that many members of the House of Representatives feel deeply about and that most senators are indifferent to because it does not impact at all on our own self-interest. The concept and view held by local members that you have to have a divisional office in every division is a little quaint in some ways but, nevertheless, there is an overwhelming desire that I detect in the parliament not to amalgamate the offices. A government cannot direct an electoral commission in that way but I note that the Electoral Commission has put a freeze on these sorts of amalgamations or co-locations until all budgetary issues are settled.

On the other side of that particular argument, we do have a problem with the electoral system in terms of promotion. It is very
difficult to set up a decent hierarchical system, where people who go on sick leave can be replaced and where there are opportunities for promotion through the ranks that do not exist at the moment. It is going to be a difficult issue to tackle. This whole budget issue of the AEC and the co-location of offices is going to be quite a difficult issue. In the end, it will probably be resolved legislatively rather than administratively. I notice the heavies from the joint foreign affairs and defence committee are gathering, so I had better leave Senator Murray to say a few words. I commend the report of the committee to the House.

Senator MURRAY (Western Australia) (4.07 p.m.)—I rise to commend this report of the Joint Standing Committee on Electoral Matters, The 2001 Federal Election. It is a unanimous report. In my view it will advance electoral law and the functioning of our federal democracy. The importance of the committee should not be understated because of the contribution it makes to Australian democracy. We should always remember that the Australian Electoral Act is the linchpin of our democracy. It puts into practical effect the constitutional requirements of our country. I would almost make a footy analogy. You cannot have a good footy game without good rules and good umpires and, frankly, what this act does is allow good rules to be developed so that the integrity of our electoral system is world class.

I also want to acknowledge the status and the respect we should show to those who commenced the committee in 1983. Not only did the committee kick off then but of course they rewrote the act. We are fortunate to have on the committee a prime mover at that time, Senator Ray, whose great depth and interest in this area is of great help, and that has been so with his predecessors. In the chair, who I might say was a very effective chair, we had the benefit of a former state secretary of Victoria. That is invaluable experience. In Senator Minchin, now a minister, who was a previous member of the committee, you had a similar level of experience. And it is that level of practical experience and the understanding wrought by long competition that enables practical advances to be made in this area.

At the time the new act was written in 1983 to become law in 1984, our own Senator Macklin was a leading negotiator and had a leading part to play in that new act. I wish to acknowledge and show respect for his contribution at that time and subsequently on matters of electoral law. When I listened to the introduction of this report in the House of Representatives, for a moment I took small offence when I heard the deputy chair, Mr Danby, talk about how important it was that the major parties had come to an agreement, bearing in mind of course that this was a cross-party report in which both the National Party and Democrats agreed. In fact, he was making a very important point: you cannot advance electoral law in any significant way unless the major parties do agree on the problems that need to be fixed, and their contribution is considerable. Having said that, I disagree with Senator Ray about there being no new frontiers. The Democrats very much believe there are frontiers that need to be broken in this field.

The main report has 34 recommendations. The Democrats’ supplementary remarks are so titled because ours is not a dissenting report, but there are areas we cover that are covered either insufficiently or not at all in the main report, and those are the areas of greatest public interest and notoriety. We have picked up in our report remarks about an insufficiently representative House of Representatives. That is an extremely topical discussion right now given that those who hold 42 per cent of the votes in the House of Representatives want to have 100 per cent of
the power over the Senate. I would remind those listening that overall over 18 per cent of voters—nearly one in five—are not represented in the House of Representatives at all, having given their primary votes to political parties and independents other than the Liberal, Labor or National parties. Over and above that, you then have to look at the situation in the Senate where it is closer to five per cent of primary votes that are not represented in the Senate. The Senate is not only a much more representative house; it is also a house which exhibits more of the characteristics of proportional representation—within the states obviously; not between states—and that adds to our effect.

Another thing I would remark upon—and this is for the ears of the journalists—is that it would be nice if you stopped referring to bipartisan and two-party systems. There are nine political parties in this parliament when you count both houses, which I must say I had not realised until I counted them all up—I thought there were seven. We do have a truly plural parliament and of course the government itself is comprised of three political parties. That is a point to make.

We have a section on political governance, and if there is a frontier that has to be crossed in electoral law and constitutional change it is in the area of political governance. Political governance in this country is poor and our perfunctory performance in that area is in marked contrast to the much stronger regulation we rightly apply to corporations or unions. We have made a number of recommendations on political governance, which I would commend to the reader. You might find much in it that you actually agree with.

The next area in which we have a lot more to say than does the main report is funding and disclosure. The Australian Democrats have a long history of activism for greater accountability, transparency and disclosure in political finances. We have made a number of recommendations there which we think would clean up some of the areas of huge controversy and public interest that to this day occupy the attention of the media and the public.

Then there is a further area that we draw attention to, and that is constitutional and franchise matters. Here there is a great deal of common ground. In fact, our recommendations seem to be supported unanimously in some respects. For instance, the Australian Democrats would support a four-year term for the House of Representatives. I noted that the Leader of the Opposition recently suggested that the prohibition at the moment on the Electoral Act preventing simultaneous elections on the same day be done away with. We have made a recommendation under section 44 on which there is widespread agreement. Really, we think that if this government is as strong as it says it is and is so confident of the next election then perhaps it will take the risk and put some constitutional changes to the people at the same time as it holds a general election, to get rid of matters on which we all agree and which it would do the country good to be addressed.

The last area we deal with is ‘other matters’. In there we do place strong emphasis on the need to reform the system of government advertising so that government advertising, which is in fact political party advertising, is properly regulated. Having said that, I want to return to the report and emphasise our thoroughgoing support for its recommendations.

Question agreed to.

Foreign Affairs, Defence and Trade Committee: Joint Report

Senator SANDY MACDONALD (New South Wales) (4.16 p.m.)—On behalf of the
Joint Standing Committee on Foreign Affairs, Defence and Trade, I present the report of the committee on the 2003 New Zealand parliamentary committee exchange. I seek leave to move a motion in relation to the report.

Leave granted.

Senator SANDY MACDONALD—I move:

That the Senate take note of the report.

On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I have pleasure in presenting the committee’s Report of the 2003 New Zealand Parliamentary Committee Exchange. Australia and New Zealand have a valued shared history and, as a result, a mutual desire to strengthen wherever possible our social, trade, defence and security interests. The parliaments of both countries recognise the merit in building on our already strong relationship by having an annual exchange of parliamentary committees.

During the period 6 to 11 April 2003 the Defence Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade visited New Zealand as part of the 2003 parliamentary committee exchange program. The first objective of the visit was to meet with New Zealand parliamentarians to share ideas and build enhanced relationships between the two parliaments. This objective was fulfilled through a series of high-level meetings with the Speaker of the New Zealand parliament, the Hon. Jonathan Hunt MP; the Leader of the Opposition, the Hon. Bill English MP; the Minister of Defence, the Hon. Mark Burton MP, who will be in Canberra tomorrow, I understand; and members of the New Zealand Foreign Affairs, Defence and Trade Select Committee.

The second objective of the visit tied in with the subcommittee’s current inquiry into Australia’s maritime strategy. The majority of meetings during the four-day visit were with New Zealand defence personnel who provided briefings on key developments and initiatives in New Zealand defence policy and capability. These meetings were constructive and provided an alternative perspective to some of the issues that are currently being examined by the subcommittee as part of its inquiry into Australia’s maritime strategy.

In addition to receiving briefings on current developments in New Zealand defence policy, a range of general defence briefings and meetings were arranged. These briefings, while not directly related to maritime strategy, were beneficial in providing a wider appreciation of the New Zealand Defence Force and specific initiatives. For example, while visiting the Burnham Army Base near Christchurch, a briefing was provided on the New Zealand Defence Force program known as Youth Life Skills and also another program called Limited Service Volunteers. Through these schemes New Zealand Army personnel provide training to unemployed persons to develop skills and responsibilities and to enhance confidence and attitudes in the participants.

Programs like these which utilise defence personnel and defence property do not currently operate in Australia. However, the review of the New Zealand programs makes it timely to consider and evaluate the role of the Australian Defence Force in contributing implicitly and explicitly to broader community goals. While the ADF’s prime focus is the defence of Australia, there is a range of community support roles which it performs—and I give the two recent examples of the airlift and evacuation following the Bali bombings and engineering support teams assisting the Canberra community during the bushfires.
In view of the wider contribution that the ADF makes to community outcomes, the committee may look at this aspect of ADF operations as part of its review of the 2002-03 Defence annual report. The committee will have the opportunity to consider the current community roles performed by Defence and whether there is a capacity for further contributions in this area. My own view, however, is that the ADF is already well tasked, rather than being part of the government’s quite legitimate and broad aim to pursue good social and public policy, but that is a committee decision, I guess. In relation to general defence issues, an alternative perspective was provided through a meeting with academics from the Institute of Policy Studies and the Centre for Strategic Studies at the Victoria University of Wellington.

The prospect of enhanced academic and research relations between New Zealand and Australia focusing on the various elements of the relationship has merit. Therefore, the committee recommends that the Australian Strategic Policy Institute, ASPI, as it is known, and the Strategic and Defence Studies Centre at the ANU be encouraged to examine with their New Zealand counterparts opportunities for joint research projects. The ministers for defence and foreign affairs should consider whether any additional resources are needed for this activity. I do note that one of the educational centres of excellence that has been proposed and actually given to the ANU is the new school of Asia-Pacific studies. It is relevant for this; it is also relevant of course for the special relationship that we have with the Pacific generally.

There are a couple of other things I want to mention, one of which is the continuing interest by Australia in New Zealand’s nuclear policy. You will recall, Mr Acting Deputy President Ferguson, that New Zealand has an antinuclear policy with a reasonably long history. The New Zealand Labour Party was elected to office in July 1984 with a policy that nuclear-powered or armed vessels would not be permitted to enter New Zealand ports. The effect of this policy was first exercised in 1985 when entry was refused to US vessels. As a result, New Zealand was suspended from the operations of ANZUS in 1986. The treaty was not amended or cancelled with regard to New Zealand because that would have required a redrafting of the treaty which would have needed the approval of the US Congress. In 1987, legislation was approved enforcing the ban as New Zealand law.

The issue at the centre of the dispute is now somewhat academic—and it was interesting to expand on this while we were there—because, following the end of the Cold War, the US navy ceased deploying nuclear weapons on all vessels, except on its strategic nuclear missile submarine fleets, which never operated in New Zealand waters anyway. New Zealand is now classified as a friendly, non-aligned nation, which involves some minor administrative issues but still invokes restrictions on New Zealand’s access to many areas of intelligence. That is why the Australia-New Zealand relationship is so very important to New Zealand. Since ANZUS was suspended in 1985, New Zealand forces have had limited access to US technology and to exercise experience with US forces. The ADF attempts to compensate for this to some extent. The number of joint exercises has been increased substantially since that time.

The other matter that I want to talk about, which I have spoken about in the past in connection with New Zealand, is the question of amalgamation or a very high level of cooperation between the ADF and the New Zealand Defence Force. Before I go to that, I might mention that, with regard to their nuclear stance, it is interesting that both sides
of politics in New Zealand appear to be quite relaxed about the relaxation of the policy on visits by nuclear ships—mainly because, as I mentioned, nuclear weapons are no longer carried on US ships. In fact, the amount of radiation that comes out of Wellington Hospital is higher than the amount of radiation that comes from a visiting nuclear warship.

On the question of amalgamation or a very high level of cooperation between the ADF and the New Zealand Defence Force, there are a number of strategic political and outlook differences between our two countries. We have been very proud to serve alongside each other in almost all the conflicts that Australia has been part of. As a general comment, it could be said that the New Zealand armed forces have little potential by themselves, yet are a professional and, in some areas, very modern force. New Zealand defence policy continues to give weight to a requirement to operate in conjunction with the ADF. In many conceivable circumstances, such as in East Timor, where we could not have operated without them, this will continue to be the case. In other areas where New Zealand might operate alone, it would be dependent on the ADF for transport and logistics support, as was the case when it was establishing the peace monitoring group on Bougainville.

We are also very interested in terms of our maritime inquiry to look at their multipurpose ship that they are developing, which will play a substantial part in them being able to deploy their military forces into the south-west Pacific. That is of particular relevance, both strategic and military, from Australia’s point of view. In many practical circumstances, the ADF and the New Zealand Defence Force are an integrated force, but without acknowledgment and without planning. These aspects would have to be addressed if a combined force were to become a reality. The former is a largely political issue of gaining support from both countries for the idea. I do not think there is a great deal of support for that. The latter would require a concentrated study and would involve senior personnel from both sides. Both would take some time to achieve and could proceed better if a body of experience were first established. I make those comments because it is a matter dear to my heart that we could get a sort of synergy of value out of—(Time expired).

Question agreed to.

PARLIAMENTARY DELEGATIONS

Parliamentary Delegation to Canada and the 108th Inter-Parliamentary Union Conference

Senator CHAPMAN (South Australia)—by leave—I present the report of the Australian parliamentary delegation to Canada and the 108th Inter-Parliamentary Union conference in Santiago, Chile, which took place from 31 March to 3 April 2003, and 5 to 12 April 2003, respectively. I seek leave to move a motion to take note of the document.

Leave granted.

Senator CHAPMAN—I move:

That the Senate take note of the document.

The report I have just tabled records the work of the Australian parliamentary delegation to Canada and to the Inter-Parliamentary Union conference in Santiago de Chile. The delegation, led by Mr Speaker, visited Ottawa and Toronto from 30 March to 3 April. It was accorded a high level of reception, with Mr Speaker meeting with the Governor-General and the Prime Minister of Canada, and the delegation meeting with six federal ministers, two parliamentary secretaries and a wide cross-section of Canadian members and senators.

I am sure I speak on behalf of all members of the delegation when I record my thanks to
Canadian House of Commons Speaker Milliken and Senate Speaker Hays for the warm and generous welcome extended to the delegation. Personally, I was particularly pleased with the parliamentary focus of the program and I have no doubt that this visit renewed and strengthened parliamentary ties between the two countries. The delegation took place as the events in Iraq were unfolding, so there was particular interest at most meetings in Australia’s position on the war. The delegation also visited Toronto during the SARS outbreak and received an excellent briefing from the health minister in Ontario on strategies to contain that outbreak. The delegation also pursued interests in health, indigenous issues, genetically modified organisms, fisheries management, the wine industry and bilateral trade and investment. In Toronto, the delegation met a wide cross-section of representatives of Australian business interests in Canada. I was impressed with their initiatives and strategies that are encouraging new exports, particularly in the wine industry, the education sector, gift ware and natural products.

The report I have just tabled also details the work of the delegation at the 108th Inter-Parliamentary Union conference held in Santiago. I was particularly pleased to return to Chile, having taken a keen interest in it and in Australia-Chile relations. During the IPU conference, I was honoured to receive an award from the Chilean government recognising my work in that area. I am grateful to my friends in Chile, including Senator Paez, the President of the Inter-Parliamentary Union, for according me the honour of the Gran Cruz, Order of Bernardo O’Higgins. As usual, Australia took a leading role in the work of the conference, with Mr Speaker, the member for Calwell, Maria Vamvakinou, and I being elected to drafting committees to prepare resolutions for adoption by the conference including, in my case, being chairman of the drafting committee. The resolutions are included in the report, along with details of other meetings attended, and activities undertaken, by the delegation.

The Association of Secretaries General of Parliaments—that is, of clerks—met concurrently with the IPU. It is noteworthy that Ian Harris, Clerk of the House of Representatives, was elected as president of the association for the next three years. On behalf of the delegation, may I thank the delegation secretary, Neil Bessell, for his untiring efforts in supporting our work, along with Phillip Allars from the Department of Foreign Affairs and Trade and Dennis Gifford from Mr Speaker’s office, whose advice and support was also appreciated. I commend the report to the Senate.

Question agreed to.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—The President has received letters from party leaders seeking variations to the membership of committees.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.32 p.m.)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Environment, Communications, Information Technology and the Arts Legislation Committee—

Appointed—Substitute member: Senator Wong to replace Senator Mackay for the committee’s inquiry into the Plastic Bag Levy (Assessment and Collection) Bill 2002 [No. 2] and the Plastic Bag (Minimisation of Usage) Education Fund Bill 2002 [No. 2].

Ministerial Discretion in Migration Matters—Select Committee—

Appointed—Senators Bartlett, Ludwig, Sherry and Wong.
Question agreed to.

TAXATION LAWS AMENDMENT BILL (No. 6) 2003

SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) BILL 2003

SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) (CONSEQUENTIAL AMENDMENTS) BILL 2003

NATIONAL HEALTH AMENDMENT (PRIVATE HEALTH INSURANCE LEVIES) BILL 2003

PRIVATE HEALTH INSURANCE (ACAC REVIEW LEVY) BILL 2003

PRIVATE HEALTH INSURANCE (COLLAPSED ORGANIZATION LEVY) BILL 2003

PRIVATE HEALTH INSURANCE (COUNCIL ADMINISTRATION LEVY) BILL 2003

PRIVATE HEALTH INSURANCE (REINSURANCE TRUST FUND LEVY) BILL 2003

APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 1) 2003-2004

APPROPRIATION BILL (No. 1) 2003-2004

APPROPRIATION BILL (No. 2) 2003-2004

First Reading

Bills received from the House of Representatives.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.34 p.m.)—I indicate to the Senate that those bills which have just been announced 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 in accordance with the list circulated in the chamber. 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 ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.35 p.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

TAXATION LAWS AMENDMENT BILL (No. 6) 2003

The measures contained in this bill amend various taxation legislation.

Schedule 1 to this bill will increase the Medicare levy low income thresholds for individuals, married couples and sole parents in line with increases in the Consumer Price Index. Schedule 1 also increases the Medicare levy low income threshold for pensioners below age pension age to ensure that where those pensioners do not have a tax liability they will also not have a Medicare levy liability.

The amendment to the Medicare levy low income thresholds will apply to the 2002-2003 year of income and later years of income.

Schedule 2 to this bill will modify the general value shifting regime so that, as a transitional measure, the consequences arising from operating under this regime do not apply to most indirect value shifts involving services. This measure will help to reduce compliance costs for business during the transition to Consolidation.

Schedules 3 to 8 further refine the consolidation regime.

Schedule 3 will limit the extent to which a linked asset’s tax cost can change when it comes into a
consolidated group, minimising possible distortions in asset values.

Schedule 4 modifies the cost setting rules to ensure they apply appropriately to a partner’s interest in a partnership, as well as partnerships that enter consolidated groups.

Schedules 5 to 7 align the membership rules for multiple entry consolidated groups with the current membership rules for consolidated groups, where subsidiaries are held through an interposed non-resident entity. Broadly, only those multiple entry consolidated groups that consolidate before 1 July 2004 will be eligible to have non-resident entities interposed between members of the group.

Schedule 8 makes some minor technical amendments. These refinements to the consolidation regime will apply from 1 July 2002 which is the commencement date of the consolidation regime.

Schedule 9 streamlines the procedures under which an individual taxpayer can be released from a tax liability where payment of the liability would entail serious hardship. The existing authority to grant release will be transferred from Tax Relief Boards to the Commissioner of Taxation. Consistent with contemporary review practices, the amendments will also introduce a new right to have tax relief decisions reviewed internally under the Australian Taxation Office objections process, and externally by the Administrative Appeals Tribunal sitting as the Small Taxation Claims Tribunal. Also, the scope of the release arrangements will be expanded to cover instalments of pay as you go and fringe benefits tax under the A New Tax System.

Schedule 10 will amend the imputation rules to allow New Zealand companies to choose to enter the Australian imputation system. A New Zealand company will be able to maintain an Australian franking account and attach Australian franking credits to dividends. This measure will enable Australian shareholders of New Zealand companies deriving income in Australia to receive franking credits, and consequently a tax offset, for Australian tax paid on that income.

This measure fulfils Australia’s commitment to the reform of triangular taxation. It reflects the commitment of this Government to the continued strengthening of the Closer Economic Relations agreement between Australia and New Zealand and the promotion of trans-Tasman business.

Schedule 11 amends the GST Act and the GST Transition Act to apply the GST insurance provisions to payments and supplies made in settlement of claims arising under a compulsory third party scheme. The GST insurance provisions are also extended to apply to transactions undertaken by insurers pursuant to an agreement to share the cost of settlements made under a compulsory third party scheme.

Lastly, Schedule 12 to this bill provides for the establishment of a new category of deductible gift recipient, namely, a register of harm prevention charities. Harm prevention charities are charitable institutions whose principal activity is to promote the prevention or the control of behaviour that is harmful or abusive to human beings.

Under this measure, these institutions will be entitled to apply to the Australian Taxation Office for endorsement as deductible gift recipients. Such deductible gift recipient status will assist these institutions in attracting public support for their activities.

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

I commend the bill.

SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) BILL 2003

The Superannuation (Government Co- Contribution for Low Income Earners) Bill 2003 will enact legislation that will establish the arrangements for the Government to pay superannuation co-contributions to qualifying low income earners.

This bill, together with the Superannuation (Government Co- Contribution for Low Income Earners) (Consequential Amendments) Bill 2003 will fulfil an election commitment, announced on 5 November 2001 in ‘A Better Superannuation System’ to further assist low income earners to save for their retirement.
The Government co-contribution will replace the existing taxation rebate for personal superannuation contributions made by low income earners with a more generous co-contribution. The maximum co-contribution of $1,000 compares with the current maximum rebate of $100.

This maximum co-contribution will match personal superannuation contributions of up to $1,000 made on or after 1 July 2002 by qualifying people on incomes of $20,000 or less. This maximum will then be tapered for each $1 of income over $20,000 meaning that some co-contribution will be available to qualifying people on incomes up to $32,500.

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

I commend the bill.

SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) (CONSEQUENTIAL AMENDMENTS) BILL 2003


This will enable the Government to fulfil an election commitment announced on 5 November 2001 in ‘A Better Superannuation System’ to further assist low income earners to save for their retirement. The details of the arrangements for the Government to pay superannuation co-contributions to low income earners are contained in the Superannuation (Government Co-contribution for Low Income Earners) Bill 2003.

The Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003 will amend a number of taxation and superannuation laws that deal with: eligibility for and taxation treatment of Government co-contributions; arrangements for certain Defence personnel and Commonwealth public servants regarding co-contributions; use of the Superannuation Holding Accounts Reserve for co-contributions in some circumstances; and, review of certain decisions. It will also repeal the existing personal superannuation contribution taxation rebate.

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

NATIONAL HEALTH AMENDMENT (PRIVATE HEALTH INSURANCE LEVIES) BILL 2003

The National Health Amendment (Private Health Insurance Levies) Bill 2003 provides for matters ancillary or consequential to the reimposition of the following private health insurance industry levies:

- the Council Administration Levy (currently established via subparagraph 82G(1)(h)(i) National Health Act 1953);
- the Collapsed Organisation Levy (currently established via paragraph 82G(1)(j) National Health Act 1953);
- the Acute Care Advisory Committee Review Levy (currently established via subparagraph 82G(1)(h)(ii) National Health Act 1953); and
- the Reinsurance Trust Fund Levy (currently established via section 73BC National Health Act 1953).

The reimposition of the four levies addresses technical concerns identified by the Australian National Audit Office. The changes effectively repeal the existing levy mechanisms replacing them having regard to section 55 of the Constitution.

The reimposition of the levies:

- do not change the purpose of the levies; and
- do not of themselves increase the financial burden on the industry.

PRIVATE HEALTH INSURANCE (ACAC REVIEW LEVY) BILL 2003

The Private Health Insurance (ACAC Review Levy) Bill 2003 reimposes the Acute Care Advisory Committee (ACAC) review levy (currently established via subparagraph 82G(1)(h)(ii) National Health Act 1953) having regard to the requirements of section 55 of the Constitution.
The reimposition of the ACAC review levy addresses technical concerns identified by the Australian National Audit Office.

The reimposition of the levy:

- does not change the purpose of the levy; and
- does not of itself increase the financial burden on the industry.

Matters ancillary or consequential to the reimposition of the levy are contained in the National Health Amendment (Private Health Insurance Levies) Bill 2003.

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PRIVATE HEALTH INSURANCE (COLLAPSED ORGANIZATION LEVY) BILL 2003

The Private Health Insurance (Collapsed Organization Levy) Bill 2003 reimposes the collapsed organisation levy (currently established via paragraph 82G(1)(j) National Health Act 1953) having regard to the requirements of section 55 of the Constitution.

The reimposition of the collapsed organisation levy addresses technical concerns identified by the Australian National Audit Office.

The reimposition of the levy:

- does not change the purpose of the levy; and
- does not of itself increase the financial burden on the industry.

Matters ancillary or consequential to the reimposition of the levy are contained in the National Health Amendment (Private Health Insurance Levies) Bill 2003.

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PRIVATE HEALTH INSURANCE (COUNCIL ADMINISTRATION LEVY) BILL 2003

The Private Health Insurance (Council Administration Levy) Bill 2003 reimposes the Private Health Insurance Administration Council administration levy (currently established via subparagraph 82G(1)(b)(i) National Health Act 1953) having regard to the requirements of section 55 of the Constitution.

The reimposition of the Private Health Insurance Administration Council administration levy addresses technical concerns identified by the Australian National Audit Office.

The reimposition of the levy:

- does not change the purpose of the levy; and
- does not of itself increase the financial burden on the industry.

Matters ancillary or consequential to the reimposition of the levy are contained in the National Health Amendment (Private Health Insurance Levies) Bill 2003.

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APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 1) 2003-2004

The purpose of the Appropriation (Parliamentary Departments) Bill (No. 1) 2003-2004 is to provide funding for the operations of the five Parliamentary Departments.

The total amount sought is $167.3 million. Details of the proposed expenditure are set out in the Schedule to the bill.

I commend the bill to the Senate.

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CHAMBER
APPROPRIATION BILL (No. 1) 2003-2004

It is with great pleasure that I introduce Appropriation Bill (No. 1) 2003-2004, which, together with Appropriation Bill (No.2) 2003-2004, is one of the principal pieces of legislation underpinning the second Budget of the third term of the Coalition Government.

Appropriation Bill (No. 1) 2003-2004 provides authority for meeting expenses on the ordinary annual services of Government.

This bill seeks appropriations out of the Consolidated Revenue Fund totalling $40,504 million.

Details of the proposed appropriations are set out in the schedule to the bill, the main features of which were outlined in the Treasurer’s Budget speech on 13 May.

I commend the bill to the Senate.

APPROPRIATION BILL (No. 2) 2003-2004

It is with great pleasure that I introduce Appropriation Bill (No. 2) 2003-2004, which, together with Appropriation Bill (No.1) 2003-2004, is one of the principal pieces of legislation underpinning the second Budget of the third term of the Coalition Government.

Appropriation Bill (No. 2) 2003-2004 provides funding for agencies to meet:

- expenses in relation to grants to the States under section 96 of the Constitution and for payments to the Northern Territory and the Australian Capital Territory;
- administered expenses for new outcomes;
- departmental equity injections, loans and previous years’ outputs; and
- to create or acquire administered assets and to discharge administered liabilities.

Appropriations totalling $5,529 million are sought in Appropriation Bill (No. 2) 2003-2004.

Details of the proposed appropriations are set out in Schedule 2 to the bill, the main features of which were outlined in the Treasurer’s Budget speech on 13 May.

I commend the bill to the Senate.

Debate (on motion by Senator Moore) adjourned.
During the 2001 election campaign the Government announced a package of superannuation reforms designed to make superannuation relatively more attractive compared to other forms of non-concessationally taxed savings.

One component of this package of measures is the proposal to reduce the maximum superannuation and termination surcharge rates from 15 per cent to 10.5 per cent over three years from 1 July 2002. Implementation of this measure was announced in the 2002-2003 Federal Budget.

This bill will reduce the maximum surcharge rates to: 13.5 per cent for the 2002-2003 income year; 12 per cent for the 2003-2004 income year; and 10.5 per cent for the 2004-2005 income year.

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

Debate (on motion by Senator Moore) adjourned.

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

BUDGET
Consideration by Legislation Committees
Report
Senator EGGLESTON (Western Australia) (4.37 p.m.)—On behalf of the Chair of the Economics Legislation Committee, Senator Brandis, I present the committee’s report in respect of the 2003-04 budget estimates, together with the Hansard record of the committee’s proceedings.

Ordered that the report be printed.

AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [No. 2]
In Committee
Consideration resumed.

The TEMPORARY CHAIRMAN (Senator Ferguson)—The committee is considering government amendments (30) to (37) and (39).
ing of the current environment we find ourselves in. No-one relishes having this sort of legislation. It is necessary for the times in which we live and for the protection of this country—and with that comes a realisation that people aged 16 and over can be involved in, are involved in and could have information in relation to terrorist activity. We have built in the safeguards, which I will not go over for a third time, which deal with the questioning of those people aged between 16 and 18. I think this provision that the government has put forward, these amendments, accommodates all the concerns that one could have.

Senator BROWN (Tasmania) (4.41 p.m.)—The minister has got it wrong. The Greens are not opposing this because it applies to children; we are opposing it because it applies to everybody. Indeed, the strictures in this bill get worse once you are over 17. The question that Senator Nettle asked really goes unanswered. She quoted a very esteemed authority, and that has not been responded to. I would add to her reference one from the International Commission of Jurists Australian Section. On 12 June the chair of the section’s council, Mr Steve Mark—I have referred to him before—said regarding the minimum age:

The bill will still allow juveniles to be detained, interrogated and forced to answer questions. Detaining juveniles in this manner is totally unacceptable. The pressure on juveniles to talk in these circumstances will result in any information being highly unreliable or fabricated. It is well known that oppressive interrogation often results in unreliable information.

Whatever the case may be there, I had a very important earlier question which went unanswered, and that was the question of the incompatibility of this bill with the International Convention on the Rights of the Child. I have seen no legal argument anywhere that this is compatible with the International Convention on the Rights of the Child. So I ask the minister: where did he get his legal advice from, who gave it and would he give it to the committee?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.43 p.m.)—We do not table legal advice normally. I answered the question earlier: we do not believe this contravenes the convention. Perhaps this might assist Senator Brown. Article 3(1) provides that, in decisions concerning children, ‘the best interests of the child shall be a primary consideration’. This does not mean that the best interests of the child should be the only consideration; it means they should be balanced against competing interests. Article 37(b) prohibits the arbitrary or unlawful detention of children. With respect to arbitrary detention, the issue is whether the detention is proportionate and reasonable in all the circumstances. So, in all of this, there is a qualification that is provided—and we meet that by virtue of the safeguards and the competing interests. What we say in relation to this legislation is that the issue of a warrant for questioning is a measure of last resort. I have previously said to Senator Brown that ASIO of course would conduct its inquiries and look at other means of gaining information. If it is not possible then it uses the provisions of this legislation, but only as the last resort. That is what we have said time and time again.

Surely the Greens are not suggesting that you could never question someone under the age of 18 in these circumstances. We have conceded that we will raise the minimum age from 14 to 16, but in this environment you have to be aware of current events. The lesson we are learning is that, unfortunately, people of the ages of 16 and 17 are involved in suicide bombings and other terrorist acts overseas. We believe we have struck a balance here, and for that and other reasons the bill does not contravene the Convention on
the Rights of the Child. We have lawyers in the Attorney-General’s Department who assisted in the drafting of this. We do not need to obtain legal advice on the matter; it is abundantly clear that we have not contravened the convention.

Senator BROWN (Tasmania) (4.45 p.m.)—Can the minister name one legal authority for that opinion?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.46 p.m.)—I think the Attorney-General’s Department is a pretty good authority. We are talking about people who are highly qualified and experienced, and I think that we need go no further. No aspect of this has featured or figured as being in contravention of the Convention on the Rights of the Child. If you look at the article that I mentioned you will see it talks about competing interests and a balance. It is not absolute in its language, and Senator Brown has overlooked that. What we have in this legislation is not arbitrary; it is not absolute—it is a balance of interests. We have provided special provisions that deal with the questioning of a person aged 16 to 18.

Senator BROWN (Tasmania) (4.47 p.m.)—There was no response that gets us anywhere. Of course, the Attorney-General’s Department is under instruction from the government. I am well aware of how it works. It is not the first time this government has instructed its writers of legislation to breach international convention. In fact, it is becoming a habit of the government in a wide range of issues, including immigration. I asked the minister to name an authority who says that this is not in breach of the international convention. I did not ask him to name the drafters of the legislation because they are under instruction from the Attorney-General. Clearly, I am after some independent authority and it is astonishing that the minister cannot respond to that.

The point is that—and there is a real debate here—all the authority I have seen says it is in breach of the Convention on the Rights of the Child. Remember that we are within a few days of the Family Court having found that, on another matter, the government has contravened the rights of children in this country. It wrote the legislation and has incarcerated children in detention camps in Australia in breach of that convention. In this case we have the Family Court at appeal saying that that is the case. This is just a repeat of the same improper process in violation of this very important convention and the government has no argument to sustain it otherwise. Senator Nettle is right: the government has conceded a couple of years to the ALP on this and tightened up the provisions so that the child must be a suspect but, nevertheless, it still amounts to arbitrary arrest and/or detention in circumstances in which—and the minister might correct me if I am wrong about this—it is quite possible for there not to be legal advice as questioning gets under way.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.49 p.m.)—As far as the opposition are concerned, we certainly did not want the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2] in its original form applying to children. I remind the Senate that, when this legislation was introduced in March 2002, it proposed that any person under the age of 18 could be dragged in for questioning by ASIO. That is at any age at all; not 10-year-olds or 14-year-olds or 16-year-olds—any age. I think senators would be aware that, it also would have enabled—to use an oft quoted example—a girl between the ages of 10 and 18 to be strip searched. That is one of the quite appalling provisions that were al-
ollowed in the legislation when it was introduced. At the time the view of the opposition was that we had a fundamental objection to those proposals. We have consistently insisted that they be changed. Of course, in another version of the bill late last year, the minimum age had been increased to 14 years of age. It is true that the age limit is now 16 years of age. So, in relation to strip searches, it has gone from no limit at all, to a limit of 10 years and through a number of different iterations, and now it applies to 16- to 18-year-olds.

I want to say something in relation to those 16- to 18-year-olds, because I think it is a very important point. While the bill now relates to 16- to 18-year-olds, those particular 16- to 18-year-olds must be suspects—not non-suspects, but suspects. It is important to note—and I do not depend on this as the reason that the changes that have now been proposed ought to be supported—that 16 is the age when young adults do acquire certain freedoms. There are of course certain legal obligations on 16- and 17-year-olds as well. One of the examples is that 16 is the age of consent. That is an argument. But a much stronger argument is the fact that any 16- or 17-year-olds who are questioned by ASIO must be suspects.

We have looked at these new provisions, new amendments to the bill, along with the raft of other changes that have been made. We believe that it is a fair outcome. We do believe that it is a reasonable balance in the circumstances, when you consider all the obligations and legal requirements on 16- and 17-year-olds. We are of the view, in relation to these provisions, that the massive changes that have been made in relation to children mean that this part of the bill should be supported. This is light-years away from the provisions relating to children when this bill was first introduced. I think any objective observer would acknowledge that that is the case. It is for those reasons that, with the safeguards that are in place, the opposition will be supporting these new provisions.

Senator Brown (Tasmania) (4.55 p.m.)—The government has no response. I wonder if Senator Faulkner can give some authority for this provision of arbitrarily detaining children under this legislation not being in breach of the Convention on the Rights of the Child.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (4.55 p.m.)—I apologise, Senator Brown, that I did not hear your previous contribution, but I do think that it is appropriate for those sorts of questions to be directed to the minister if you are asking the government to provide a response. These are, as you are aware, matters for executive government. The opposition has a range of views and opinions and it votes in particular ways on a range of issues, but I am afraid that in the committee stage of a bill what you are looking for are some statements from the minister, who represents executive government in this debate. I am sure you will appreciate that, in the absence of other information, the words uttered and views expressed by a minister in such a parliamentary forum have some standing.

What I have tried to do is indicate to the committee what the attitude of the opposition is in relation to these measures. I have directed the committee’s attention to the provisions as they existed when this legislation was first introduced in March 2002, provisions meaning that any children under the age of 18 could be dragged in for questioning by ASIO. I have highlighted, of course, the fact that those over the age of 10—in other words, between the ages of 10 and 18 years—could be strip searched, and I have indicated the fundamental opposition that the Labor Party had in relation to those provi-
ions. I am delighted that those provisions are no longer in existence. I also made the substantive point, and I repeat it, that the provisions relating to those under the age of 18—we are talking about either 16-year-olds or 17-year-olds—relate to suspects and non-suspects. Any views to be expressed on behalf of the executive government in relation to how they have dealt with any domestic or international obligations are properly made by the member of the executive who is here in this committee stage debate, and I am sure, Senator Brown, that you appreciate that that is the case.

The TEMPORARY CHAIRMAN
(Senator Ferguson)—Senator Brown, I understand that earlier you said that, once you had found out the opposition’s attitude towards these amendments, Senator Nettle might move her amendments first. Do you want Senator Nettle to move them now, or do you want to continue this part of the debate?

Senator Brown—I am happy for Senator Nettle to move her amendments.

The TEMPORARY CHAIRMAN—That being the case, we will proceed in that way. Senator Nettle will move her amendments first.

Senator NETTLE (New South Wales)
(4.59 p.m.)—by leave—I move Australian Greens amendments (3) to (8) on sheet 2957 revised:

(3) Schedule 1, item 24, page 23 (line 22), omit “14”, substitute “18”.
(4) Schedule 1, item 24, page 23 (lines 23 to 33), omit paragraph (f).
(5) Schedule 1, item 24, page 25 (line 10), omit “14”, substitute “18”.
(6) Schedule 1, item 24, page 25 (line 12), omit “14”, substitute “18”.
(7) Schedule 1, item 24, page 25 (line 16), omit “14”, substitute “18”.
(8) Schedule 1, item 24, page 25 (line 25) to page 28 (line 3), omit subsections (4) to (9).

These amendments seek to limit the scope of this bill to pertain only to people over the age of 18. The Australian Greens oppose this bill applying to any Australians and as such will be voting in that way. We are especially concerned about the impact of this bill—the ability to take people away for interrogation by ASIO agents without sufficient safeguards in place—on people under the age of 18. As such we are moving this series of amendments on the issue that we have been debating over the last little while in the chamber.

Senator BROWN (Tasmania) (5.00 p.m.)—I will not delay this but the point that I make on behalf of the Greens is that we should not have this amendment, we should not have had the original legislation and we certainly should not have had the first concept, which was no age limit at all, all of which are in breach of the Convention on the Rights of the Child. That is why we do not think the opposition should have conceded that 16- or 17-year-olds could be arraigned under this legislation. That said, it is remarkable that the government has no rejoinder except to say, ‘The people we ordered to draft this did so.’ That is totally unacceptable.

Question put:
That the amendments (Senator Nettle’s) be agreed to.

The committee divided. [5.05 p.m.]

(Ayes………… 8
Noes………… 24
Majority……… 16)

AYE

Bartlett, A.J.J. Brown, B.J.
Cherry, J.C. Greig, B.
Lees, M.H. Murray, A.J.M.
Nettle, K. Ridgeway, A.D.
The CHAIRMAN—The question now is that government amendments (30) to (37) and (39) on sheet RA231 be agreed to.

Senator GREIG (Western Australia) (5.08 p.m.)—There is no question that revising the minimum age at which people can be questioned to 16 is a significant improvement to the bill. There has been discussion in the chamber this afternoon about precedents, comparisons and benchmarks in terms of arriving at that decision. Some mention was made of the age of consent. I think Senator Faulkner argued that 16 was the age of consent; therefore, 16 was a reasonable age at which you could set the limit for people to be detained and questioned. I want to pick up on that point because I think it is important that, as a parliament, we do not perpetuate the myth that there is such a thing as ‘the age of consent’. There is no such thing as ‘the age of consent’. In fact, in Australia we have several ages of consent depending on where you are and what you are doing. It strikes me as curious that Minister Ellison could argue that in some cases 14 is the age of criminal responsibility, yet at the same time coalition politicians around the country have vehemently argued that 18, even 21, should be the age of sexual consent when it comes to gay males. So there is this extraordinary situation where, on the one hand, there is the argument that people at the age of 14 are mature enough to be held criminally responsible for their behaviour yet, on the other hand, people at the age of 21 are not.

The Standing Committee of Attorneys-General have engaged in discussion on this issue for some years in terms of moving towards a model criminal code for a uniform age of consent across Australia. Regrettably, little has changed in this area. For example, we have the situation where the consent age in Western Australia is 16; in South Australia it is 17; in Tasmania it is 17; in Victoria it is 16; in the ACT it is 16; in Queensland it is 16 or 18, depending on what it is you are doing; and in the Northern Territory it is 16 for heterosexual people and 18 for homosexual males—until very recently, there was that discrepancy also in New South Wales. So it is still a dog’s breakfast and needs reform.

The key area to note here is that if you are going to argue that 16 is an age at which people are mature enough to be aware of their actions and behaviours and be held responsible in terms of the criminal law, then that must also apply to age of consent laws. This means that Queensland and the Northern Territory are still out of step in this area. That said, there is no question in my mind that removing the provision that young people between the ages of 14 and 16 ought not be entrapped or allowed to fall foul of this legislation is commendable. I feel that Senator Nettle’s amendments did have some merit in terms of establishing a more adult age; however, that brings back again the argument about the difference between sexual responsibility and criminal responsibility.

The Democrats will be supporting the amendments before the chamber, but I want to clearly state the one key point which made the difference for us in terms of agreeing to eventually support the reform of the age at which people can be detained. The key point
is the fact that it will apply only to suspects—and not non-suspects as in the rest of the bill—aged over 18 and that there are greater opportunities for those young people, if they should fall foul of this law, to have access to legal representation and legal advice.

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.13 p.m.)—by leave—I move government amendments (1), (5), (7) to (9) and (44) on sheet RA231:

(1) Clause 2, page 2 (table item 3, 2nd column), omit “Division 72 of the Criminal Code”, substitute “item 8 of Schedule 1”.

(5) Schedule 1, item 24, page 7 (lines 12 to 14), omit the definition of superior court, substitute:

superior court means:
(a) the High Court; or
(b) the Federal Court of Australia; or
(c) the Family Court of Australia or of a State; or
(d) the Supreme Court of a State or Territory; or
(e) the District Court (or equivalent) of a State or Territory.

(7) Schedule 1, item 24, page 8 (line 23), omit “authority”, substitute “authority”.

(8) Schedule 1, item 24, page 8 (line 29), omit “the person”.

(9) Schedule 1, item 24, page 8 (line 30), omit “has”, substitute “the person has”.

(44) Schedule 1, item 24, page 29 (line 30), omit “procedural statement”, substitute “written statement of procedures”.

These are technical amendments and I will briefly touch on what they do. Firstly, amendment (1) provides that items 10 and 11 of the schedule 1 to the bill will commence immediately the day after this act receives royal assent. Amendment (5) replaces the definition of superior court in a form that is in accordance with current drafting practice. The substantive content of the definition remains unchanged. Amendments (7) to (9) remove extra words and unnecessary punctuation marks. Amendment (44) replaces the words ‘procedural statement’ with ‘written statement of procedures’ and this is done for the purpose of consistency throughout the bill.

Question agreed to.

Senator BROWN (Tasmania) (5.14 p.m.)—I move Greens amendment (1) on sheet 2966:

(1) Schedule 1, item 24, page 31 (after line 21), at the end of section 34SA, add:

(3) If a person appears before a prescribed authority, the prescribed authority must ensure that the legal and all other rights of the person are upheld.

Once again we are in concord on this amendment. In the debate last Thursday, everybody agreed that the prescribed authority—that is, the judge, in secret—should ensure that the legal and other rights of the person are upheld. In fact, it was the government that led off with this description. This is a matter of codifying it. It puts it into words so that it is not left hanging in the air as an obligation that the judge would understand. It means the judge must ensure that the legal and all other rights of the person being interrogated by ASIO are upheld.

Question negatived.

Senator GREIG (Western Australia) (5.15 p.m.)—I move Democrat amendment (12) on sheet 2923 revised:

(12) Schedule 1, item 24, page 32 (after line 2), after subsection (1), insert:

(1A) Any legal fees incurred as a result of the person contacting a lawyer must be met by the Commonwealth where the person satisfies the means test for legal aid funding.
This is another amendment designed to protect and preserve a person’s right to legal advice while being questioned before the prescribed authority. The amendment, if passed, would ensure that a person who is unable to afford legal advice will be able to exercise their right to a lawyer at public expense. There is little point in insisting that a person has a right to legal advice if they are unable to exercise that right because of their inability to pay for a lawyer.

The regime established by this bill significantly infringes the rights and liberties of individuals and imposes heavy penalties if they do not comply with the requirements made of them. It is imperative, therefore, that a person has access to a lawyer to advise him or her clearly on their rights and obligations under the regime. It is also important for the person to obtain advice regarding the lawfulness of their detention and whether or not there are grounds on which they can challenge the basis of that detention in a court of law. A person should have access to such advice regardless of their ability to pay for it, and justice must not be restricted only to those who can afford it.

I remind the committee that on the last occasion that we debated the issue of legal aid for a person required to answer questions under this regime, the government argued that the provision of a security-cleared lawyer would mean that the costs of such a lawyer would be met by the Commonwealth. Now that the system of security-cleared lawyers has been scrapped, the issue of legal aid is crucial. I would assume this means that the government will no longer be compelled to meet the costs of legal advice for those who cannot afford it. However, I will seek the minister’s clarification of that issue in a moment.

There was some indication from the Labor Party during the last debate on the bill that access to legal aid could be included in a statement of procedures. The Democrats take the position that this issue is very important and that it should be enshrined in the legislation. In any event, as I understand it, the provision of legal aid has not been included in the draft protocols. The Democrats understand that the government has no intention of rectifying this. In those circumstances it is even more imperative that this issue is dealt with now and is included in the legislation. I commend the amendment to the committee.

Senator BROWN (Tasmania) (5.18 p.m.)—The Greens strongly support this amendment.

Senator GREIG (Western Australia) (5.18 p.m.)—I have a couple of questions for the minister. I would ask Senator Ellison whether he could confirm that, now that the provision of security-cleared lawyers, as contained in the original legislation, has been scrapped, there is no obligation on the government to cover the cost of legal advice if a person is unable to afford it. Is that the case?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.19 p.m.)—The government opposes this Democrat amendment. In relation to the question of paying legal fees, the Attorney-General has asked his department to consider, as a matter of priority, whether any changes need to be made to the guidelines for that scheme to ensure that applications by persons who have been detained for questioning by ASIO are able to be considered under it. We are looking there at the special circumstances scheme for financial assistance, which is administered by the Attorney-General’s Department.

That is as far as I can go in relation to the question of the provision of fees by the government for people in these matters. We believe that to agree to the Democrat amendment would not be consistent with the usual
practice in relation to the provision of legal aid or legal financial assistance. The government considers that in appropriate circumstances people who incur legal costs and related expenses in connection with detention under the provisions of this bill would be eligible for assistance in relation to their legal costs and related expenses under the special circumstances scheme which I have mentioned. As I say, the Attorney-General has asked the department to consider whether any changes need to be made to the guidelines to that scheme to ensure that applications by persons who have been detained for questioning by ASIO are able to be considered under it.

Senator GREIG (Western Australia) (5.21 p.m.)—In order to be clearer on this, Minister, can you give an undertaking that access to legal aid will be included in the draft protocols?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.21 p.m.)—This will not be covered by a protocol. That is more for the question of detention and what sort of questions you can ask. This is a separate issue dealing with this special circumstances scheme which provides for financial assistance in certain circumstances. I can provide Senator Greig with a copy of the details surrounding that scheme. The Attorney has asked the department to look at this as a matter of priority. I can take the matter on notice and see whether the department can provide something for Senator Greig on it.

Senator GREIG (Western Australia) (5.22 p.m.)—Can I ask Senator Faulkner what Labor’s position on this amendment is, given that it was supported and insisted upon by the opposition the last time we moved it? I wonder whether that position has now changed.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.22 p.m.)—We have taken the view that it is a matter that would be more appropriately dealt with in the protocols. I have listened carefully to what the minister has said in relation to the alternative approach that is being progressed. I would appreciate it if the advices he is providing to you could also be provided to the opposition. Perhaps Senator Brown and Senator Nettle would also be interested in those advices as well.

Question negatived.

Senator GREIG (Western Australia) (5.23 p.m.)—I move Democrat amendment (13) on sheet 2923 revised:

(13) Schedule 1, item 24, page 32 (lines 3 to 5), omit subsection (2).

This amendment recognises the time-honoured relationship between a person and his or her legal adviser. In order to provide free and frank advice to their client, a legal adviser must be able to communicate with their client in complete confidence. The confidential communications between a lawyer and a client have been fiercely protected by the common law for centuries. Legal professional privilege exists solely to protect such communications. In its present form, the bill expressly provides that contact between a person detained under a warrant and his or her legal adviser must be made in a way that can be monitored by ASIO. This effectively renders meaningless, I think, a person’s right to legal advice during detention.

As I have said, the right to legal advice has long been a sticking point for Labor. I think it is a bit pointless for Labor to insist on a person’s right to a lawyer of their choice at all times if the person is then unable to communicate privately with that lawyer and if the lawyer is inhibited in his or her ability to provide free and frank advice to that person. This amendment will remove the re-
requirement for ASIO to monitor confidential legal communications and will substantially bolster a person’s right to legal advice during detention.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.25 p.m.)—For the record, the government opposes this amendment by the Democrats. We are looking at a situation where an interview subject could use the opportunity to communicate with another person, including perhaps a person involved in a terrorism offence, in order to alert them to the investigation. Such communication could result in the damage, destruction or alteration of a piece of evidence. I understand that the Democrats have their views in relation to the monitoring or the contact but we believe that we need to maintain the security of a situation such as this. We cannot, therefore, agree to the Democrat amendment.

Question negatived.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.26 p.m.)—We have now reached the situation where, although there are numerous amendments, we have basically two issues left: the question of the warrant, the issuing of a new warrant and the length of time a person can be kept in detention; and the question of the sunset clause and its application to the frisking of a person in relation to a search which is being carried out. So they are the two issues that are left. They are controversial. They have been the subject of previous debate in this chamber. I propose that the committee report progress, that we sit again at a later stage and that, in the meantime, discussions continue between the government and the opposition.

I understand Senator Brown is of the view that any proposals that the government puts to the opposition should also be put to other parties. I have taken that up and the Attorney is of the view that it is a matter which is the subject of discussion between the opposition and the government only, and that it is not something that we can agree to. No doubt Senator Brown, and maybe Senator Greig as well, will have views on this but I think, in the circumstances, an efficient use of our time would be to adopt this course of action rather than have these arguments. We have a heavy legislative agenda this week and limited time, and it would advance matters a great deal more if we could stop here, talk about what is left, try to negotiate a position and then come back when we have done that. That is my proposal. I move:

That progress be reported.

Senator BROWN (Tasmania) (5.28 p.m.)—by leave—What an extraordinary process we have here whereby this bill, which has been a matter of the utmost urgency and which everybody has diligently being applying themselves to, has come to the point where it cannot be further debated this afternoon—after four days break—because the government and the opposition have not been able to come to an agreement on the problem that after seven days of interrogation and arbitrary detention an Australian citizen can immediately be faced with another warrant to keep them another seven days and another seven and another seven. And there is no agreement on the sunset clause. The Attorney-General is responsible here. The Attorney-General knew—Senator Ellison would have reported to the Attorney-General—that these problems were there last Thursday.

I do not know whether Senator Faulkner can enlighten the committee as to how much contact there has been since then. I imagine that in the last four days there has been vigorous contact and discussion between the government and the opposition, and they have not been able to reach an agreement.
But, whatever the case, we on the cross-bench—the Greens and the Democrats—who are active participants in this debate and have amendments on both matters, which are important matters, have not been involved. I am not going to just accept that—that suddenly, without explanation, the minister can say, ‘Let’s adjourn this committee and get on with some other piece of legislation.’

I was in a leaders meeting just within the last two hours in which it was thought that this legislation could be completed this evening. I assumed from that that any outstanding matters between the government and the opposition had been fixed. I reiterate, there have been four days for this. But suddenly we get the indication that there has not been an agreement at all—that is, either the talks have broken down or the Attorney-General has been asleep for the last four days. Let me reiterate that these are crucial matters. Last Thursday the Greens put forward an amendment to the legislation based on the report from the Joint Parliamentary Committee on ASIO, ASIS and DSD that looked at this legislation in May 2002—that is, over a year ago. The amendment makes very clear what should happen here, and that is:

For the avoidance of doubt, where a person has been detained for a continuous period of 168 hours—that is, seven days—in accordance with any provision of this Division, at the expiration of that time the person must be either charged or released.

That is what the joint committee recommended. That is what we have laid down here. That is what I understand the opposition wants. That is what the government knew about last Thursday. This is too serious a matter to allow rolling warrants because, remember, habeas corpus is suspended here. So are a person’s usual legal rights. It is all in secret and, if we do not get this right, effectively an innocent citizen can be held forever, without limit, at the pleasure not of Her Majesty and not of an independent authority but of ASIO. They just issue another warrant. They have got the same judge there.

As I said last week, you can think of a number of situations in which this person is going to be held and the judge is going to keep giving warrants. Look at the situation where an innocent person is thought to know a person whom ASIO suspects. It could even be a partner. They arrest the partner, who is oblivious of what is going on. She or he is held; they could be held in their own home, but they are held somewhere. ASIO has their mobile phone and is waiting for the partner to make contact so they can track them down and know exactly where they are. The call does not come within seven days. It is very easy to say to the judge: ‘This call is going to come. This person is a terrorist. We have to track them down. We need another warrant.’ And they will get it. There are a host of other situations where you could see that it was not because the person was not giving information; they were held there on the basis of whatever some other person was doing. We object.

This is the last week of the pre-winter session. There is pressure on. This legislation is important. We have agreed to expedite it. Suddenly, the government says, ‘Let’s stop now. We forgot to tell you that there is a hitch going on and it has not been solved.’ Senator Ellison, that is not good enough from the government. I expect, and I give notice, that we are going to get a good explanation for this. Remember, if you will, Chair, that it was questioning by Senator Nettle and I on the crossbench that uncovered the difficulty of potential rolling warrants. Without us here, this would be gone; this legislation would be through. But this is a very serious hitch, and it is very important.
to point out that it is the crossbench that has drawn attention to it in a situation where the government and the opposition have made a pact. But the legislation had flaws in it, and it was the debate in here and it was the Greens who drew out those flaws.

We expected that the government and the opposition would get together and fix it. Obviously they have not. I am expecting that we will hear what has gone wrong. It is a hugely important matter on which we and the public deserve to get something better than the minister suddenly saying, ‘Whoops, we have got up to where these matters that were put off last Thursday now have to be dealt with. You have been expediting legislation but we have not done our work—the government itself. The Attorney-General has been asleep for the last four days.’ That is not good enough.

Senator GREIG (Western Australia) (5.36 p.m.)—by leave—I think that the minister’s eleventh-hour call for an adjournment gives the lie to the urgency of the legislation. We on the crossbench—and the opposition, I suppose—have been told under pain of death that this is the most critical, urgent legislation that the parliament has ever faced and yet now we find it can quite readily give way to the health care bill and the superannuation bill because suddenly the finality of it is not so important. We Democrats are always cooperative with government process. We do not always agree with government legislation but we are happy to facilitate government process and parliamentary process in getting through legislation. So it alarms me somewhat that at this very late stage the government is now indicating, if not stating, that there are still some unresolved issues between it and the opposition in terms of the so-called done deal, which we have read about so comprehensively over the last few days. This suggests that, if the government and the opposition have not yet agreed—most particularly so far as the Democrats are concerned—to the notion of a sunset clause, we have the very alarming prospect that this legislation may possibly pass without a sunset clause or with a revised sunset clause not previously discussed or debated in the community.

The printed press—the newspapers around the country—have in the last few days had reasonably comprehensive articles with tables showing what was compromised by the government, what has been agreed to by the government and how the bill will pass and in what form. Since then there has been very little coverage of this debate within the press, and there will be those people in the community who will see conspiracy in this and fear that the done deal, which got much print coverage and then disappeared in terms of the media debate, was in fact not a done deal and that at the last minute there may be changes to the legislation with the agreement of the government and the opposition, which would cause significant outrage and concern in the community if this were to be a last-minute change to what was an understood situation in the broader community.

I do protest on behalf of the Democrats, who have been very cooperative with this legislation in facilitating the process from the start, that this very last minute legislation that we were told repeatedly was critical and urgent suddenly is not, giving the lie to the fact that it ever was. I would be keen to see this legislation at the very least resolved within the next three sitting days, and the government certainly has an undertaking from the Democrats for cooperation for that to proceed to finality.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.39 p.m.)—by leave—I have listened to the contributions of Senator Brown and Senator Greig on this issue of the committee reporting progress. I have heard what the
minister has said in relation to the outstanding issues. I do not think that anyone is suggesting that this debate on this bill should not be concluded as quickly as possible. In fact, I think that is the spirit with which all senators have approached the debate in this committee. Certainly, it is the view of the opposition that the matter should be progressed. I am assuming—I do not know; he has not told me—that, after reporting progress, it is quite likely that the minister will move the usual motion that the committee seek leave to sit again at a later hour this day. I would assume that is the case. I would be surprised if he did not, but it is a matter for him and he certainly has not informed me privately.

Senator Ellison—We’ll be doing that.

Senator Faulkner—I assumed you would. That, to some extent, might allay some of Senator Greig’s reasonable concerns about timing. My impression is that no-one who has participated in this committee stage debate is keen to see the issues delayed. In relation to the suggestion that the opposition does not facilitate or should not facilitate any private discussions with the government or for that matter with the Australian Democrats or the Australian Greens senators, I think every senator in the chamber knows that that is simply not the way that we do business. I have a pretty good record of having private discussions with the government, the Democrats, the Greens and other independent senators. If I have those sorts of discussions or if my party has those sorts of discussions, we are happy to conduct them on that basis. I think senators here know that that is the case also.

If the government approaches the opposition and says, ‘We want to talk to you about particular matters,’ is a responsible opposition to say, ‘No, we won’t talk to you’? It is a matter for the government whether they wish to extend any such discussions to others in the chamber, not a matter for the opposition. The opposition does not have concerns about those sorts of issues. As Senator Brown, Senator Nettle and Senator Greig know, if they make a request to have a confidential discussion with the opposition they can have that discussion and they know that their confidentiality will be respected. We, as an opposition, have a strong record in that regard and I, as the Leader of the Opposition in the Senate, have a very strong record in that regard. I do not disparage any senator for proposing such a course of action.

I accept that the issue in relation to war-rants is an absolutely crucial issue, that it is one that we need to address and that it is one that the parliament needs to get absolutely right. If it takes some more time to do that then I for one am happy to spend a few extra hours working at getting a better outcome. I am not ashamed of that; I do not see why I should be ashamed of that. It is just the way these things work from time to time. Equally, I have no problem at all if the government has some suggestions to make—it is a matter for them as to how broadly they care to disseminate these matters to others in the chamber.

When the opposition has come to a concluded view on any amendments it may move on any outstanding matters, they will certainly be circulated as soon as possible to all parties and Independent senators in the chamber as is, I think, the obligation on all of us in relation to these matters. The truth is that sometimes all of us know that some discussions outside the chamber can save an awful lot of time inside the chamber. I take on face value that that is the spirit with which the minister has suggested that the committee report progress. I am expecting that we will be back a little later this evening debating these important issues again. I look forward to doing that.
Senator BROWN (Tasmania) (5.46 p.m.)—by leave—I think Senator Faulkner made a very positive contribution. What I still have not heard from the government is what proposals and what negotiations took place over the last four days. I suspect that, in the absence of hearing that, nothing happened and that we are being delayed now because of the Attorney-General’s office and the Attorney-General himself. I just want that on the record.

Secondly, I understand from what Senator Ellison had to say that the Attorney-General is not disposed to give to the Democrats or to the Greens proposals which may be being discussed with the opposition on this matter. That is very much in contrast with the generosity of spirit that we just heard from Senator Faulkner. I think that if the chamber is going to be a well-oiled machine—it needs to be to deal with all the legislation we have this week—it would be far better for the government to be more accommodating. After all, we are going to have to deal with whatever amendments come out of the talks with the opposition and it is going to take longer if we are ambushed with those. So we do need time to consider them. These are crucial matters. The Greens have amendments on both the sunset clause and the potential for rolling warrants and we would certainly like time—and I suggest to the government that we be given time—before we resume to consider whatever new amendments they might bring before the committee when it resumes.

Question agreed to.

HEALTH CARE (APPROPRIATION) AMENDMENT BILL 2003
Second Reading

Debate resumed from 17 June, on motion by Senator Kemp:

That this bill be now read a second time.

upon which Senator Forshaw had moved by way of an amendment:

At the end of the motion, add:

“but the Senate condemns the Government for its health policy failures, including:

(a) the Howard Government’s withdrawal of $918 million from public hospitals over the next 4 years;

(b) the Howard Government’s unfair Medicare package which will result in bulk billing, in time, only being available to pensioners and concession card holders and families being left to pay more and more for their health care;

(c) the Howard Government’s decision to increase the cost of essential medicines by up to 30 per cent, hitting the sickest and the poorest hardest; and

(d) the Howard Government’s refusal to review the $2.3 billion private health insurance rebate to ensure that it provides value for money for consumers and taxpayers”.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (5.48 p.m.)—The Health Care (Appropriation) Amendment Bill 2003, which is the amendment to Health Care (Appropriation) Amendment Bill 2002, delivers $42 billion in funding over five years to the states and territories to assist them in running their public hospitals. The public hospital system is run by the states but the Commonwealth and the states contribute to it. This represents an extra $10 billion, a 17 per cent real increase, and we have been up front with the public and have made a substantial commitment to funding for public hospitals.

Normally, with health care agreements, the Commonwealth puts its money on the table five years in advance. The states have not been required to do that. The situation is we do not know what some states spent on public hospitals last year and we do not know what some of them spent on public
hospitals the year before because they are behind time in reporting. We have asked the states, which are responsible for public hospitals, to show their hand, to tell us how much they are going to spend and to match the Commonwealth’s growth in contribution. I believe it is only fair. The Commonwealth is required to put its money up front for five years and to indicate how much growth there is going to be. It is only fair that the states indicate how much they are going to spend next year and to match our growth to assure us that there is no black hole in hospital funding and also to make sure that hospitals in the public sector have some predictability in their financing.

I have been advised by some people on the boards of some hospitals in one state that they were not given their budget until February of this year for this financial year. How on earth can you run a large major metropolitan hospital or a small rural hospital when you do not know what the budget is? When you ring up and say, ‘How much money are we going to get?’ they tell you, ‘Just spend the same as last year and we will let you know.’ No other business would be required to operate like that. It must be incredibly frustrating for the CEOs of those hospitals.

The maximum contribution that the Commonwealth will make is contingent on certain conditions, including that the states commit to a new performance reporting framework and recommit to the principles of Medicare. The opposition has indicated that as private health insurance went up by two per cent a certain amount would be withdrawn from the Commonwealth’s contribution to public hospitals. So how they can turn around now and say that the increase in private health insurance does not take a load off the private hospitals beggars belief. We did not do that and the states got a $2.5 billion windfall in the last three years of the life of the agreement, which means that the agreement, as it is now at the end of this year, is coming off a much higher base. So we have a 17 per cent rise coming off a higher base which was achieved by a windfall that the states had of $2.5 billion over that last three years.

The opposition and the states never talk about the $2.5 billion windfall. They never mention the $2.5 billion that they would not have had in recognition of the load being taken off public hospitals by the increase in private health insurance membership. There is evidence that private health insurance membership has taken the load off public hospitals. The latest report by the Australian Institute of Health and Welfare, Australian hospital statistics 2000-01, shows that public hospital admissions in 2000-01 actually fell. For the first time in the history of Medicare, between 1999-2000 and 2000-01 actually fell. For the first time in the history of Medicare, between 1999-2000 and 2000-01 actually fell. For the first time in the history of Medicare, between 1999-2000 and 2000-01 actually fell. For the first time in the history of Medicare, between 1999-2000 and 2000-01 actually fell. For the first time in the history of Medicare, between 1999-2000 and 2000-01 actually fell. More privately insured patients are choosing to be treated in private hospitals. As they do that, it frees up resources in public hospitals for public patients. The rise in the number of people with private health insurance entitled the federal government, as I mentioned before, to reduce state funding, but we chose not to. As I said, there has been a $2.5 billion windfall to the states.
Labor’s opposition to private health care has put Medicare and our public hospital system under extreme and unsustainable pressure. Under the previous Labor government, private health insurance premiums grew by an average of 11.3 per cent a year. In one year I think it was something like 20 per cent. Under this government, premiums have increased by less than five per cent, on average, a year. Until the Labor Party commits to maintaining the 30 per cent rebate, Australians can expect the cost of premiums under Labor to increase immediately, on average by over $750. As I have said before, we are committed to keeping the 30 per cent rebate, making private health insurance affordable for almost nine million Australians. The nine million Australians with private health insurance will be very concerned that Labor intends to tamper with the private health insurance rebate to pay for its profligate promises.

The opposition claims that the government’s health policies will increase the financial burden on individuals. This is not true. We have a package which is designed to increase access, to reduce the burden on public hospitals and to ensure that they are viable into the future. I have to say here that it concerns me greatly when I receive letters from people with private health insurance who say, ‘I was admitted to a public hospital as an emergency patient, treated as a public patient and the hospital rang me when I got home and said that to help with their funding could I please sign the papers to say that I had been admitted as a private patient.’ That is not on. That sort of cost shifting to private insurance is not on and is not appropriate. Every single Australian is entitled to go to a public hospital as a public patient and not to be hounded when they get home to change their admission status to that of a private patient.

The legislation before us gives the states a 17 per cent increase over and above inflation if they sign up and tell the Australian public how much they are going to spend on their public hospitals—just as they expect us to tell the public what we are going to spend for the next five years. I commend the bill to the chamber.

Senator ALLISON (Victoria) (5.56 p.m.)—I seek leave to move my second reading amendment. It was the case, when the opportunity arose to do this, that the amendment had not been circulated. I pointed that out at the time. I did speak to it, so I do not wish to do that here and now. The amendment was later circulated.

The ACTING DEPUTY PRESIDENT (Senator Bolkus)—Senator Allison, I think the way we approach this is to handle Senator Forshaw’s amendment first. You can then move your amendment. The question is that the second reading amendment moved by Senator Forshaw be agreed to.

Question agreed to.

Senator ALLISON (Victoria) (5.56 p.m.)—I move the second reading amendment on sheet 2960 standing in my name:

At the end of the motion, add:

"but the Senate, acknowledging the importance of well-resourced and high quality public hospitals and out-of-hospital health services available to all Australians free of charge, calls on the Government to undertake that it will establish an independent body for the next appropriation period that will have the legislative authority to:

(a) oversee the operation of a Commonwealth-state agreed global budget for Medicare;

(b) carry out the allocation of annual funds to states and Commonwealth to ensure that Medicare-funded health services as agreed in the Commonwealth-state health agree---

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ment are available to all Australians in a clinically appropriate time at a benchmark standard of quality;

(c) re-allocate, within the global budget as agreed, annual funding where the mix of services across Commonwealth-state boundaries changes so as to significantly affect cost structures;

(d) collect and disseminate cost and quality information on state, territory and federally funded health services;

(e) recommend global budget changes for future Commonwealth-state agreements;

(f) table in federal Parliament information on the performance of governments in meeting service and quality objectives”.

The ACTING DEPUTY PRESIDENT—
The question is that the amendment be agreed to.

Question negatived.

The ACTING DEPUTY PRESIDENT—
The question is that the bill be read a second time.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator NETTLE (New South Wales) (5.58 p.m.)—I move:

That the House of Representatives be requested to make the following amendment:

(1) Schedule 1, item 5, page 3 (line 28), omit “$42,010,000,000”, substitute “$42,928,400,000”.

Statement pursuant to the order of the Senate of 26 June 2000

The amendment is circulated as a request because it would have the effect of increasing the appropriation contained in the bill.

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000

This amendment would have the effect of amending the Health Care (Appropriation) Act 1998 to increase the appropriation in that Act. The Senate always treated this form of amendment as a request. This request is therefore in accordance with the precedents of the Senate.

During my speech in the second reading debate on the Health Care (Appropriation) Amendment Bill 2003, I foreshadowed that I would be moving this amendment in the committee stage of the bill. The amendment relates to putting back into this bill the almost $1 billion taken by this government out of its foreshadowed forward estimates. We have been through the issues during the second reading debate. I do not intend to go through them now. Most Australians want the government to spend more, not less, on health care. The most efficient and equitable avenue for this is through the public sector.

I note that the opposition, the Democrats and other senators during their speeches in the second reading debate have also criticised the government for removing funds from this particular agreement. Certainly from the minister’s comments we heard just prior to where we are now, we have not heard anything to persuade us that the burden has been lifted from public hospitals due to an increase in private health insurance. The figure of 0.1 per cent that the minister quoted as being the fall in the number of separations from public hospitals due to an increase in private health insurance is hardly convincing in terms of the impact of increasing private health insurance on public hospital separations. Accordingly, the Australian Greens are giving all those who have spoken against this removal of funding, including the government, the opportunity to respond by reinstating the earlier spending commitment.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (6.00 p.m.)—In her speech in the second reading debate, I believe Senator Nettle said that private health insurance was a waste of money,
or words to that effect. I am sure the nine million Australians who have private health insurance, who have had access to private hospitals and who have not had to join public hospital waiting lists for surgery for breast cancer, for radiation oncology, for cardiac valve replacement operations, of which more than half are undertaken in private hospitals—in fact, I think it is about 60 per cent from memory but I may stand corrected on that—for major hip replacements and for about 70 per cent of cataract operations would disagree with Senator Nettle that private health insurance is a waste of money. Professor Ian Harper of the Melbourne Business School would definitely disagree because he has undertaken some research that shows that private hospitals performed procedures that would have cost the public system an additional $4.3 billion to undertake—therefore making the $2.3 billion cost to government of the 30 per cent private health insurance rebate very worthwhile and cost-effective. But nobody bothers to talk about that. Nobody bothers to talk about what load has come off the public hospital system as a result of the private health insurance rebate and the increasing membership.

I am sure Senator Nettle has read Tim Flannery’s The Future Eaters. He talks about eating the environment and how big our footprint is. Senator Nettle’s economic footprint would be ginormous if we undertook all the measures that she suggests. It would be nice in some ways to be sitting on the other side on the crossbenchess—and I will not level this at all the people on the crossbenches—to be able to say, ‘We will increase that by a billion dollars, we will increase this by a billion dollars and we will not have private health insurance,’ and never have to wear the consequences for the next generation in terms of spending their money. My view is that we ought to live within our means. My view is that we ought to have services that we can afford so we do not eat the economic future of the next generation. I hope somebody someday puts out a book about the future eaters in terms of economics and how big some footprints would be if we actually followed the policy of the Greens in terms of their economic credentials.

We reject this amendment outright. The money that we are providing is a 17 per cent increase over and above inflation. As I said in my summing up speech, it is coming off a much higher base than would have been anticipated by the states because of the $2.5 billion windfall. I think it works out at about $800 million a year, so the last year of this agreement is significantly higher. We are using that as the base, then a 17 per cent increase over and above inflation. We want the states to say what they are going to spend and we want them to match that growth. As I said before, the agreements vary from the previous estimates because a greater proportion of public hospital services are now provided to non-admitted patients. There has been a reduction in public hospital usage growth below the growth resulting from demographic changes. Senator Nettle did not take into account the fact that the population grows and it is an ageing population, but we have still seen a decline and more services are being provided in private hospitals, as I mentioned before. The figures in the forward estimates do not make any allowance for the load being taken off public hospitals by the sharp growth in private hospital admissions and demographic changes. Therefore, we reject the Greens’ amendment.

Senator LEES (South Australia) (6.04 p.m.)—You have just mentioned non-admitted patients and the increase in non-admitted patients as part of the reason for the change in funding levels, for the reduction in funding levels. Can you break down those figures? I am more than happy for the question to be taken on notice.
Senator PATTERSON (Victoria—Minister for Health and Ageing) (6.05 p.m.)—We do not actually have that data. One of the problems is that the states and territories are yet to provide the Commonwealth with data on how much they spend on their public hospitals. I think I mentioned in my summing up that some states are two years behind in their data. They were supposed to have given us the last lot of figures by December. Some states have still not come up with their figures, so whatever data we gave you would not be up to date. That is what we are asking the states. If we cannot tell what they spent two years ago or last year, it seems appropriate that we ask them to say what they are going to spend next year and if they are going to match the growth.

Senator LEES (South Australia) (6.05 p.m.)—I thank the minister, but how do you know that there has been an increase in non-admitted patients if you have not got figures from somewhere? By the way, I fully support the minister’s request of the states to update their information and to match what you are putting in. We are having the debate at the moment as to how much you are putting in, not whether or not the states should match it, which they should be doing—they should be releasing all data and information. Therefore, what partial figures—what bits and pieces of information—do the government have on which they have based these comments about an increase in non-admitted patients? For example, are we looking at day surgery being included in that definition? Are we looking at accident and emergency? If you have a breakdown from some states, are we looking at the big public hospitals with this pattern, or is it the smaller hospitals and, indeed, rural and regional hospitals that also show an increase in non-admitted patients?

Senator PATTERSON (Victoria—Minister for Health and Ageing) (6.07 p.m.)—As I said, we do not have data. The last data that we have is for 2000-01. That shows that a greater proportion of public hospital services is now provided to non-admitted patients. This means that cheaper forms of hospital care are replacing the more expensive admitted care activity. The latest data indicates that only 71 per cent of public hospital costs are related to admitted patient services.

Senator NETTLE (New South Wales) (6.07 p.m.)—I want to respond to some previous comments by the minister with regard to my speech in the second reading debate. I do not think I used the turn of phrase ‘waste of money’, but I certainly agree with the overwhelming majority of health economists who have concluded that the private health insurance rebate is an inefficient use of public moneys. That is not the one that you quoted, Minister, which of course was called for by the private health insurance industry, but the overwhelming majority of independent health economists have indicated to us the inefficiencies of that use of public moneys. Private health care is more expensive than public health care. Why would a government that continually lectures us about economic efficiency want to waste public funds in the inefficient allocation of moneys to the private health care sector in preference to the public sector? It would cost us more at the same time as it diminishes our ability as a community to provide care to everyone who needs it, when they need it, irrespective of their ability to pay.

The minister talks about economic footprints in relation to this particular issue. I am really lucky when it comes to that, because the government has set out and clearly stipulated the economic footprint that we are talking about. That is the $2.3 billion of public money, taxpayers’ money, that every year this government pours into the private health insurance industry. So when it comes to the economic footprint from the sorts of things
the Australian Greens are proposing, it is there. And this government is choosing to pour it into the private health insurance industry rather than to spend it on the efficient public health care system that governments have a responsibility to defend and thus ensure that all Australians get access to quality and affordable health care in this country. I commend this request to the Senate.

Question put:
That the request (Senator Nettle’s) be agreed to.

The committee divided. [6.13 p.m.]
(The Chairman—Senator J.J. Hogg)

Ayes………… 10
Noes………… 33
Majority……… 23

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

NOES
Barnett, G. Brandis, G.H.
Buckland, G. Campbell, G.
Colbeck, R. Collins, J.M.A.
Conroy, S.M. Cook, P.F.S.
Crossin, P.M. Denman, K.J.
Eggleston, A. Evans, C.V.
Forshaw, M.G. Harradine, B.
Heffernan, W. Hogg, J.J.
Humphries, G. Hutchins, S.P.
Johnston, D. Kirk, L.
Knowles, S.C. Lightfoot, P.R.
Ludwig, J.W. Macdonald, J.A.L.
Marshall, G. Mason, B.J.
McGauran, J.J. * Moore, C.
Patterson, K.C. Scullion, N.G.
Stephens, U. Tchen, T.
Webber, R.

* denotes teller

Question negatived.

The CHAIRMAN—The question is that the bill stand as printed.

Senator HARRADINE (Tasmania) (6.16 p.m.)—I would like to take this opportunity to question the minister on a particular area of the general portfolio that deals with the recent decision of the National Drugs and Poisons Schedule Committee to have Postinor-2 scheduled as pharmacist-only medicine. This decision is really a threat to informed consent and, utilising documented adverse effects of the drug, it is a threat to women’s health. As to the threat to informed consent, Postinor-2 is being promoted as ‘an emergency contraception’. Many women are being led to believe that it therefore prevents conception—the union of sperm and ovum—rather than making the uterine wall hostile to the implantation of the embryo. Any substance that prohibits the development of the conceptus is obviously doing more than preventing conception. The effect of a drug acting after conception has already taken place would be relevant to many Australian women. The language used to describe the drug is misleading to women, who cannot exercise informed consent when the drug is being promoted in an inaccurate way.

As far as the threat to women’s health is concerned, just consider this: the progesterone based Postinor-2 contains two 750 mcg tablets of levonorgestrel. The manufacturer suggests taking the first tablet within 72 hours of intercourse and a second tablet 12 hours later. The amount is equivalent—to taking 50 tablets of the mini-pill Microlut, a so-called common oral contraceptive. MIMS lists Microlut’s uncommon but serious ill effects as including thromboembolic disease, blood clots and liver tumours. The drugs manufacturer, Schering, says that irregular bleeding, breast tenderness and nausea are the most common side effects of the morning after pill. A full-page advertisement in the Australian Doctor of 23 August 2002 by the drug company Schering informed medical practitioners:
Postinor-2 is not recommended for routine use as a contraceptive in sexually active women. Due to the possibility of pregnancy, and disruption of the menstrual cycle, Postinor-2 should not be used again before the next menstrual cycle.

Schering listed as contraindications: pregnancy/suspected pregnancy, unexplained vaginal bleeding, current breast cancer and hypersensitivity to any of the ingredients. The manufacturer lists the precautions as severe hypertension, diabetes with end organ damage, IHD, history of breast cancer, repeat use, repeat dose, vomiting, diarrhoea and malabsorption. The drug company concluded by advising doctors:

Please review full product information before prescribing. Full product information is available on request from the distributor.

The decision of the National Drugs and Poisons Schedule Committee was to allow this drug, with all these contraindications and all the threats to women’s health, to be an over-the-counter drug. It would be sold over the counter, even to young people. This is of great concern. I would certainly like to ask the minister a couple of questions. Could the minister please advise me how this information on contraindications and precautions will be provided to patients by the pharmacist? The drug company advises doctors to obtain full product information from the distributor. Will pharmacists be required to obtain full product information before dispensing the drug? How will pharmacists know the medical history of the patient requesting the drug and therefore whether the drug is contraindicated for that particular patient? These are very vital questions to be asked in seeking protection for women. Frankly, I would say that it would a very brave pharmacist who would issue Postinor-2 without a medical history and a medical examination. If that pharmacist does not do that, would the pharmacist be liable to be sued by a person who has been sold the drug over the counter?

I would also like the minister to tell the Senate who in fact are the members of this committee making this decision behind closed doors. Who is on the National Drugs and Poisons Schedule Committee? Who makes the recommendations for their appointment? And who in fact appoints them? The final question—which would be relevant information for any woman who wants to seek redress through the courts or elsewhere if there are serious adverse effects, as are indicated in certain people—is: who actually decided? Which of those appointees decided?

Senator Patterson (Victoria—Minister for Health and Ageing) (6.25 p.m.)—This is a slightly long way from funding of hospitals, but I understand Senator Harradine’s concern about this issue. The Postinor-2 tablets were included on the Australian Register of Therapeutic Goods on 9 November 2001. Currently, they are only available on prescription of a registered medical practitioner, as its active ingredient, levonorgestrel, is listed in schedule 4 of the Standard for the Uniform Scheduling of Drugs and Poisons. I have been advised that an application was received by the National Drugs and Poisons Schedule Committee to seek to reschedule levonorgestrel in a two-tablet pack for emergency contraception from schedule 4 to schedule 3 of the standard. I am advised that the committee at its 17-19 June meeting made a preliminary decision that levonorgestrel for emergency contraception should be rescheduled to be included in schedule 3.

As you understand, Senator Harradine, my parliamentary secretary has responsibility for this, and I try to keep up with it. The eight states and territories, New Zealand and the Commonwealth have voting rights. Our
Commonwealth representative was on leave at that meeting and it does not allow for substitution, but, despite that, there was still a majority of votes for that preliminary decision without the chairman being required to use his casting vote. I am just telling you how the votes went. Even though the Commonwealth was not in a position to vote at that, it would not have actually changed the decision.

The decision to change the scheduling of Postinor-2 required the agreement, as I have said, of a majority of states and territories through the National Drugs and Poisons Schedule Committee. Senator Harradine asked who they are. I have a list here. I table the list of members, background information on the membership and the voting procedures of the committee. The inclusion of levonorgestrel for emergency contraception in schedule 3 of the standard would mean that Postinor-2 tablets would become available from a pharmacist without a prescription. A pharmacist is required to be involved in the sale of all schedule 3 medicines through the provision of professional advice to ensure that such products are used safely and effectively.

Scheduling applications before the committee are open to a full public consultation process as prescribed in the Therapeutic Goods Regulation 1990. The committee is required to publish in the government Gazette before and after each meeting a notice which must include an invitation to make public submissions. The pre-June 2003 notice was published in the government Gazette on 23 April. The closing date for public submissions was 21 May 2003. It is important to note this preliminary decision is subject to post-meeting submissions. Outcomes from the June meeting will be in five or six weeks. Those who had made submissions prior to the June meeting will have the opportunity to make further submissions prior to the October meeting. The closing date for submissions for the October meeting will be approximately 20 August 2003. If this is approved, each state and territory still has to put that into their legislation to permit the sale of that medication, so the states may not necessarily put through that legislation. But they are still a part of the process.

Sitting suspended from 6.30 p.m. to 7.30 p.m.

Senator HARRADINE (Tasmania) (7.30 p.m.)—I did ask before the dinner adjournment how the National Drugs and Poisons Schedule Committee is appointed. I know that the minister said that one person was nominated from each state and territory and one from the Commonwealth. I am just wondering what is the formal situation as to how they are appointed as such, which federal department or agency has responsibility for the area and which state department or other authority has jurisdiction over this committee.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (7.31 p.m.)—Through the chair to Senator Harradine: all the members are appointed by the minister on the nominations of the states and the territories or, in the case of expert and representative members, as a group of nominees from various professional bodies.

Senator HARRADINE (Tasmania) (7.32 p.m.)—I have to draw the attention of the Senate in committee to a particular statement of which I was not aware when I began questioning on this matter just before the dinner break. I refer to an AAP story which deals with a comment made by Parliamentary Secretary Trish Worth today. It says:

The federal government today endorsed the need for a morning-after pill, saying it was important young girls had access to that type of emergency contraceptive.
I would be surprised, frankly, if the federal government have that view; or, if they have that view, they are endorsing a deceptive explanation of the particular drug and are failing to treat women in the manner in which they should be treated—that is to say, women are entitled to fully informed consent. Furthermore, it would surprise me, frankly, given the vigorous concern of the Australian Medical Association—given the great concern of the doctors group—about the ill effects on a number of people. In other words, as the AMA has said before, this particular drug—and I remind the Senate in committee that the drug is 50 times the dose of the minipill—does produce serious ill effects. Of course, the AMA is concerned about this and about the provision of this particular pill. It is concerned that people can go into a chemist or pharmacist and receive absolutely no questioning about whether they suffer from this, that or the other thing—and I mentioned that before the dinner break—and I would be very concerned if this were a government view.

I did ask the minister whether this is a government view and I thought I heard the minister say, prior to the dinner adjournment, that the Commonwealth representative was absent but that, had he been present, he would have, in all likelihood, voted against Postinor-2 being available over the counter. This is a very serious thing and there is documented evidence about the ill effects of this particular drug, Postinor-2, on persons with certain predispositions. As I explained prior to the adjournment, even the company which is promoting it, Schering, has outlined some of the areas of concern and what medical practitioners should do. I would be grateful if the minister would respond to that. Also, I would be very interested to know what agency has the running on this particular matter. For example, if there is a person who is appointed by the government, where does that appointee come from and whom does that appointee consult with? In other words, what department or authority is involved at that particular stage?

Senator PATTERSON (Victoria—Minister for Health and Ageing) (7.37 p.m.)—I think one of the lessons I have learned in this job is that you do not believe the press’s shorthand version of what somebody says.

Senator Harradine—I have it here.

Senator PATTERSON—What Senator Harradine has is not a quotation from the parliamentary secretary but some shorthand version of a fairly long interview that went across a wide range of issues, including the TGA, drugs and other things. That is a shorthand version and is not a completely accurate picture of what the parliamentary secretary said. In the first vote on this first issue, the Commonwealth voted against this treatment having a change of schedule. The initial scheduling was S4 and we agreed with that. As I said, the Commonwealth representative was not there and we do not actually control all votes on this committee. The states will have to make a decision in parliament about whether this medication will be available, if it does actually go on as a schedule 3. So there is still some way to go, Senator Harradine.

Senator HARRADINE (Tasmania) (7.39 p.m.)—Which federal department or agency is involved in this? I assume that the Commonwealth representative does not act alone. I assume the Commonwealth representative was not there and we do not actually control all votes on this committee. The states will have to make a decision in parliament about whether this medication will be available, if it does actually go on as a schedule 3. So there is still some way to go, Senator Harradine.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (7.39 p.m.)—It is the TGA. Dr John McEwen chairs the National Drugs and Poisons Schedule Committee, as well as being a member of it. He does work with the parlia-
mentary secretary, as well as the TGA and the Department of Health and Ageing.

Senator HARRADINE (Tasmania) (7.40 p.m.)—I have the full text of what the Parliamentary Secretary to the Minister for Health and Ageing, Trish Worth, gave at the—

Senator Patterson—Why did you read out the shorthand version?

Senator HARRADINE—I can read out the long version, if you like. It is a very short. The parliamentary secretary was asked:

Just on another issue: there are reports in this morning’s paper about it going to be easier for women and the morning-after pill. What can you tell us about that?

The parliamentary secretary says:

That was a decision made by a committee only last week. I understand there is to be further consultation. Well I think that it’s important that young girls do have access to something like this. In an ideal world, they wouldn’t have to get it over the counter, they would have counselling that goes with it and a lot of care. But that may not be possible. They are always more complex than they seem, so if there has been an unintended, unwanted sexual encounter—

I interpolate that an unintended, unwanted sexual encounter would be rape—

then pregnancy may not be the only outcome of that, there may be sexually transmitted diseases, they may be very young and psychologically harmed by it. So I would hope once again that parents, teachers, doctors, and the wider community have to care I think for young people until they really are adults. The United Nations defines a young person as a child under the age of 25 and I think a lot of parents would understand that. I think we all have a responsibility to help them on the way to 25 with as much care as possible.

That is the end of the quote.

Senator Patterson—That is a very different summary from what was said at the press conference.

Senator HARRADINE—Yes, I see what you mean. The AAP reported:

The federal government today endorsed the need for a morning-after pill, saying it was important young girls had access to that type of emergency contraceptive.

I assumed the reporter felt that the parliamentary secretary was speaking on behalf of the government. So I am happy to note that she was not.

Senator Patterson—That is not what I said. The summary does not reflect what she said in the whole press conference.

The TEMPORARY CHAIRMAN (Senator McLucas)—I do not think this is a very useful discussion.

Senator HARRADINE—I will leave it at that, thank you.

Senator LEES (South Australia) (7.43 p.m.)—I have two questions for the Minister for Health and Ageing, Senator Patterson, regarding this legislation. I noted in estimates that the minister was not able to provide all the information as to the Pathways Home program, which is funded through this bill. I was wondering if you could provide any further information, particularly as it relates to GPs and the information flow to them?

Senator PATTERSON (Victoria—Minister for Health and Ageing) (7.44 p.m.)—I hope that we will be able to have the Pathways Home program, if the states sign up. It involves a one-off contribution of $253 million through the Australian health care agreements for a program which is to help people who leave hospital—it does not always mean the elderly but, particularly the elderly—to make a smooth and easy transition back home. Senator Lees and I and people who take an interest in health issues know that some people who do not need to go into a nursing home but who have been through a procedure in hospital which leaves
them a little frail—perhaps they need wound care—and are not quite ready to go home would benefit from a period in some step-down type care or, as we call it, Pathways Home. It would enable them to redevelop basic skills such as balance or to have a wound managed so that they are able to go home and not be put back into hospital as a result of the fact that they left hospital early. We are looking at ensuring the availability of more clinically appropriate forms of care, as I said, such as step-down, restorative, rehabilitation or residential. It will help to prevent patients from going back.

What happens in those sorts of facilities is that people are normalised back from hospital. Those of us who have spent two or three weeks in hospital will know that there is a point at which you become hospitalised, in a sense. You are kept in bed—patients are not supposed to be up and walking around in their clothes—so, in the vernacular of the health care industry, you sometimes learn helplessness. We want to avoid that and ensure that people are able to go back to their homes and cope and care for themselves. As I said, the concept of rehabilitation or step-down means that they are less likely to be readmitted to hospital.

Pathways Home will build on existing measures to ensure a smooth transition from hospital to home. Significant progress is expected to be made towards better health outcomes, maximising quality of life and independence—particularly for older people—decreasing the length of stay in hospital, reducing readmissions and preventing or delaying entry into residential care. The operation of the Pathways Home program will be reflected in the schedule to the Australian health care agreements. I do not want to see that money spent on recurrent funding. I would like to see it being invested in facilities or services which can be used on an ongoing basis. We would see different models for different states and different models for different areas, depending on need. The investment of that money will give us a long-term outcome.

Ideally, the Commonwealth would like to work with the states and territories to establish how Pathways Home can most effectively be used to address state and local needs. If the states are not willing to have discussions on the proposal ahead of starting the agreements, we will have to rely on the flexibility built into the Pathways Home program to meet state specific circumstances. The states will be required to submit plans against a set of broad requirements outlining how funds will be spent. Funds will be provided only following my agreement to these plans. The states will also be asked to commit to developing and implementing national performance indicators to improve data on rehabilitation and step-down care, and some funds will be conditional on performance reporting.

Senator LEES (South Australia) (7.47 p.m.)—I thank the minister for that. Has she had any further information on how GPs will fit into the program? Perhaps she will take that on notice. My final question relates to private hospitals, going back to the original discussions we had about non-admitted patients in the public sector. Can the minister advise how many private hospitals across Australia now have a full 24-hour accident and emergency service?

Senator PATTERSON (Victoria—Minister for Health and Ageing) (7.48 p.m.)—I expect, as I said, the states to work with the Commonwealth to develop a local plan for Pathways Home and I expect those plans to cover a range of professionals, including GPs. But it is not only GPs; occupational therapists, physiotherapists and other allied health professionals have a role to play in ensuring that we get people back from
hospital to home in a much smoother transition than now.

As at January 2002, 27 private hospitals offered emergency department services. I am informed that in the past 18 months the number of private hospitals with emergency departments has increased marginally to around 34. One of the other roles that some private hospitals are playing is to offer assistance with our out-of-hours services. There are some very interesting models of private hospitals being involved in being the core centre—the triage part—of after-hours services. They are playing quite a significant part in relieving pressure on GPs and their practices by being involved in these after-hours services. That is an additional responsibility and a load that a number of them have taken.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator PATTERSON (Victoria—Minister for Health and Ageing) (7.50 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

SUPERANNUATION INDUSTRY (SUPERVISION) AMENDMENT BILL 2002

SUPERANNUATION (FINANCIAL ASSISTANCE FUNDING) LEVY AMENDMENT BILL 2002

Second Reading

Debate resumed from 15 May, on motion by Senator Ian Campbell:

That these bills be now read a second time.

Senator HOGG (Queensland) (7.51 p.m.)—Today we are considering the Superannuation (Financial Assistance Funding) Levy Amendment Bill 2002 and the Superannuation Industry (Supervision) Amendment Bill 2002. The first bill proposes to amend the Superannuation (Financial Assistance Funding) Levy Act 1993, the levy act, to provide a more efficient mechanism for collecting levies from superannuation funds to recoup the costs of financial assistance to certain superannuation funds. The second bill proposes consequential amendments to the Superannuation Industry (Supervision) Act 1993, the SI(S) Act.

The SI(S) Act allows the minister to grant financial assistance to APRA regulated superannuation funds that have suffered losses as a result of fraudulent conduct or theft. The minister has discretion as to what he or she determines to be the loss arising from fraudulent conduct or theft and what proportion of this loss—known as the ‘eligible loss’—they provide in assistance. This financial assistance may be funded either from consolidated revenue or by a levy imposed under the levy act. The SI(S) Act provides for compensation up to 100 per cent of the eligible loss as determined by the minister. However, in 1997 the government, in adopting the recommendations of the Wallis inquiry, resolved only to pay 80 per cent of any eligible losses.

On 20 June 2002, the Minister for Revenue and Assistant Treasurer, Senator Coonan, made the first determination to grant assistance under the SI(S) Act. A total of 180 determinations were made in 2001-02 with 197 in 2002-03. Almost all of these related to misconduct by Commercial Nominees of Australia Pty Ltd, CNAL, and related entities, with one determination relating to a small employer fund in Western Australia—the Australian Independent Superannuation Fund. Senator Coonan determined to pay only 90 per cent of these losses from theft and fraud. She has tried to argue that she was being generous, relative to the government’s previous policy of 80 per cent compensation.
Labor has taken a strong stance on the government’s failure to provide full compensation for victims of theft and fraud. On 27 June, Senator Sherry moved an amendment to the Taxation Laws Amendment (Superannuation) Bill (No. 2) 2002 to require 100 per cent compensation in the event of theft or fraud. This amendment was defeated by the government and the Democrats. At present only Labor is prepared to stand up for the rights of superannuation fund members affected by theft and fraud. While it is our firm view that the government should have provided full rather than partial compensation, Labor will support the measures contained in these bills to streamline the funding of the financial assistance that has been provided. The levy act provides for a levy on all APRA regulated superannuation funds to fund the cost of financial assistance. Any funds in receipt of assistance in that year are exempt from levies imposed in that year.

The levy act currently requires a separate levy to fund each determination for assistance. This provision was drafted with the expectation that financial assistance would be payable to a single medium to large sized fund at a time. These provisions require changes in light of recent cases of financial assistance where some 377 determinations have been made in respect of the same number of individual small funds and where all but one of the determinations provides assistance of less than $1.5 million. The amendments, therefore, provide for a levy to cover more than one determination. This will reduce costs for APRA in administering the levy, and for super funds in complying with it, compared to the alternative of a substantial number of separate levies.

The amendments also provide for the regulation imposing a levy to set a minimum and maximum dollar amount for the levy. The levy act in its current form only provides for a levy equal to a fixed percentage of fund assets applied across all funds. The government has stated that the application of such a provision to fund the recent set of determinations would result in some large funds paying more than $400,000—well over their maximum supervisory levy of $66,000—with other small funds paying less than 20c, an amount that is not administratively cost-effective to collect.

Labor supports the government’s position that, by allowing minimum and maximum levies, these amendments provide for a more equitable and cost-effective sharing of the cost between funds, consistent with the provisions with respect to supervisory levies, where minimum and maximum amounts are also set for similar reasons. I note that the government has undertaken a review of the supervisory levies that may result in changes to the current system of minimum and maximum levies but, until such time, it is appropriate that the financial assistance levies follow a similar model. The amendments provide for a higher levy for funds below a certain size compared to what they would pay under the current provisions. However, as argued by the government, this cost will be offset to some extent by the reduced compliance costs provided by the earlier amendments. Further to this, I note that the government has issued draft regulations to impose the levy following the passage of this bill. These draft regulations propose to impose a levy of 0.0083 per cent with a minimum of $100 and a maximum of $33,000.

The provisions of these bills were subject to an inquiry by the Senate Select Committee on Superannuation, which tabled its report in March this year. The committee considered that, while there were some concerns about the equity of the proposed levy arrangements, appropriate consultation on the proposed maximum and minimum amounts should resolve any such issues. The committee accepted the approach contained in the
On the related issue of continued delays in processing outstanding applications for financial assistance, the committee called on the government to act quickly to ensure all those who have lost superannuation through theft and fraud receive at least partial compensation soon.

The committee also considered a number of issues that were raised in Labor’s policy options paper of 2 August last year—namely, whether the limitation of compensation to theft and fraud is too narrow, whether compensation should be extended to certain post-retirement investments and whether compensation of less than 100 per cent is acceptable. Following the release of the report by its superannuation working group in October last year, the government announced a review of the compensation provisions in the SI(S) Act. All members of the committee agreed that the issues that were raised last year should be considered as part of the government’s review, but only the Labor members were prepared to call for specific changes to protect retirement savings.

Labor notes the government’s intention to review the compensation arrangements but, in light of previous attempts by the government to water down the existing provisions, including amendments proposed in the Financial Sector Reform (Amendments and Transitional Provisions) Bill (No. 2) 1999, the government’s motives in reviewing the arrangements are questionable. It is essential that any review be conducted with a view to strengthening protections for the millions of Australians with superannuation.

In contrast to the government’s past attempts to water down compensation for theft and fraud, their failure to provide full compensation where theft and fraud have occurred and their vague plan for a review, Labor has put forward a number of proposals to strengthen protection for fund members: firstly, legislate for full 100 per cent compensation in the event of theft and fraud; secondly, expand the definition of an ‘eligible loss’ beyond theft and fraud to include losses resulting from other serious breaches of the SI(S) Act; thirdly, extend compensation provisions to certain post-retirement products; and fourthly, protect outstanding superannuation contributions in the event of a business failure.

Urgent action is needed to protect the retirement savings of all Australians. The SI(S) Act should be amended immediately to provide for 100 per cent compensation if retirement savings are stolen or defrauded. Once a determination is made as to the value of the eligible loss, that loss should be compensated in full, without delay and without the capricious exercise of ministerial discretion that we have seen in the case of Commercial Nominees and the Australian Independent Superannuation Fund.

Labor rejects totally the government’s argument that providing 100 per cent compensation would create ‘moral hazard’. This argument is simply inappropriate in the case of theft or fraud and ignores the basic realities of superannuation. Superannuation, unlike other financial products, is compulsory as well as being very complex. Furthermore, it fulfils the fundamental goal of providing retirement incomes for millions of Australians. The nature of theft and fraud, be they random or systematic, is such that it is impossible to predict in advance if and when they will occur. The implied suggestion that fund members whose savings were stolen or defrauded should have known this was going to happen is both ridiculous and unfair. The Commercial Nominees case demonstrates that, where serious fraud occurs, it is often concealed from fund members until it is too late and the consequences are too damaging to repair without adequate compensation arrangements.
An argument predicated on moral hazard may have merit in the context of well-informed investors making choices between investment vehicles carrying different and known risks. It is not applicable to circumstances where superannuation savings are lost through theft or fraud. Labor is not suggesting that the government can or should guarantee superannuation outcomes against market fluctuations or poor judgments made honestly within the regulatory framework, but Australians have a right to know that their superannuation savings are safe, that those in control of their money are behaving honestly and that the regulator is supervising them adequately. The thankfully rare occasions when those charged with looking after superannuation act dishonestly and when the regulator fails represent a fundamental breach of trust. Consequently, the victims should be fully compensated.

Of course it is preferable that the circumstances where compensation is payable never arise but the only way to avoid them is through strong regulation and by punishing the perpetrators of theft and fraud, not by punishing the victims through less than adequate compensation. The government should not try to wriggle out of their mean-spirited position on this issue by pointing to their so-called choice of funds proposal. Any argument based on the premise that choice will improve safety is flawed in two respects. First, most of the victims of the theft and fraud cases covered by these bills had, in fact, exercised choice of funds by establishing small funds through Commercial Nominees. This is not to suggest, as the government does with its ‘moral hazard’ line, that they should have known better; but it should serve as a cautionary tale for anyone who naively believes the current choice of funds bills will remove the threat of theft or fraud.

Second, it is Labor, not the government, that supports safe choice. Only Labor will regulate fees, charges and commissions. Only Labor will require meaningful fee disclosure and only Labor will provide 100 per cent compensation for theft and fraud. The government’s proposals, in their current form, would throw consumers to the wolves. Fortunately, theft and fraud in superannuation are relatively rare. In the 10-year period since the passage of the SIS Act, the total compensation paid will be $11.1 million for 2001-02 and about $20 million for 2002-03. With approximately 8.8 million employees in Australia, this represents around $1.26 and $2.27 per fund member in those respective years, or an average of about 35c per fund member per year over 10 years. The cost would be only marginally higher had full compensation been paid.

Based on the government’s decision to provide 90 per cent compensation, the levy amount represents total losses due to theft and fraud of over $31 million over 10 years. Compared to total fund assets of $517.9 billion, this level of theft and fraud is small. The relatively rare occurrence of theft and fraud in superannuation make full compensation in such circumstances affordable. There are also significant policy arguments for ensuring the safety of Australians’ retirement savings from the devastating consequences for individual victims of theft and fraud.

With this in mind, I will be moving, on behalf of Senator Sherry, substantive amendments to require 100 per cent compensation where the minister is satisfied that theft or fraud have occurred. I would welcome the support of the government, the Australian Democrats, the Greens, One Nation and Independents on this matter but, given their attitude the last time these amendments were moved, it is unlikely that the victims of theft and fraud will see justice any time soon.
As I outlined earlier, 100 per cent compensation is not the only issue relating to theft and fraud that requires urgent attention. I therefore move Labor’s second reading amendment, which proposes that, while not declining to give the bills a second reading, the Senate agrees to:

At the end of the motion, add:

“but the Senate:

(a) notes ongoing community concern on the safety of superannuation and the devastating effect of recent cases of theft and fraud on individual fund members;

(b) condemns the Government for its mean-spirited failure to provide 100 per cent compensation, as permitted under legislation, in recent cases of theft and fraud;

(c) demands that the Government immediately amend the Superannuation Industry (Supervision) Act 1993 (the SIS Act) to ensure 100 per cent compensation is paid where superannuation savings are lost through theft and fraud; and

(d) calls on the Government to give urgent consideration to further amendments to the SIS Act to ensure 100 per cent compensation is paid where superannuation savings are lost through theft and fraud;

Senator CHERRY (Queensland) (8.07 p.m.)—I rise to speak on the Superannuation Industry (Supervision) Amendment Bill 2002 and the Superannuation (Financial Assistance Funding) Levy Amendment Bill 2002. These bills aim to make the imposition and administration of the levy imposed under financial assistance funding more efficient and less burdensome on the superannuation industry. There are some minor consequential amendments in the bills as well.

As a general rule the Democrats will support this bill. We have a long history of supporting superannuation and ensuring that the superannuation fund members have adequate protection. Confidence in the superannuation system is paramount and members should not have their retirement savings destroyed by fraudulent conduct or theft. Fraud or theft is not a major problem in the industry. The legislation has been in place since 1993 and the first payment was made last year. In total the government will be seeking to collect around $41 million from the levy—$11 million in the current financial year. I also note that so far under part 23 the government has made 466 determinations to grant financial assistance, totalling approximately $33 million, in relation to fraud in recent years. That is out of a total superannuation bucket of $520 billion in assets controlled by Australian superannuation funds.

As Senator Hogg pointed out, the Superannuation Working Group’s ‘Options for improving the safety of superannuation’ recommended the review of the operation of part 23 and consideration of possible amendments to it. The government on 4 June announced that review and the government is now seeking input from and consultation with relevant stakeholders. The Democrats welcome that particular review of section 23 as we think it is appropriate to look at the matters which the government has raised, in particular considering ways to improve the protection offered to superannuation fund members and the appropriate level of compensation. I would encourage industry to participate very much in that review.

In the Senate select committee consideration of this bill, other issues were raised by industry and I would hope that they will be picked up by the review. These included the certainty and timing of grants of financial assistance. We would also hope that the government may consider in that review whether the option of small amounts of financial as-
sistance could be made by government as opposed to being met by industry.

I am sympathetic to the members of the 181 small superannuation funds previously under the trusteeship of Commercial Nominees of Australia who suffered losses in the Enhanced Cash Management Trust. The financial assistance provided by the government was 90 per cent of the financial loss, greater than the 80 per cent previously separated.

The ALP has introduced amendments to ensure the compensation paid is 100 per cent of the financial loss suffered. The Democrats are sympathetic to the ALP’s objectives in proceeding with this. But at this particular time I am uncertain as to whether it would be appropriate for us to support those amendments at this stage or to wait until the government’s review has reported. It is one of those issues where it is a balanced judgment. It is probably premature to look at Labor’s amendments at this time. However, the Democrats do signal that we will continue to monitor the effectiveness of part 23 and the claims and concerns which have been raised by people about the effectiveness of part 23. We would urge the government to ensure that that review reports early rather than later and we would urge the government to ensure that that review and any recommendations are brought to the Senate as a matter of some priority. We need to ensure that whatever compensation is available for theft and fraud is appropriate to the risks involved and balances the needs of consumers against those of the industry as a whole.

I note that the 80 per cent compensation figure provided by the current financial assistance arrangements was as a direct result of a Labor government initiative. I think in 1993, when this scheme first started. It was in place under Labor for the first three years of the SIS system and has been in place under this government for the last seven years. I understand that the argument put in favour of maintaining it at 80 per cent rather than the 100 per cent advocated in the Labor amendments is one of moral jeopardy—a concern that if we move to 100 per cent then consumers might feel that they are off the hook in terms of keeping their trustees scrutinised and under careful observation. However, I would note that the opportunities for members to actually hold their trustees to account are somewhat limited under the current SI(S) Act provisions and members are relying very much on blind trust that their trustees are acting in the right way. From that point of view, the argument about moral jeopardy is not as strong as it probably was when this scheme was first introduced in 1993.

The review does have a lot of very difficult questions to deal with. At the end of the day we must remember that theft and fraud are only a very small part of the superannuation industry—$33 million in recent years. I think it is reasonable to ensure that, to rebuild the confidence in superannuation that this country needs, we do in fact look at these issues again and try to determine whether we have the balance between the probity of the superannuation industry and the rights of consumers correct and proper in all circumstances.

Senator BUCKLAND (South Australia) (8.13 p.m.)—I want to say a few words on the Superannuation Industry (Supervision) Amendment Bill 2002 and the Superannuation (Financial Assistance Funding) Levy Amendment Bill 2002, particularly in relation to the comments made by Senator Hogg. I make my comments as a member of the Senate Select Committee on Superannuation, which inquired into this particular aspect of superannuation. It was interesting that the evidence given before the committee was very much supportive of what Labor’s posi-
In the main we believe that urgent steps should be taken to strengthen the protections provided under part 23 of the SI(S) Act. Labor senators particularly note and bring to the attention of the Senate the government’s intentions to review part 23 of the SI(S) Act, which is one of those parts that needs to be fully understood and fully pursued. We hope that will occur through this debate.

In the light of previous attempts by the government to water down the protections in part 23, including amendments proposed in the financial sector reform, the government’s motives in reviewing the arrangements in part 23, in our view, are quite questionable. Any review of part 23 should be conducted with a view to strengthening protections for the millions of Australians with superannuation. This is a section of the financial sector that has more impact on Australian people than any other financial sector as it affects the savings and the welfare of every Australian worker.

In contrast to the government’s attempts to water down part 23, their failure to provide full compensation where theft and fraud have occurred and their vague plan for a review, Labor has put forward a number of proposals to strengthen protections for fund members. These include legislation for full compensation in the event of theft or fraud, expansion of the definition of an eligible loss beyond theft and fraud to include losses resulting from other serious breaches of the SI(S) Act and extension of compensation provisions to certain post-retirement products.

Part 23 of the SI(S) Act enables a trustee of a superannuation fund to apply for financial assistance from the government if the fund has suffered an eligible loss subject to certain conditions. An eligible loss is a loss that is suffered as a result of fraudulent conduct or theft. Upon that being established, the minister must be sufficiently satisfied that the fund has suffered an eligible loss. Once that is established, the minister must determine whether the public interest requires that a grant for financial assistance be made to the fund. I question that the minister takes upon herself that she must determine if a loss is identified. I question the validity of the minister being required to determine that financial assistance is required. It is hard to understand how that could not be identified simply by the loss being brought to the minister’s attention, and one can only trust that this is done expeditiously.

Our position on this side of the chamber is that we are pleased to see that the issues received extensive consideration by the committee in its inquiry and that the committee was able to reach consensus that these proposals must at the very least be considered by the government’s review. It is my view that the SI(S) Act should be amended immediately to provide 100 per cent compensation if retirement savings are stolen or defrauded. Once a determination is made as to the value of the eligible loss, for loss due to theft and fraud, that loss should be compensated for in full without delay and without the capricious exercise of ministerial discretion. It matters where people’s money is at stake and there can be no purpose for having ministerial discretion apply. They have been defrauded; they should be compensated, and they should be compensated in full.

Labor senators reject the argument presented by the government in some submissions that providing 100 per cent compensation would create moral hazard. This argument, in our view, is simply inappropriate in the case of theft and fraud and it ignores the very basic realities of superannuation. Superannuation, unlike other financial products, is compulsory as well as being very complex. Furthermore, it fulfils the fundamental goal of providing retirement incomes
for millions of Australians. That is a goal that our forefathers could not set. They were totally dependent on welfare. Superannuation gives an opportunity for people to retire with financial security and a large degree of dignity.

Labor is not suggesting that the government can or should guarantee superannuation outcomes against market fluctuations or poor judgments made honestly within the regulatory framework. But Australians have a right to know that their superannuation savings are safe; that the trustees, investment managers, administrators and custodians in control of their money are behaving honestly; and that the regulator is supervising these funds adequately. I must note here too that in all my dealings with the select committee and those who are dealing with superannuants’ money I have met very few that I believe would be questionable in their practices. Indeed, those that I have dealt with have been of the utmost honesty and goodwill, and have had the best interests of the superannuants in mind. It is sad to note, however, a number of cases of failures—many quite public in their reporting—which have been devastating for some Australians.

It is a relatively rare occurrence that, in certain circumstances, theft and fraud in the superannuation sector make full compensation affordable. There are also significant policy arguments for ensuring the safety of Australians’ retirement savings. Obviously, the devastating consequences for individual victims of theft and fraud must be considered compassionately. Accordingly, Labor senators consider that it is imperative that full compensation be provided to individuals when theft and fraud occur. It is for that reason that Labor has recommended that the Superannuation Industry (Supervision) Amendment Bill 2002 be amended to require 100 per cent compensation where APRA regulated funds have suffered an eligible loss. These amendments should apply to determinations previously made under part 23, and to all future determinations. While the other proposals put forward by Labor and examined by the committee required detailed consideration, we are confident that there should be consideration and that this consideration should be an imperative part of the government’s program. I support the second reading amendment moved by my colleague Senator Hogg, on behalf of Senator Sherry, and I look forward to the Senate supporting that amendment.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (8.24 p.m.)—The amendments contained in the Superannuation (Financial Assistance Funding) Levy Amendment Bill 2002 and the Superannuation Industry (Supervision) Amendment Bill 2002 are designed to improve the workability of the levy collection processes that underpin the provision of financial assistance to superannuation funds that have suffered loss due to fraudulent conduct or theft. Over the past year, the government has provided financial assistance to 465 superannuation funds formerly under the trusteeship of Commercial Nominees of Australia Ltd and has also provided financial assistance to the Australian Independent Superannuation Fund. These funds suffered a substantial diminution in assets as a result of fraudulent conduct or theft. This assistance was provided in accordance with part 23 of the Superannuation Industry (Supervision) Act. Part 23 provides that a levy can be charged on superannuation funds to provide the funds necessary to pay for financial assistance. This levy is imposed by the Superannuation (Financial Assistance Funding) Levy Act. While these provisions were enacted in 1993, they have never previously been used.

Preliminary work designing levies to recoup the cost of financial assistance has shown that the collection process, as set out
in the legislation, is somewhat flawed and cumbersome. These bills are designed to remedy these problems and to distribute the burden of levies across the superannuation industry on a more equitable and administratively efficient basis. The bills enable a reasonable upper and lower limit to be imposed on levies charged. The existing arrangements would impose a heavy burden on larger superannuation funds, while the charge on smaller funds would be too small to be collected in an administratively efficient way. The bills also reduce the administrative burden on funds through enabling a single levy to be struck, covering the aggregate amount of financial assistance provided in one financial year. As the legislation currently stands, a levy would have to be imposed for each individual grant of financial assistance to a superannuation fund. These measures are designed to reduce compliance costs for all superannuation funds. It is proposed that regulations be made pursuant to the Superannuation (Financial Assistance Funding) Levy Act 1993 to recoup financial assistance paid by the government prior to the end of this financial year. To that end, I call on all senators to ensure that the levy charged can take into account these changes and reduce the administrative and cost burden which would eventuate under the current provisions.

I am aware that during the debate, and pursuant to the second reading amendment proposed by Senator Hogg on behalf of Senator Sherry, a demand has been made that the government immediately amend the Superannuation Industry (Supervision) Act to ensure that 100 per cent compensation is paid where superannuation savings are lost through theft and fraud. There are a number of other clauses to the motion, but I will address specifically the issue of the 100 per cent compensation, because there appear to be a number of misconceptions surrounding the calls for 100 per cent compensation. I want to put on the record the government’s view about the inappropriateness of a 100 per cent compensation measure. The act allows for the minister’s discretion as to what is determined as eligible loss and the amount of assistance provided, should assistance be granted. Section 232 of the act states that the minister cannot grant assistance in excess of the amount determined to be the eligible loss. The SI(S) Act does not prohibit granting less than the determined eligible loss.

The government agreed to the financial sector inquiry recommendation that any grant be limited to 80 per cent of eligible loss. However, the government has agreed to change this policy to increase the limit to 90 per cent. Why 90 per cent? The limiting of financial assistance to 90 per cent of the determined eligible loss ensures consistency with international practice, which we think is very important, and other government assistance programs. Financial assistance schemes overseas generally limit the amount paid to either a percentage amount or to a monetary ceiling. Standard international practice is to limit the amount paid to either a percentage amount or, as I said, a monetary ceiling. The United Kingdom Payments Compensation Board, for example, limits payments of assistance to 90 per cent of the loss suffered except where a person is within 10 years of retirement, where 100 per cent is paid. However, the OECD reports that Canada, France, Korea and the United States impose caps on payments. Japan and the United Kingdom provide a percentage based level of compensation. Ireland and Poland apply both techniques.

Limiting assistance to 90 per cent, as opposed to 100 per cent, compensation for the loss limits the moral hazard position of the government. I think that is a concept that is well understood, but the government does not explicitly guarantee superannuation sav-
ings. Paying a reduced amount—albeit, a small, reduced amount—of financial assistance ensures that both trustees and fund members bear some responsibility for any losses that occur. Having said that, I trust that it is clear that the government will not be supporting 100 per cent compensation for the very compelling reasons that I have outlined but, in other respects, I commend the bill to the Senate.

Question agreed to.

Original question, as amended, agreed to.

Bills read a second time.

In Committee

SUPERANNUATION INDUSTRY (SUPERVISION) AMENDMENT BILL 2002

Bill—by leave—taken as a whole.

Senator LUDWIG (Queensland) (8.33 p.m.)—I move opposition amendment (1) on sheet 2878 standing in the name of Senator Sherry:

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

1A Subsection 229(1)
Repeal the subsection, substitute:
(1) If a fund suffers an eligible loss after the commencement of this Part, the trustee may apply to the Minister for a grant of financial assistance for the fund.

1B Section 231
Repeal the heading, substitute:
Minister must grant financial assistance

1C Subsection 231(1)
Repeal the subsection, substitute:
(1) If, after considering the application, any additional information given by the trustee, and APRA’s advice under section 230A, the Minister is satisfied that the fund has suffered an eligible loss as mentioned in subsection 229(1), the Minister must determine in writing that a grant of financial assistance equal to the eligible loss is to be made to the trustee for the purposes of the fund.

1D At the end of section 231
Add:
(3) This section applies to all determinations made after 1 June 2002, regardless of the date of the eligible loss or of the application.

1E Section 232
Repeal the section.

I wish to draw the attention of the Senate to Labor’s amendment. Perhaps the points can be dealt with all in one rather than going through them individually. It may save a bit of time—there is only one amendment but they go to a number of points—if I speak to the points more generally, as they were well outlined by Senator Hogg in advance of the arguments that I intend to now put.

Labor’s amendment effectively requires 100 per cent compensation to be paid where the minister determines that an eligible loss—that is, a loss due to theft or fraud—has occurred. The SI(S) Act already provides for 100 per cent compensation. Our amendment ensures that the minister cannot use his or her discretion to deny full compensation to eligible victims of theft or fraud. For the time being, there is a need to maintain ministerial discretion on what constitutes the eligible loss although, in the longer term, consideration should be given to a more independent process, which is what we have put.

In the case of Commercial Nominees, the minister determined that the quite substantial acting trustee fees were part of the eligible losses because they were attributable to the fraud that resulted in the trustee being replaced. In Labor’s view, this was an appropriate decision that sets an appropriate precedent. We have little to quibble with in
terms of the minister’s use of her discretion on this point. However, what we find unacceptable is the manner in which the minister used the discretion to deny 100 per cent compensation for this loss and then took the position of saying—and this is what we are troubled with—that it was a generous compensation. We do not believe that it amounts to a qualification of whether it was generous or not. We think that, in this instance, the minister’s discretion should not have been there to be exercised. It must be removed on this point, and that is what the amendment does.

The amendment is backdated, although it is recognised that the retrospective operation of legislation is and always has been a matter that is taken with heavy and certain deliberate action. But in this instance there are victims of the Commercial Nominees and Australian Independent Superannuation Fund cases and that, in our view, provides a firm basis for the operation of retrospective legislation to ensure that they are fully compensated. While the government may plead—and I will not argue on their behalf—administrative difficulties in the backdating, in our view it is only proper that those actual victims of theft or fraud receive the same 100 per cent compensation that I propose we give to any future victims. So, whilst action taken with an eye to fixing what would otherwise be an error has drawn us into an issue where retrospective legislation may be required, I think in this instance it is justified to ensure that the problem is addressed uniformly. I am confident that any administrative complexities can be managed and could have been avoided had 100 per cent compensation been paid in the first place.

For the reasons I outlined earlier in this argument and that were outlined by Senator Hogg, Australians have a right to know their superannuation is safe from theft or fraud. In addition, the government’s moral hazard argument—as Senator Hogg argued well—does not wash in cases like these. With this in mind I commend the amendment to the committee and seek support for their passage. From the argument that was put by Senator Cherry during the second reading debate it appears that the amendment will not pass—it will fail on the basis that the Democrats will not be able to see their way clear to support it. The argument, as I seize it, is something like this: the Democrats have put the position that although they may see merit in the amendment they await the outcome of a review before being able to at least come to the party in respect of this. That really begs the question, because the amendment will assist those people who have suffered from theft or fraud, and any of those in the future, particularly those in the case of Commercial Nominees. It would allow at least that issue to be addressed in this instance, whereas the Democrats have said that perhaps the review that has been foreshadowed will provide some better direction. But, of course, one then has to wait for the outcome of the review. I suggest it is highly unlikely that it will put that case, or that the Commercial Nominees people who have suffered previously will be compensated. I do not think it is valid to rely on any review to assist them in that. Nevertheless, if the Democrats consider that they cannot find their way clear to support this amendment and they wish to hide behind that thin veil then, be that as it may, Labor will press for the amendment.

Senator CHERRY (Queensland) (8.40 p.m.)—I am a little confused about this at the moment. In the past the Democrats have supported the government on the 80 per cent compensation figure on the basis that it was a policy introduced by the Labor Party in 1993 and continued over some period since then. But we have been reviewing the policy very carefully in recent weeks, particularly
since the Senate select committee looked at this issue earlier in the year in the context of this bill. The clincher for me was the minister’s announcement on 4 June of this review to look at the issue of financial assistance and, in particular, as she said in her press release:

The Part 23 review will enable the Government to consider ways to improve the protection offered to superannuation fund members and will consider the appropriate level of compensation ...

I was quite concerned that in her comments in the second reading debate the minister was emphatically opposed to reviewing the 80 per cent figure. I would ask the minister whether the government’s view is that the 80 per cent figure is currently under review as part of this review or whether, as she indicated in her second reading comments, the 80 per cent figure is the emphatic position of the government, full stop, no question.

__Senator COONAN__ (New South Wales—Minister for Revenue and Assistant Treasurer) (8.42 p.m.)—My comments really referred to the position that the government has at present. Senator Cherry need have no concern whatsoever that this matter is being reviewed in the way in which I have indicated in my press release and that it is being carefully reviewed, firstly, to look at the whole issue of financial compensation and, secondly, to look at the definition, which really might be where I think the vice—or at least one of the vices—may lie. My comments in my summing-up were certainly not intended to convey and do not, I hope, convey any preconceived view that we will not be prepared to look at a review. There is no point in having one if you are not, as a consequential matter, prepared to give it proper consideration. Indeed, we would not have had one if there was no point in having it. I hope that assuages Senator Cherry’s concern about the status of the review and the possibility that it will be looked at very carefully.

__Senator BARTLETT__ (Queensland—Leader of the Australian Democrats) (8.43 p.m.)—To follow on from my colleague Senator Cherry’s question, it is a matter we have discussed in some detail in our Senate team meetings in recent times. We have listened closely to Senator Cherry’s assessment of the situation and, as often happens when you are making balanced judgments, you rely to some extent upon commitments given by various people and statements made by various people. I would have to say in recent times we have had a fair bit of difficulty with commitments given by various people in the government that have then not been borne out. I am not specifically referring to Senator Coonan here—no offence, but one tends to look at you all as the government over there, for some strange reason.

__Senator Cherry__—The moral hazard problem!

__Senator BARTLETT__—Yes. I guess when we are considering reasonably finely balanced ones there are arguments on both sides. In fact, I am sure we could have put Labor’s argument better than they have put it. Nonetheless, they make a moderately convincing argument that would be more convincing if they had the understanding that Senator Cherry does. But there are arguments on both sides.

Having listened to the minister’s answer as well as her comments during the second reading debate, I want to get it clear. The minister just said here in the chamber that this is the position the government has but it will consider looking at a review. Does that mean the government will take on board what the review says and consider changing its position as a consequence of the review? Could the minister make it crystal clear that the government’s position is one that is changeable, depending on the outcome of the
review. Perhaps she could also provide a bit more precision on the time line.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (8.45 p.m.)—Senator Bartlett would no doubt be aware that I was the novice minister, if you like, who had to first negotiate section 23 and look at the various ways in which compensation could be provided to people who have been the victims of fraud and theft. In fact, a recommendation was accepted that, instead of 80 per cent, it should move to 90 per cent. On the information available to me at the time, it was decided that 90 per cent was a figure that, for all of the reasons I have outlined, would deliver a fair outcome. This resulted in the government’s determining to provide 90 per cent of compensation for an eligible loss. Obviously, the first time that legislation is used you become aware of certain flaws and ways in which it can be improved. You also become aware of whether the way in which the act operates is fair or not and you look at some of the constraints upon you in determining an eligible loss and problems with the definition of eligible loss.

We have certainly attempted to be fair in relation to this. The overriding policy purpose of the legislation is to compensate people who have been the subject of fraud or theft. As I said, there would be no point in having a review unless the government were prepared to carefully consider the recommendations. If we had a preconceived idea that under no circumstances would we ever look at anything other than 90 per cent or look at anything other than the current way in which eligible loss is defined, there would not be any point in having a review. I can say to Senator Bartlett that the government is very genuine and very sincere, firstly, in having the review and, secondly, in giving very serious and careful consideration to it. Obviously, as a government, we want this whole scheme to work fairly and appropriately where people have unfortunately been the victims of fraud or theft.

Senator LUDWIG (Queensland) (8.48 p.m.)—It is correct to say that the Democrats are now relying on the thin veil of a review—perhaps the 101st review we have now had. This is a little disappointing in the sense that it is not going to assist those people in Commercial Nominees who are potentially being defrauded or have suffered a loss. As I understand it, the minister has committed to a review. I ask the minister: what is the nature of the review? What are the terms of reference of the review? When will the review be completed? Will the review be made public? Perhaps these are questions the Democrats themselves could have asked before signing up to the review.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (8.49 p.m.)—In relation to the people in Commercial Nominees and compensation they have received, there are some circumstances where a fund has already been wound up. It is extremely difficult to look at how you might otherwise have treated those people in Commercial Nominees. I have already made nearly 500 determinations in respect of Commercial Nominees. Regarding the terms of the review, my press release sets out the issues that have been raised by Senator Ludwig—in particular, the terms of the reference and what is expected to be achieved by the reference. Obviously, I cannot say that the second it arrives it will become public, but in the normal course, together with the government’s response, it certainly would be public. It is an issue where some transparency is no doubt warranted and would be appropriate.

Question negatived.

Senator GREIG (Western Australia) (8.50 p.m.)—by leave—I move Democrat
amendments (1) to (4) on sheet 2880 together:

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

1AA Subsection 3(1)
Insert:

de facto partner, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as a partner of the person.

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

1AB Subsection 3(1)
Insert:

dependant, in relation to a person, includes the spouse, de facto partner, and any child of the person or of the person’s spouse or de facto partner.

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

1AC At the end of section 4
Add:

(2) This Act is to be applied so as not to discriminate, in relation to a beneficiary, on the basis of race, colour, sex, sexual preference, transgender status, marital status, family responsibilities, religion, political opinion or social origin.

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

1AD At the end of section 8A
Add:

(6) For the purposes of this section, marital relationship includes a person defined as a de facto partner.

We have had the debate before but it must continue because there is as yet no resolution. The Superannuation Industry (Supervision) Amendment Bill 2002 relates in part to the Superannuation Industry (Supervision) Act. That legislation contains definitions of spouse that relate quite specifically to husband and wife, which excludes same sex couples.

This came to the fore in a case roughly 10 years ago with Mr Greg Brown in Melbourne who sought a reversionary pension following the death of his partner who, from memory, worked in the Commonwealth Public Service. The Administrative Appeals Tribunal reviewed this case and found that, to their regret, while they agreed and had sympathy with his argument, the definitions contained within the act did not allow them to grant the reversionary pension being sought. The discrimination is quite simple. Because of the heterosexist definitions of ‘spouse’ contained within this act and other acts which deal with superannuation, the surviving partner within a same sex partnership has no automatic entitlement to receive superannuation death benefits when their partner dies, nor is there any right to a reversionary pension or a death benefits payment where those might apply.

A Senate select committee has investigated this at length and called for reform. All superannuation industry groups support the call for reform and endorse it. Every state and territory jurisdiction in Australia has made the reform and ended the discrimination, with the exception of the Northern Territory—but I am pleased to read in recent days that Chief Minister Clare Martin in the Northern Territory is looking at same sex partnership issues in the Northern Territory, and it appears that reform is going to occur in that jurisdiction. The Human Rights and Equal Opportunity Commission, HREOC, has also prepared a briefing paper on this. It, too, has called for reform in this area.
It is the case that, probably with no exception, where a partner in a same-sex relationship has died, the surviving partner has in fact been able to access the superannuation benefits. However, because they are regarded as a legal stranger and not a spouse—because they are not a husband, wife or de facto partner—they are forced to pay up to 35 per cent tax on the lump sum of that payment. This is an imposition that does not apply to heterosexual surviving spouses. But it also means that, in those cases where a partner in a gay or lesbian relationship leaves their superannuation to their estate to be administered by the trustee, the super that they leave is open to challenge, because blood relatives can challenge a will and they have a greater legal standing than does a surviving same sex partner.

We have seen several half-hearted attempts to reform this area. One of the better attempts, I believe, is contained within the Democrat’s sexuality and gender status identity bill which has now been on the Notice Paper since 1995 and which in part deals with the issue of superannuation. We have also seen Mr Albanese in the House of Representatives introduce his own private member’s bill which addresses, in a narrow way, aspects of this necessary reform, a bill which has been laundered into the Senate, I think through Senator Conroy. But my last check showed that it was no longer on the Notice Paper and had in fact lapsed at the last election.

I was reviewing documentation from Senator Nick Sherry released on 2 August 2002, which was Labor’s superannuation policy paper—roughly 30 or 40 pages detailing Labor’s comprehensive approach to superannuation—and, to my disappointment, I found no reference whatsoever to how Labor would address this issue, despite the contradiction of this policy paper lying alongside a private member’s bill once introduced through Mr Albanese and also here in the Senate. I note that Labor’s policy position on this is one of supporting reform. At its national conference in Hobart about six years ago, it adopted a platform position of supporting the human rights and equality of all gay and lesbian people, yet on each subsequent occasion when we Democrats have moved this amendment or similar amendments to end this discrimination, it has been opposed by the opposition. It has equally been opposed by the government.

It seems to me that the concern from the government, which is not often very clearly articulated, is that in some way recognising same sex partnerships for the purposes of superannuation would lead to some form of gay marriage. It is an argument I do not understand. The fact is that reform of superannuation in this way has no impact whatsoever on the notion of marriage. Indeed, we saw during debate about six or seven months ago on the Marriage Act itself, where I moved specific amendments to deal with same sex couples, that that was opposed by both the government and Labor. Clearly, the mood of the parliament is strongly opposed to the concept of gay marriage. It is not going to happen at least in the short to medium term, and therefore it is erroneous to argue that somehow reforming superannuation would lead to that.

I note, though, that even in the last seven to 10 days Canada, which is a comparable jurisdiction, has had sweeping reforms in this area and has in fact, subject to appeal, embraced the notion of same sex marriages. I note also that Tony Blair, in the British Labour Party, has also introduced sweeping, comprehensive reforms in the United Kingdom just in the last three or four days in terms of partnership recognition for same sex couples. As a nation, we are embarrassingly far behind in this area, and it is particularly acute as an issue when you accept the fact
that every state and territory—albeit the Northern Territory has yet to finally do it—has fixed this up, has reformed it so that all same sex couples who come under those jurisdictions and are with state or territory super schemes no longer have to suffer the embarrassment and hurt that comes with this discrimination. It is with the Commonwealth that the final problem rests. Here in this parliament, in the House of Representatives and this chamber, is the last hurdle to ultimately eradicating this appalling discrimination.

I think we need to understand very clearly—I have gone over it once or twice before—exactly what the discrimination is. We are talking about superannuation schemes which are compulsory. We must all, with rare exceptions, subscribe to them. But it means that gay and lesbian people in long-term relationships are being forced to subscribe to a scheme which then discriminates against them. I think denying people their money and their superannuation contributions, and denying their partners the dignity of not having to go through the hurt and difficulty of dealing with the stressful situation of being put through the wringer in terms of the difficulty in applying for superannuation contributions on the death of their partner and then being forced to pay significant levels of tax on them which does not apply to other people, is not acceptable. It is time that we acted on this. This bill gives us yet another opportunity to do this, but I note that there are other superannuation bills on the Notice Paper for this week to which we Democrats will again be moving the same or similar amendments. We will persist in doing that until this reform is finally achieved.

Ultimately, the real test for the government will really rest not so much with this bill but with the super choice bill. It seems incredible to me that you could argue strongly, as the government does, in favour of providing greater choice to the Australian community in terms of superannuation while continuing to specifically deny choice to one section of the community simply on the basis of their relationships and their sexuality. But tonight we are dealing with the Superannuation Industry (Supervision) Amendment Bill, which in part deals with the (SI)S Act. One of the difficulties for the gay and lesbian community with these definitions of spouse is the heterosexist structure of them. The acknowledgement of husband and wife and the refusal to acknowledge any other form of relationship—most particularly same sex relationships—is what we can and should be dealing with. The amendment is not a complex one. The amendment is not difficult to understand. The amendment, frankly, really ought not engender a lot of debate. We are talking about basic human rights and justice here. More importantly, we are talking about people’s own money, what they do with their money, who they leave their money to and the way in which they do that. So I would again seek the support of the Senate for an overdue human rights reform.

Senator LUDWIG (Queensland) (9.01 p.m.)—The two amendments that have been moved together by Senator Greig deal with the issue of inserting de facto partnership into the Superannuation Industry (Supervision) Amendment Bill 2002. Senator Greig has gone through the arguments well. In fact, I recall answering Senator Greig in this chamber once before in relation to the issue of same sex couples. Then I said, as I say now, it is an issue on which the Labor Party does have the runs on the board in implementing legislation such as this. We have a strong record, and it is a record that we have demonstrated in Labor states all around the country. Senator Greig, I think you would be familiar with the reforms in WA, the Northern Territory, Queensland, Victoria and other states. Without Labor governments I doubt very much, although I am open to correction,
whether the Democrats would have been able to be successful in getting the legislation up in those states.

It is not my position here to be critical of the processes involved, but Labor is looking at this issue. As I said the last time that this issue arose, we do not want to deal with legislation in a piecemeal fashion. Those were the words I used last time and I maintain those. It is not an issue on which we wish to provide a piecemeal approach to what is otherwise a very important issue that will need to be dealt with in a more holistic way. In fact, that has been the example set forth by the various states, such as in the consideration of the issue of discrimination more generally in Western Australia and in the very comprehensive legislation in Queensland. Senator Greig, you would be familiar with the good work of the Beattie Labor government in ensuring that issues of discrimination were eliminated from the record of the various acts. That was done not in a piecemeal fashion but in a concerted, holistic way. In fact, my recollection in respect of Queensland is that there is still more work to be done. My understanding is that there is more work in progress in Queensland to address the remaining or outstanding issues. I suspect that work such as this never really ceases but moves on and continues to require effort to be developed and dealt with over time. I suspect that in other Labor states throughout Australia there will also be other work that is undertaken.

In this instance it is not our position that we can adopt a piecemeal piece of legislation such as what you are proposing today, Senator Greig. I do think that your motives are genuine. I do not take the negative view, that in fact you are otherwise just seeking to progress this matter in a piecemeal way, as you have been consistent in your approach across most of the bills that have been brought to this chamber. I also understand that you have moved similar amendments in other debates. However, it is the position that Labor is looking at it and has been looking at it. I cannot add any more than that, other than to indicate that we do have a strong principle in relation to this, we have demonstrated our bona fides, and in fact the record book will show that Labor has made significant ground in this area and will continue to do so.

**Senator CHERRY (Queensland) (9.06 p.m.)**—I want to respond very briefly to Senator Ludwig, because there were some interesting points there. We have just had a debate in which the Labor Party was chastising the Democrats for not being prepared to shift from 80 per cent to 100 per cent the compensation in the case of theft or fraud, yet in this particular situation we are dealing with the position where at the moment people are denied not 20 per cent, which is the remainder of their superannuation entitlements, but are denied 100 per cent because of the definitions in this particular bill. I put out a press release only last month commending Premier Rann on South Australia becoming the last of the states to actually introduce non-discrimination into its state acts. I would point out, Senator Ludwig, that the Northern Territory and Clare Martin are yet to follow, so Labor does not quite have a complete record just yet.

I want to deal very briefly with one key part of what Senator Ludwig said, which is that we need to do this in a holistic fashion and not piecemeal, bit by bit. This week the Senate has a unique opportunity to do that. There are three pieces of legislation that need to be changed to fix super. One is the SI(S) Act, which we will deal with today; the second is the Income Tax Act, which we will deal with tomorrow; and the third is the Commonwealth Superannuation Act, which we will deal with on Thursday. For the first time that I can think of, all the stars have lined up in the firmament in the right direc-
tion. We can actually fix this once and for all—use that holistic approach that has been talked about—by three votes in the next four days. Rather than saying that we cannot do it piecemeal, the three pieces needed—the three pieces of the magic pudding—are lined up this week, and we could actually fix this once and for all and move on.

I know that Labor has done good things at a state level, and I commend Premier Carr on his movements on the age of consent, as I commend Premier Rann and as I commend Premier Beattie in my own state for some of the property settlements which he has made. But we do need to fix this jurisdiction. I accept the stumbling block is primarily the government, but until the majority of the Senate stands up and says to government, ‘This has to move; this has to be fixed,’ we are not going to get there. This week we have three acts which can be fixed, so let’s just do it.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (9.08 p.m.)—I have listened very carefully to Senators Greig and Ludwig and, more recently, to Senator Cherry. I would say without fear of contradiction that the government’s superannuation legislation does not, in its operation, discriminate against same sex couples. Since I have been the minister, I have not had one case brought to me complaining about any actual discrimination. That is true; I have not. The superannuation fund trustees can and do take account of same sex partners when distributing death benefits. Obviously, the government’s choice policy, which was mentioned tonight, will improve access to death benefits for same sex couples, because they will be better able to choose a fund that offers binding death nominations that suit their individual circumstances. I would have thought the competitive pressures on funds to offer binding death nominations that suit the needs of same sex couples would in fact count very much in favour of the choice legislation.

But I think it is true—and I do agree with Senator Ludwig and not with Senator Cherry on this—that legislative amendments of the type being contemplated by the Democrats would be quite vast in scope, covering a large number of acts—not only the ones nominated. Whatever view might be taken about the merits or otherwise of Senator Greig’s amendments—and I am not debating the merits—these particular amendments are certainly well outside the scope of the bill currently before the chamber. For those reasons, the government would not support the Democrat amendments.

Senator GREIG (Western Australia) (9.10 p.m.)—I have never heard so much rubbish. The reality is that this discrimination is happening. Minister, if it is the case that people are not complaining to you, then it is an illustration of the exacerbation and frustration that people are experiencing because they know that, even if they did complain, there is nothing that this government is going to do about it. I find that particularly disappointing, given your own personal record on this issue. In the 1970s as a counsel assisting, you spoke at public rallies in favour of partnership recognition, including in the area of superannuation.

I assure you that discrimination is occurring. I have had three cases come across my desk in the last two years, and I would be happy to forward them to you. You can look at them, put them aside and do nothing with them because the Howard government has absolutely no dedication to addressing this issue. In fact, I recall very clearly seeing the Prime Minister being interviewed by Mr Kerry O’Brien on the 7.30 Report a good two years ago when he was asked quite specifically why he would not address the issue of superannuation discrimination against
same sex couples. He said, ‘Because it would lead to gay marriage.’ Kerry O’Brien said, words to the effect, ‘Surely that’s a complete load of nonsense. How can you say that?’ The Prime Minister said, ‘Well, that’s what it would lead to.’ It is an absurd, irrational argument and I do not understand it.

In terms of the Labor Party’s record, I think we must point out that in some jurisdictions this reform was also supported by coalition members—by Liberal and, in some cases, National members. So at state and territory level it has experienced some level of bipartisan support. For those states which have achieved the most sweeping and comprehensive reforms in this area, it has been precisely because of the activity, success and perseverance not of Labor but of the minor parties. In Tasmania, most particularly, it has been because of the Greens. In my own state, it was very much the Democrats who set the agenda for state reform. It was only because the now retired Helen Hodgson MLC forced this issue in the upper house of Western Australia that Labor even adopted a position on it in that state. She therefore set the benchmark for the reform that was to follow.

The reality is that, despite Senator Ludwig’s words, Labor does not have a coherent policy on this issue. Labor is not committed to wholesale reform. We know that for two reasons. Firstly, through its House of Representative members, it has two private member’s bills which deal with this issue in a very piecemeal way. We have Mr Albanese’s bill, which deals with superannuation reform but which does not include Commonwealth public servants, and we have Ms Tanya Plibersek’s private member’s bill, which deals with a discrete, narrow piece of same sex couple reform in the area of immigration. They are two standing illustrations of why you can demonstrate that Labor does not have a coherent position on this. Labor is utterly hypocritical on this. More importantly, if Labor genuinely believed that the only way to deal with this and similar issues—that is, same sex partnership issues—is in a comprehensive way, then can Senator Ludwig give me a commitment that, by no later than the end of this year, Labor will bring itself to support a debate and a vote on the Democrat sexuality and gender status identity bill? That bill represents comprehensive reform. It deals with all the issues, including superannuation. It does not include little piecemeal bits in it like Mr Albanese and Ms Plibersek have done—it deals with everything. It institutes a sexuality commissioner and it brings in national antidiscrimination laws on the grounds of sexuality and gender status.

We are one of the very few Western countries that have no national antidiscrimination laws on the grounds of sexuality. Because of that and because the human rights commission is almost utterly powerless to act within this area, we have a framework in which people are being discriminated against and have almost no grounds of appeal, and we have a government and an opposition that are unwilling or unable to bring about the necessary reforms. We Democrats have been on the record in this matter since 1995, with what was the Spindler bill and which is now the Greig bill. I acknowledge the tremendous work that former Senator Sid Spindler did around 1994 and 1995 in bringing in that benchmark reform. It is now before the chamber in such a way that invites debate and passage of the legislation.

As I said before, Labor not only cannot commit itself to supporting that bill but also will not even allow the time in this chamber for it to be debated. I say to Senator Ludwig: if you are serious about comprehensive reform and if you are serious about addressing all the issues in one fell swoop, you have to accept the fact that your current approach is all over the shop and that your two private
members’ bills contradict your argument. The fact that you continue to deny debate and a vote on the Democrats’ comprehensive legislation exposes the fallacy of your argument.

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

(The Chairman—Senator J.J. Hogg)

Ayes.............  9
Noes.............  41
Majority........  32

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

NOES
Barnett, G.      Bishop, T.M.
Bolkus, N.       Buckland, G.
Campbell, G.     Carr, K.J.
Chapman, H.G.P.  Colbeck, R.
Collins, J.M.A.  Conroy, S.M.
Cook, P.F.S.     Coonan, H.L.
Dennman, K.J.    Eggleston, A.
Evans, C.V.      Ferguson, A.B.
Ferris, J.M. *   Forshaw, M.G.
Hogg, J.I.       Humphries, G.
Hutchins, S.P.   Johnston, D.
Kirk, L.         Knowles, S.C.
Lightfoot, P.R.  Ludwig, J.W.
Lundy, K.A.      Macdonald, I.
Mackay, S.M.     Marshall, G.
Mason, B.J.      McLucas, J.E.
Minchin, N.H.    Moore, C.
O’Brien, K.W.K.  Patterson, K.C.
Ray, R.F.        Stephens, U.
Tchen, T.        Watson, J.O.W.
Webber, R.

* denotes teller

Question negatived.

Bill agreed to.
BUSINESS
Rearrangement

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (9.26 p.m.)—I move:

That intervening business be postponed until after consideration of government business order of the day No. 5, Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002 [No. 2].

Question agreed to.

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (DISABILITY REFORM) BILL (No. 2) 2002 [No. 2]
Second Reading

Debate resumed from 26 March, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator MARK BISHOP (Western Australia) (9.26 p.m.)—It is fair to say at the outset that the changes in the Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002 [No. 2] are not about welfare reform; they are about removing the income and material assistance available to people with disabilities and asking them to go out and get a job. The question no government member from the Prime Minister down will answer is why they need to cut someone’s income to help them work. In response to the public outcry about the original bill, the government offered to protect existing disability pension recipients. In other words, they are trying to create a two-tiered payment. This bill is no improvement on the original, and that is why Labor will not be able to support it.

The government have tried just about every argument under the sun to justify this mean spirited bill. First, they argued the changes were all about assisting and supporting people with disabilities to find employment. Second, they ramped up the welfare rhetoric. People with bad backs were now the target, never mind the fact that people with serious disabilities would also be affected by the cuts. The Prime Minister says we have a strong economy. What he should be doing is putting it to work for the Australian people, including those with disabilities who do wish to work. The Prime Minister promised before the election that he would not cut any person’s pension. At the ACOSS congress on October 25, during the 2001 election campaign, he said:

Nobody’s benefit will be cut as a result of changes to the social security system.

The architect of the government’s welfare reform proposals, Mr McClure, received the same undertaking at a Mission Australia conference a few months earlier. Mr Howard told Mr McClure and Mission Australia staff that the following principles will underpin future work:

- our commitment to making up front investments that will deliver returns to taxpayers later on as people move from welfare dependence to economic and social participation;
- our undertaking that nobody’s benefit will be cut as a result of changes in the benefit system.

This bill breaks that promise. It was one story before the election and it is a different story after it. It is no wonder Patrick McClure has slammed the government about the state of the welfare reform program he put forward. McClure said recently the government’s welfare reform program is ‘unbalanced’ and ‘uneven’. He says the government is placing too great an emphasis on individual obligations and not enough on business and the community. For almost four years, this government has talked the language of welfare reform but all it has deliv-
ered are more and more cuts to the social safety net.

The bill seeks to amend the current work test that applies to people who apply for the DSP and to those having their entitlement reviewed. Specifically, Schedule 1 seeks to alter the definition of work capacity from 30 hours a week at award wages or above to 15 hours. It should be noted that the current test is whether a person is capable of working 30 hours a week inside a period of two years, and follows a medical determination that a person has a disability.

Item 15 of Schedule 1 contains the new transitional provisions that protect claims lodged for the DSP prior to 1 July 2003. Schedule 1 also seeks to broaden the types of assistance or intervention that can be considered in determining work capacity. This has the effect of giving the secretary of the department greater flexibility in making a judgment about whether, with appropriate intervention, a person has a capacity to work at the threshold level or above inside two years.

The schedule also seeks to remove the ability to consider local labour market conditions for people aged over 55 in determining work capacity. As a result, an individual within 10 years of retirement and living in a community with negligible labour market programs or employment prospects would no longer have their limited employment or training opportunities taken into account and would not qualify for the more generous DSP. Again, claims lodged prior to 1 July 2003 would not be affected by this measure. The bottom line is that the government’s intention of tightening access to DSP and placing people on lower paying benefits is not changed.

Figures provided during Senate estimates hearings confirm that the revised measure would result in approximately 103,700 claimants for the DSP having their applications for the payment rejected over the forward estimates period. Many of these claimants will qualify for the lesser Newstart allowance, a difference of $60.20 per fortnight. Some will qualify for other pension payments and a small proportion of people will qualify for no payment at all. This will entrench a two-tier system that will create two classes of disability support recipients, depending on when their claim was lodged.

We will have a situation where two people with exactly the same disability and barriers to employment will be on two different payments. One will receive the higher paying DSP along with ancillary benefits, like the pensioner concession card, pharmaceutical allowance, access to the pensioner education supplement and a greater incentive to work because of an income test that claws back less of any earnings they make. The other person, with the same disability, will receive the lower paying allowance, Newstart, worth $52.80 per fortnight less.

They will not have a pensioner concession card to reduce the cost of public transport, car registration, rates or utilities. They will also not automatically receive the pharmaceutical allowance, which will see them pay more out of their pocket for medicines that help control their illness or disability. If they try and improve their skills through study, they will not be eligible for the education supplement to help with study related costs. In addition, the disabled person on Newstart will have to actively look for work, line up in the dole queue and fill out a dole diary, and may also be forced to work for the dole. Same disability, different payments and requirements.

To any reasonable person it should be apparent that this is grossly unfair. But the government’s compromise position, which separates people with disabilities on the basis of
the timing of their claim, does not address its own concerns, which include that people with so-called bad backs be separated out from those with genuine disabilities. The fact is, the work test changes will affect people with varying levels and types of disability, including those with severe physical disabilities and chronic psychiatric disabilities. The government’s concern is also that people with disabilities who work in business services—that is, sheltered workshops—be protected. The changes protect only those currently on the DSP, so people with disabilities who take business service work after 1 July 2003 may do so on Newstart, with a responsibility to look for other jobs.

The government’s instrument for separating out so-called malingerers is a very blunt one indeed. May I suggest that, if the government is serious about malingerers who are not genuine, it should step up compliance efforts, not cut them back, as it has done through the disbanding of frontline fraud detecting staff in Centrelink. But, in the changes being considered today, we are particularly concerned about those people who have serious disabilities that will be caught up—in particular, the changes on those suffering from mental illness. Many may look like you or me, but their disability can be just as severe as that of someone with an obvious physical condition. Many of these conditions may be episodic, making it impossible for them to live normally for any sustained period. But there will also be those who will be caught by the new test who do have obvious disabilities, if it is assessed that they have a work capacity of 15 hours a week or more.

These changes will open the door for people with significant disabilities to be forced onto the dole queue. I would urge government members to listen closely. Eligibility for DSP no longer includes a defined list of manifest conditions that automatically entitle people with a disability to the benefit. People must meet a minimum level of impairment and the work test. The two cannot be traded off. If a person has a serious and significant disability but slips in under the new work test—too bad. The only specific and defined exception is for those with permanent blindness. The changes put forward will see people with paraplegia, acquired brain injury, profound deafness, rheumatoid arthritis and other terrible disabilities and illnesses forced onto the dole queue.

The Labor Party says we should not have people who are on crutches or sitting in wheelchairs in our nation’s dole queues. That is the fundamental difference between us and the coalition. There are other pitfalls in the bill before us today. The compromise position will also mean that an individual who is moved off payment to work, or for another reason, but who returns later on will lose benefits. This of course will create a disincentive for those already on the DSP to take work or other opportunities, which is at odds with the government’s stated aim of increasing participation.

Labor also has very good policy reasons for opposing these changes. Put simply, the 15-hour test is too low—it entrenches people in poverty. What do I mean? By definition, people forced onto Newstart or another allowance may only have a capacity to work 15 or 16 hours, but no more. At minimum wages, this is just $340 per fortnight before tax. These people will be trapped on an allowance level payment intended as a short-term benefit, earning a paltry income, with no ability or prospect to increase their income to a reasonable level. They, by definition, cannot move off the payment, unlike existing allowance recipients, who have no disability and who, given the skills and a willing employer, may increase their earnings, moving off the payment even into full-time work. This is patently unfair.
What is the alternative? Are there problems with the disability support pension? In short, the answer is yes. First let us have a look at the total numbers. They have increased substantially over the past decade in particular. Disturbingly, under the coalition the annual increase has not slowed despite a strong economy. It is easy to be alarmist about the increase, but it is not as dire as the coalition claims, and it is not because of an influx of rorters and malingerers. First, we have seen a loss of full-time work and an increase in part-time work. The losers have been, in particular, mature age people who have worked in traditional industries and who in many instances have worn and broken bodies after a lifetime of work. They also have no skills to re-enter employment in other areas, nor are many employers giving them a chance.

But the largest growth areas of late have been with older women, resulting from the progressive increase in the female age pension age and the phasing out of widows pensions and allowances. Additionally, under the coalition, growth has flowed from the liberalisation of the income and assets test for pensions, seeing people with disabilities but with higher levels of private incomes from savings and investments become eligible. Also responsible to a small degree is an increase in the level of disability in the community, mainly driven by advancements in medical treatment and technology.

So, this simply is not a case of malingerers. The causes for the increase in disability pension numbers are many and varied. To suggest otherwise is simplistic and does no service to fostering intelligent and rational debate. Labor’s approach is to increase the number of people on disability pensions who work. Labor agrees that too few people with disabilities are working when they can and indeed are willing to do so. The problem is that the government does very little to encourage and facilitate people on DSP to work.

Labor’s approach was different. Labor’s disability reforms of the early 1990s, which activated the social security system and brought a focus on the assessment of the capacity of people receiving DSP, would have assisted many people to move off the pension and into work if they had not been brought undone by this government. While the coalition has said there needs to be a focus on people’s ability, not disability, it is somewhat ironic that it is the same government that abolished Labor’s disability support panels, which were expert panels equipped to provide a thorough assessment of people’s capacity. The government also axed $90 million per year in financial incentives for people with disabilities and other jobseekers who find work via the earnings credit scheme.

But there is a litany of shortsighted cuts that have left us with an increasingly unsustainable system because it is trapping people on pensions. I mentioned many of them in my original speech on this bill. The central issue here is the unwillingness of the Howard government to recognise the importance of investing in assistance, training, rehabilitation and support if we are to increase people’s access to work. In its heart of hearts the government knows its attempt to force people with disabilities off the pension and onto the dole is not supported by the community. The community knows this is about forcing people with disabilities to pay for John Howard’s and Peter Costello’s spending spree prior to the election. That is why it has been so quick to resort to the rorting allegations, to resort to the big smear.

One minute they are being high-minded: ‘We must be strong and confront the looming crisis’; the next they go tabloid, lowbrow and warn that we must crack down on the bad-
back roters. As I said earlier, in most cases these recipients are older blue-collar men and women who have been down a mine all their working days or walking the wards of hospitals. They are people who have paid taxes and worked hard all their adult lives, now displaced by structural changes that have left them with plenty of physical pain and the wrong skill set to get work. These people will not work again unless a special investment is made. It is an investment that this government has not made and will not make.

Senator MOORE (Queensland) (9.42 p.m.)—I rise to make a brief comment on the return of the Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002 [No. 2] to this place. We know that it has been here before and we know it has been sent back to us because we cannot agree. It is important to go back to the original intent of the legislation, when it was brought in as part of a wider package. The idea was that this legislation was part of a package to encourage all people of working age into active social and economic participation. No-one can argue with that as the premise. However, our response has been and continues to be: how do you actively encourage whilst punishing and how do you support participation whilst threatening? As our shadow minister, Wayne Swan, said in the lower house, ‘Why do you need to cut someone’s income to help them get a job?’

As we have heard, there is no question about the need to reform this area. We know that there are over 650,000 people in Australia currently receiving the disability support pension. This costs an enormous amount but it is not a static payment. We have had some form of payment to people with disabilities since 1908 in this country. There has always been an acceptance that people need support. However, the legislation itself has been reviewed on a number of occasions and changes have been brought in. There seems to be some continuing myth that disability support payment is easy to get—that it is a rubber stamp. That is just not true. When you look at the Centrelink web page, something of which the department is quite rightly proud, it spells out how you qualify for the disability support pension. It says quite clearly that to qualify for a disability support pension now, before any of the changes are brought in to make it tougher and tighter, you have to have a disability, illness or injury which attracts an impairment rating of at least 20 points on the impairment tables and be unable to work full time or be retrained for full-time work for at least two years because of a disability, illness or injury. Full-time work means, under the current circumstances, work for at least 30 hours per week at award wages.

This is not an easy thing to achieve, and it should not be. It was never meant to be an easy thing to achieve. Indeed, the methodology for claiming payment really means that you have to provide proof through medical assessment that you have a significant disability or impairment. It is not just a rubber stamp. In fact you need to provide strong medical evidence for this assessment, and it takes specialist assessment through the Centrelink department with trained professionals to ensure that you meet the activities test of the payment.

So what do we have with the current changes? We have the government insisting that you need to be able to work for a lesser amount of time before being eligible for the payment. What happened when the government brought in their original changes—strike one? Originally it was done, as we have heard, with the noble intent to make people socially active and participatory. Again, no argument. However, very quickly after that process was introduced we jumped
to a direct attack on people who are receiving this payment, and the well-known attack with the malingerer’s tag came through. This has caused immense anger, pain and hurt from the community involved in this process, their families and advocacy groups.

I will quote from a statement—because I think these words mean more than anything I could possibly say—that was quoted by the member for Canberra in the lower house in its debate. It was provided by Brain Injury Australia. This statement sums up the kind of emotion, anger and pain caused by the changes recommended by this government.

It says:

In 1992 a brain injury in the form of a brain haemorrhage nearly ended my life ... I have been fighting ever since ... to get my life back. It has been hard—learning to walk, speak, read and write and all with no memory of my life prior to the haemorrhage. My day-to-day memory is still patchy and I need reminder notes.

It has been a desperately distressing 10 years that is not helped by the attitude of some health professionals and my country’s Government. I supported myself all my adult life and I now work part-time, with my income supplemented by the Disability Support Pension. I WANT TO WORK FULL TIME! It makes me very angry when those of us who depend on the DSP are portrayed as either a drain on society or bludgers!

I have a mountain of applications—over 100 in recent years—to testify to my attempts to find full-time work or other part-time work. I have been on the books of a disability employment service for some years. BUT I still have to depend on my pension. In fact, I could not survive solely on the DSP ...

Now, I am treated by parts of the media and people within my country’s Government as though I want handouts! In fact it is a very confusing portrayal—on the one hand I should be grateful for the handouts, but at the same time I should feel guilty and should accept punishment for needing help!

I used to be open about my brain injury but learnt it was a mistake. Tell a potential employer and you are out of the office so fast it makes your head spin.

For people newly needing the DSP the situation is much worse—if they can work 15 hours a week they are deemed not worthy of the support of a pension. I presume this means a new neglected group of people to be punished by being condemned to a never-ending poverty trap.

If I were transferred to Newstart it would be worse. I would lose my pension income and my pension card. The card is a very important aspect of support as it makes some bills, such as heating, affordable. I need medication for the rest of my life, hardly a luxury, and a pension card makes this affordable.

I have never taken from society without contributing. I resent being portrayed as a parasite or just a nuisance by my fellow citizens.

That particular quote was in the Brain Injury Australia newsletter, September 2002. It sums up the pain. It sums up the anger. To an extent it sums up the confusion that has been caused by the debate in society stimulated by the proposed changes to this legislation.

If you are going to engage people effectively in participation you need the cooperative approach. We have had this discussion in this chamber before on various parts of the legislation. ACROD, the national association for disability, has already acknowledged that this minister has made active attempts to engage with the community on various parts of disability reform. However, that degree of engagement has not been had on this particular change in the DSP process. What we have is a process which actually stigmatises the people who need the payment.

During question time recently, and again today, the minister talked about the equity of people who are in the same situation receiving the same payment. That has been quite strongly felt with regard to other forms of payment under the Centrelink process. However, what we have seen regarding the dis-
ability support pension is that there are going to be differences.

Debate interrupted.

**ADJOURNMENT**

The ACTING DEPUTY PRESIDENT (Senator McLucas)—Order! It being 9.50 p.m., I propose the question:

That the Senate do now adjourn.

Queensland: English Speaking Union

Senator SANTORO (Queensland) (9.50 p.m.)—Tonight I wish to pay tribute to an organisation that is dear to my heart and which, in my view, is a significant element in the maintenance of the Australian way of life that so benefits us all. I am referring to the English Speaking Union, one of Queensland’s and Australia’s most eminent patriotic organisations. I believe very strongly that we need the services of patriotic associations. To repeat an important point I made in a speech in this place last week on the ASIO bill, I also believe that we Australians are fortunate to belong to a worldwide empire of the mind.

The English Speaking Union is very active in Queensland. It benefits enormously from the services of a very active president, Patricia Johnson, and a large number of willing helpers, including her husband, Peter Johnson. I know of very few people in Brisbane—indeed in Queensland—who work so selflessly and tirelessly in the interests of charitable and voluntary organisations without any expectations or pretence to rewards or personal gain. Patricia just works her heart out for the ESU, and her husband, Peter—incidentally, a former member of this parliament—backs her up admirably.

The ESU is an independent, non-political, educational charity with members throughout the United Kingdom, the United States, Australia, New Zealand and 47 other countries. Its purpose is to promote international understanding and human achievement through the widening use of English as a language of common currency throughout the world. For millions of people English is the key to personal achievement in the arts, business, politics and technology. The language has never been more needed, its uses more varied, or its contribution to international friendship and cooperation more vital. Throughout the world, the ESU works through people-to-people exchanges, scholarships, speaking competitions, conferences and national and international programs made possible by the generosity and interest of its members.

At the Queensland level, the ESU operates from the heritage-listed Palma Rosa building in Hamilton in Brisbane. The Commonwealth government in 1988 provided much-needed funding in support of the ESU in the form of an $800,000 grant under the Federation Cultural and Heritage Projects Program for the restoration of the ESU headquarters, Palma Rosa. Special recognition and thanks need to be extended at this point in time to the former member for Lilley, Mrs Elizabeth Grace, for her effective representations and advocacy in relation to the ESU and in particular to the funding I have just mentioned. The building—three storeys and made of stone—is a Brisbane landmark. It was built as a private residence in 1877 with locally quarried stone from Brisbane pioneer Andrew Petrie’s quarry nearby. It was designed by the celebrated Italian-born architect Andrea Stombuco. I will observe that it is great to see another lasting Italian connection. The Australian Heritage Commission has listed Palma Rosa as a registered place. It was entered on the Register of the National Estate in March 1978. The ESU has been working with architects Robert Riddel and David Gole, and builder Philip Manteit, on the restoration. It is a tremendous sight to see these
days, given that that restoration is almost complete.

The ESU in Queensland and of course elsewhere is heavily engaged in cultural activities. The Queensland branch has a team of qualified debaters, and actively encourages competition within the organisation and with other similar groups. It promotes public speaking. The ESU is one of the leading sponsors of the Queensland component of the plain English speaking award, which is an annual, international public speaking competition for senior secondary school students throughout Australia. The national winner of the event is invited in the succeeding year to compete in a similar event conducted by the organisation in the United Kingdom. The ESU also promotes English in Action through regular gatherings, usually with a guest speaker, to encourage the use of English by people of a non-English-speaking background.

The Palma Rosa Poets group is another way that the ESU in Queensland explores the endless potential and possibilities of the language. Regular evening meetings are held, with presentations of the works of well-known Australian poets and with a strong emphasis on the lore of the Australian bush. There are theatre groups, through which members receive invitations to attend stage performances of various theatre productions, often with supper afterwards to meet the cast. Many well-known local and overseas stars have been their guests from time to time. Throughout the year, the ESU in Queensland also arranges a series of social functions. Most significant annual events, such as Anzac Day, the Queen’s Birthday, National Flag Day, the Melbourne Cup and others are marked in some way by a social gathering. Most of these activities are traditionally held at Palma Rosa. The picture of the English Speaking Union activities in Queensland is indeed a very good one—a rosy one, some would say—although, of course, such an organisation could always find room for more members.

There is no doubt that the ESU is very much to the fore on the Queensland social circuit and that Queensland benefits tremendously from the presence within the community of the ESU. Honourable senators may be interested to know that the ESU was the brainchild of an Englishman, Sir Evelyn Wrench. He founded the organisation in 1918 after many years of working towards fulfilling his dream of a closer link between citizens of the English-speaking world. The Queensland branch was established in May 1968. Honourable senators may be interested to know that it is the largest branch of the ESU in Australia.

The ESU is fortunate to have had wonderful support from many people over the years. His Royal Highness Prince Philip, President of the ESU, opened the restored Palma Rosa during the recent CHOGM, at a function which attracted 450 invited guests. The late Sir Gordon Chalk, former Treasurer and Deputy Premier of Queensland, was a great supporter. Ralph Holden purchased Palma Rosa on behalf of the members, with a loan guaranteed by about 10 people. Mary Holden took over from Ralph, her husband, as president when he died. Sir John Rowell talked Patricia Johnson into taking over from Mary Holden as president and had the ESU reinstated as a company. Sir Walter Campbell, a former governor of Queensland, helped the now president and supported her, with Sir John, to take up the presidency after Mary Holden. Sir Walter also opened the art gallery, which was relocated to the lower level as a first priority. Doug Rea assisted the new directors in 1994 to get the constitution in order and is still on the board. Audrey Peacock OAM has been a wonderful board member since 1994. Delma Stocks, a wonderful board member also, has been treasurer
since 1994 and administered the Commonwealth government grant of $800,000. Mary Josephson, without whom the restoration work would not have been successful, planted and looks after all the plants on the grounds. Ann Brown, a loyal and very good board member, assists at weekends with the open house. Edna Hart and Kath Robertson are wonderful, gracious women who run the library. They look after books donated by ESU members from all over the world and chosen by a panel of esteemed judges from the UK, and from the USA library which developed Books Across the Sea, begun by T.S. Eliot.

John and Karen are directors and members, and Karen is the treasurer. Dee Hiscock is a director, and the membership and minutes secretary, whose husband, Stephen, recently served as British Consul-General in Brisbane and now serves as the high commissioner in Guyana. Julie Goodwin, at 15, is the youngest member. She has a glorious soprano voice, sings the anthem at all the events and composed the Palma Rosa theme. She sings at many major events throughout Queensland and indeed Australia. Trisha Anderson is a retired director who runs the magnificent Palma Rosa Poets, who, as I said before, hold regular performances on stage. Val Galwey plays the piano beautifully at every event held at Palma Rosa. Marlene Dickie has catered for numerous events voluntarily and free of charge. Venetia Stombuco, the only living relative bearing the name Stombuco, is of great assistance with activities within the Stombuco Room. Hilda Reid, Carmel Remphrey and Yvonne Hooper assist with debating and public speaking and have donated trophies. Brenton Campbell, only 19 years old, runs all public speaking and debating events. Bette Brown Smith, who recently and sadly passed away, formed the first ESU since 1963. Local councillor Tim Nicholls assists in every possible way with the ESU. I could keep going, because there are so many fine and distinguished Brisbane and Queensland citizens who provide such great service to that organisation.

Tomorrow, Patricia Johnson will fly off to London to help celebrate the 85th anniversary of the ESU. There is to be a service at Westminster Abbey on Thursday, 26 June 2003 and a luncheon afterwards at the headquarters of the ESU, Dartmouth House in Mayfair. Several ESU members from Queensland will attend, including Derek Churchill, and Sir John de Teliga, who will carry the Australian flag down the nave of Westminster Cathedral. Also attending will be Countess Jo de Teliga; Ann Glenister, who has formed another ESU Gold Coast north branch, and husband Richard; Don Bain; and three of the Johnson children who are living in London but are ESU Queensland members: Mary Caroline, Simon, Alexandra, and her husband to be, George Tucker. The Australian High Commissioner, Michael L’Estrange, will attend together with the ambassadors and high commissioners from all the countries where an ESU is established. Lord Watson from the House of Lords, as Chairman of the ESU, will host the event. I am sure that Patricia Johnson and her band of Queensland ESU members will represent us admirably and honourably with great distinction at this very fine function. (Time expired)

**Australian Defence Force: Health Services**

**Senator MARK BISHOP** (Western Australia) (10.00 p.m.)—I rise tonight to speak to a matter I have raised before concerning the arrangements in place for the protection of the health of serving ADF personnel deployed overseas before they embark, during their deployment and after their return. As the Senate is aware, last Thursday, on my motion, the Senate resolved to refer particular terms of reference to the Senate Foreign

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**CHAMBER**
Affairs, Defence and Trade References Committee to inquire into this matter. The terms of reference require some explanation and so, for the record, I propose to do that so that it is quite clear what the purpose of the reference is. I do this quite specifically because I do not want to mislead veterans and ex-service personnel into any false belief that this inquiry in any way will reopen any of the health issues which remain on foot for so many from previous overseas operations. That is simply too difficult.

We have, in the last 30 years, seen a large number of investigations into some past health threats, including two royal commissions: one into the effect of atomic testing by the British in the 1950s and the other into Agent Orange and other hazardous chemicals used in Vietnam. There have also been a number of mortality studies and health surveys conducted in recent years which have been very useful. But, overall, it must be said that as so many veterans and ex-service people continue to be concerned with their health, and while ever there is so little assurance to the contrary, there is something wrong with the system. Therefore, I make it plain that my motivation in moving for this inquiry is to look at the system, not at the merits of the issues on which veterans believe that the system has failed them. We need to be sure that the system has properly and fully dealt with their concerns.

As a rule, we all know that the concern to maintain fit and healthy armed forces is paramount to any defence effort. We do not question that motive and we know that the best health care is sought for all deployments, not just because there is a duty of care but because the public demands it. We also need to be realistic enough to know that decisions to deploy troops to war or in any hazardous activity are made in full knowledge of the risks, and that is why they are so difficult to make and are the subject of so much controversy. The most recent deployment to Iraq is a case in point, fresh in our memories. However, our concern is what happens after discharge, which in turn is informed necessarily by what happens before discharge. Sadly, it seems that what happens after discharge is not as much a focus for Defence as their interest in those still serving. Responsibility for those discharged with compensable injury or illness passes to the Department of Veterans’ Affairs and that is where the problem rests, we suspect, because they were not privy to the health regime in place during the service; yet, for veterans, they carry the liability.

This is not to say that things are not being done better. We suspect they are. The work done on the Gulf War study was excellent. As we know, the outcome was that in general the health of Gulf War veterans was little different from their peers, thus making it difficult to find much association between the service and illnesses suffered. That is a very useful reassurance. Indeed, it has been a very useful exercise and it is a great pity that such a survey is not conducted for every deployment. It certainly should give veterans and the compensation processes more assurance about the legitimacy of claims down the track where causation by service is alleged. Yet, as we know, the controversy over Gulf War syndrome continues overseas—in the USA and the UK in particular. We also know that the controversy continues over radiation exposure to the extent that the research task, by way of validating historic data, has now commenced. The reason, simply, is that veterans are sick and are dying of illnesses, particularly cancers, which they honestly believe are the result of their exposure on service. Any new research indicating the slightest doubt is seized upon as a question against the established government line.

The real question then is: how good is the government line? How good is the science
and the research, and what certainty does it have, particularly when the long-term effects may take a generation to emerge? Beneath all that, though, is the substance of this inquiry: how good is the system which does the research prior to deployment? How good is the system which seeks to protect people from known hazards on service? How good is the system which records peoples’ health treatment while deployed and how good is the data collection on return? These are questions which serving personnel need answers for. So do their families. So do the compensation claims assessors of the future because, as we know, the absence of information combined with the benefit of the doubt is a combination of some potential to defeat the system. In fact, one of the most common recurring themes as I consult with the veteran community around Australia is the difficulty in accessing information and then the very lack of information contained on file. I also know that the keeping of records is a tiresome and labour-intensive task for which the individual often takes little responsibility. It is the responsibility of the system. But how good is the system? That is what we need to know.

From speaking to many ex-service people over the last 18 months, it also seems to me that personnel management in the ADF remains a very sore point for many, especially after discharge. If you are a veteran you are considered lucky because there is a whole department Australia-wide to look after you—that is, the Department of Veterans’ Affairs. But one might ask, in this day and age of one ADF of career personnel, why the difference? The difference in access to post-retirement services, however, also applies to health care and research into health hazards of past service. Where does the responsibility start and finish between the Defence and Veterans’ Affairs bureaucracies? Why is it that the DVA has the task of researching the health outcomes of past deployments? Where is the responsibility of Defence? What interest does the Department of Defence have in the downstream effects of past service? One would have thought that as one of the nation’s biggest employers it would have a substantial interest, simply for reasons of its compensation liability management. But of course we know that this is not a liability which is managed, because it is funded below the line. That is, compensation liability, unlike for any private employer, is open-ended and unfunded in the Defence budget.

This is also the case for veterans compensated by the Department of Veterans’ Affairs. There is simply no incentive for management to manage this part of the business. There are no linkages between the compensation budget and any occupational health and safety program. So the corollary may well be: why worry about health care? This, of course, cannot be entirely true because we have seen in recent weeks some controversy surrounding a stipulation that no liability will be accepted for injury resulting from private hazardous pursuits. We also know that, quite properly, no liability will be accepted for smoking.

For the outsider, these questions are impossible to answer. So are the questions arising from the recent Iraq deployment, where we saw more than 50 ADF personnel reportedly refusing to be vaccinated. We simply need to know more. We need more assurance than is available from the evidence at present that the interests of our ADF personnel and future veterans are being properly managed. We need to know that the issues are fully identified and that all the research necessary is being conducted. We need to know that we are plugged into the international research effort as well. We hope through this inquiry that some of the answers may be forthcoming. We hope that some of the questions vet-
erans ask can be answered more confidently than they are at present.

However, for veterans and ex-service people, I reiterate my initial qualification on this inquiry: it is not intended to freshly review the evidence surrounding any past health hazard or risk which might be the subject of personal concern or compensation claim. It is about seeking assurances from the system that their interests are being properly served. It is about getting some confidence that in the future we are less likely to be faced with the drawn-out pain of not knowing what the risks really were. Above all, we need to know that the relevant bureaucracies are really on the ball.

Western Australia: Retail Trading Hours

Senator MURRAY (Western Australia) (10.08 p.m.)—Tomorrow, Labor’s caucus in Western Australia is due to make a decision concerning the further deregulation of trading hours in Western Australia. This follows an inquiry provoked by a demand from Graeme Samuel’s National Competition Council that WA give much more market share to the big eastern states chains or be financially punished. I wish Labor in WA the strength and wisdom to keep things pretty well as they are. I think the system amounts to legal blackmail. What else do you call a system which fines you millions if you stand up for small business?

In Australia the big supermarkets have 80 per cent of the business. In WA, it is 60 per cent. Call me silly but I have never quite understood why it is in WA’s interests for the big boys to have 80 per cent plus instead of 60 per cent. It is apparently something to do with competition: you give the market to a few buddies, an oligopoly, and get rid of the many. Silly me! It is obvious really. The big boys have used chequebook diplomacy to persuade the public that it is a good idea for hundreds of small businesses to give way to a few big eastern staters. Misleading and deceptive conduct is the least of it.

In April this year I made a lengthy submission to the inquiry. I hope I have had some influence. In designing competition policy we have to determine a set of values and principles which should guide our laws and behaviour. First amongst these should be the recognition that monopolies or oligopolies inherently contain within them a capacity for the abuse of market power and should usually be resisted where they emerge or monitored where they already exist. Therefore a situation such as we have in the Australian supermarket industry nationally, where an oligopoly is present, has to be acted upon. Secondly, we must acknowledge that a viable and thriving independent sector in the retail industry is desirable of itself and that it has an economic and social value that should not be lost. In retailing, this independent sector is most at threat in Australia in the supermarket sector, where the critical mass essential to its survival is under threat. However, the trend is also emerging in non-supermarket retail sectors, and that problem needs to be addressed to prevent such crises emerging there too.

In Western Australia the sensible balanced approach of successive state governments on trading hours has ensured the largest independent retailing sector in the country. There can be no misunderstanding of the importance of that policy. Nor should there be any misunderstanding of how badly big business supermarket and non-supermarket chains want to deregulate trading hours so that they can drive the independents out of business. It is desirable that the Labor government in WA takes as its central mission in deciding on trading hour recommendations that its first responsibility is to ensure the preservation of a viable independent sector in retailing.
Market concentration entails the dominance of the market by the few. In other words, fewer competitors result. At the heart of this trend lies the danger that the destruction of competitors will result in the destruction of competition. Competition in any retail sector is best served by diversity of competitors and a lowering of real barriers to entry. Barriers to entry include the difficulty independents have in securing prime sites, particularly in regional shopping centres. Creeping acquisitions have allowed the majors to achieve a market size that might have been prohibited by the ACCC if those acquisitions had been aggregated into one purchase, which could therefore have fallen foul of existing merger provisions in the Trade Practices Act.

In Australia deregulated trading hours have contributed materially to retail power concentration. Further trading hours deregulation is not necessary for consumers and will be bad, not good, for competition in WA. It will have detrimental social and economic effects. The case has not been made that the cost of significantly diminishing the independent sector in Western Australia is justified by greater economic or social benefits. The idea that deregulated trading hours elsewhere in Australia have generated greater benefits than costs is an assertion. If the rest of Australia had WA's policy instead, based on the WA experience it is likely that a much larger independent sector would be in place, without any significant loss in consumer service and with a great gain in jobs and diversity.

The retail trade, particularly small business, is not some separate group to be exploited and sent off to a seven-day-a-week 24-hour trading day while everyone else enjoys a five-day 38-hour working week. Small business owners and staff have to be on the job for a full trading week. In contrast, big business oligopolies in the retail sector can roster casual and part-time staff to cover extended hours, and they can beat small business down as a result. I believe that the claim that the consumer demands widespread deregulation and comprehensive Sunday trading is a myth. There is little evidence of significant consumer demand for all retailers to be on a seven-day trading week or a 24-hour trading day. One submission to the review of WA retail trading hours caught my eye. Here is what Rita Ashlin and James Kelly, directors of two supermarkets in suburban Perth, had to say:

We are a local family owned small business. We employ 130 staff.
We sell over 1400 direct local growers producer’s goods (at no charge), producers who cannot afford to pay the premium to sell their products in major chains stores.
We employ local trade’s people in our business. This includes, but is not limited to:
Cleaners
Advisors
Accountants
Lawyers
Repairs & maintenance
These people are employed directly and not through contracts from the East.
We support local charities, local schools and local sporting bodies. With genuine pride we donate $10,000’s each year to our local community including, but not limited to:
Rosalie Primary School Fete
Constable Care
The Lions Club
The Salvation Army (food items are donated weekly)
Father Brian Crisis Care
And many others who come to us direct for a donation of food or bottle of wine for raffle prizes. Because we are always working in our stores we are accessible to the community and charities don’t have to wait weeks for paperwork to approve donations.
Our profits stay in Western Australia. They are spent and reinvested here.

As supermarket owners, a mother and father, and consumers we are submitting this response to indicate our total support for the maintenance of status quo in relation to trading hours in Western Australia.

This extract shows the contribution that these small independent supermarkets make to the community. I thoroughly endorse the statement that the status quo in relation to trading hours in Western Australia should be maintained. If trading hours are further deregulated, it would be a tragedy for suburban communities in Perth and even more so for the small rural communities in Western Australia. Their economic and social contribution is immeasurable. It is very important that an independent retailing sector of real size be maintained in Western Australia. It is important to recognise that small business has a value of itself and that national competition policy, practised in the way that is envisaged in this case, is destructive—not constructive—when it comes to furthering competition.

Telecommunications: Broadband Services

Senator LUNDY (Australian Capital Territory) (10.17 p.m.)—I would like to address my remarks to the issue of broadband in Australia. I begin by pointing out how long it took this government to actually click that broadband was an issue. It certainly is an issue—it is an issue for our economic and social development and it is an issue that can determine the success or failure of the regional economies as small businesses in those economies turn to broadband as a way of reaching out into new markets. Paul Budde, widely regarded as one of Australia’s leading broadband experts, has highlighted the importance of broadband for our nation: Broadband is a critical element in the development of our countries, from both a community and an economic perspective. Broadband provides convenient and affordable access to information, education, healthcare, entertainment and communication. It empowers individuals to choose the services they want, rather than being restricted to what the media and telco barons are prepared to dole out to them. And it allows local businesses to enter new overseas markets. As broadband is of national interest it is critical that each country develops a national vision and national strategies to implement broadband.

The coalition has been belatedly forced to acknowledge the importance of broadband. The report from the Broadband Advisory Group, commissioned by the government under pressure from business, academia and the wider community, stated:

Broadband communications technologies can deliver substantial economic and social benefits to Australia. They reduce the constraint of distance and greatly increase the quality of communications in many sectors. Their defining characteristics (fast, always-on) enable a paradigm shift in the way people ... interrelate. In short, broadband technologies can transform the way people live, work, do business.

We have not yet seen a response from the government in relation to the Broadband Advisory Group report, and this is just another disappointing chapter in the story so far. Unfortunately for Australians, broadband penetration is stalling. Australia is being outstripped at a rate of knots by other nations, all of which have seen the importance of broadband to their economic strength and sustainability. At the end of 2000, Australia was ranked 13th in the OECD in terms of broadband penetration. By the end of 2002, we had slid all the way down to 19th behind almost every other developed nation that we are used to comparing ourselves with, including the United States, the United Kingdom, Canada and Spain. According to the OECD, only 1.9 per cent of Australians have access to broadband. And what does the minister have to say about this? In typical fash-
ion he is not too concerned. In parliament on 16 June he said:

... it does not really matter where you are if you are in the leading bunch. There are Korea, Canada and maybe the US and then there are about 10 or 15 others, and we are in that second pack.

The reality is that we are not even in the second pack in these global ratings. If the minister is talking about packs, Australia is right up there in the third pack along with Mexico and Luxembourg.

The minister also bragged about the growth of Australia’s broadband penetration, in particular the take-up rate of ADSL. But the fact is that our growth is slowing. The latest figures from the ACCC show that in the April-June quarter of 2002 there was a 29.2 per cent increase in the take-up of broadband services. But this dropped to 21 per cent in the July-September quarter before bottoming out to 16.4 per cent in the October-December quarter. Then it went to 16.5 per cent—a very small increase—in the January-March quarter of this year. In March, Professor Allan Fels made the following comments about Australia’s broadband growth:

While take-up of broadband services has increased, it appears that the rate of growth may be slowing.

The news was so bad that when the decline appeared to have bottomed out last week he was almost grateful:

It is encouraging that the growth rate over the last quarter remained steady rather than continuing to decline.

We should be grateful for small mercies, it seems. These sorry findings—Australia’s slowing broadband take-up rate and poor standing internationally—are the symptoms of this government’s lack of interest in broadband. The minister is internationally infamous for dismissing broadband as being of interest only to gamers and pornographers.

Even as recently as last week he insisted that broadband:

... does not necessarily have much to do with benefiting the economy if it is simply providing entertainment services to households a little faster than they might otherwise receive them because of their own level of demand.

The implication of these comments is clear—first, that the only point to broadband is entertainment; and, second, that the minister has no understanding of, or refuses to acknowledge, the economic importance of broadband to this country. To put it quite simply, under the Howard government, Australia is lacking a plan; it is lacking a vision.

The Howard government is not interested in providing or exploiting the benefits to education, to business, to health, to government services, to research or to any of the areas that broadband improvements will provide.

Although the minister insists that people do not want broadband because it is only useful for games, the real truth is that Australian broadband take-up is so slow, and declining, because this government has not put in place policies to remove inhibitors to its growth. As identified very recently with the release of the ACCC’s report to the minister on emerging market structures in the communications sector, Telstra’s limiting role and impact on the roll-out of broadband is keenly observed. That report states:

However, Telstra’s control of both a copper and a cable network and the lack of competitive discipline it faces as a result of this dual ownership, means Telstra is in a position to largely dictate the type of services that consumers will be able to access and the time at which these services become available.

That says it pretty clearly. Telstra’s monopoly of the local loop and the provision of DSL services via that infrastructure and their ownership and interest in the cable infrastructure have had a limiting effect on the roll-out of broadband in this country. Indeed,
this was also observed in a recent report by the OECD, which noted that Australia is almost Robinson Crusoe in the fact that we have our largest telecommunications provider, our residual monopoly telecommunications provider, owning and controlling both those forms of infrastructure.

The sad fact is that the minister’s policies have failed to address the anticompetitive impact of this environment. Right now, Senator Mackay, I and others of the Senate ECITA References Committee have been conducting an inquiry into the Australian telecommunications network. This inquiry has uncovered some very interesting facts about how Telstra manage their infrastructure. Indeed, we have documented at great length the degree of faults, the underinvestment in the maintenance of the Telstra network and the subsequent problems that creates, not only for Telstra staff as they struggle to maintain services but of course for Telstra customers who are the victims of the faults as they consistently occur.

The other aspect of the ATN inquiry is that we are starting to get an understanding of the extent of the limitations of Telstra’s existing telecommunications infrastructure and, in particular, the copper local loop. Telstra are very enthusiastic promoters and advertisers of their new ADSL broadband service, but the facts are that that service does suffer from a range of technical difficulties. Despite Telstra’s fierce promotion of the fact that it services a huge percentage of the Australian population—I think it is 87 per cent—where ADSL is enabled in an exchange, there is a 3.5 kilometre radius limit to where that service can extend, there are provisioning caps or restrictions on the number of customers that can be provisioned from a given exchange, and there are other technical blockages such as pair gains which prevent ADSL from being provided. So, if Telstra cannot provide it because of that infrastructure, how are Telstra’s competitors going to do it?

It is about time that telecommunications policy addressed the anticompetitive barriers Telstra placed, and created a real environment where alternative infrastructure is seen as an option and Telstra are forced to play by the rules. In doing so, I think we need some better rules. Finally, I would like to say that I believe the proposed inquiry into broadband will be a useful avenue to explore these issues in full. I commend that to the Senate.

McGarvie, Hon. Richard

Senator ABETZ (Tasmania—Special Minister of State) (10.26 p.m.)—Last week in the adjournment debate, Senator Lyn Allison gave a well-researched and detailed speech in honour of the life of Richard McGarvie. I wish to associate myself with Senator Allison’s speech. A former member of the ALP, competent lawyer, judge, governor and constitutional and public affairs commentator, Richard McGarvie led a life rich in service to his community. His proposed constitutional model for Australia to make the transition to a republic is worthy of consideration by all genuine republicans. I believe that Mr McGarvie’s life was one of great service to his state of Victoria and to the Australian nation.

It was a great privilege for me in my role in this place to meet Mr McGarvie and exchange letters and telephone conversations and even have the opportunity of inviting him to our home state of Tasmania, Mr President, for him to expound his views on constitutional change. It has been one of the privileges of serving in this place to meet somebody such as Mr McGarvie. As I said at the outset, I wish to associate myself with the well-researched and more detailed speech given by Senator Allison on a previous occasion.

Senate adjourned at 10.28 p.m.
DOCUMENTS
Tabling

The following documents were tabled by the Clerk:

- Australian Prudential Regulation Authority Act—Instrument fixing charges to be paid to APRA, dated 3 June 2003.
- Goods and Services Tax Ruling GSTR 2003/3 (Erratum) and GSTR 2003/10.
- Product Ruling—PR 2001/92 (Notice of Withdrawal).
- PR 2002/73 (Notice of Withdrawal).

PROCLAMATIONS

Proclamations by His Excellency the Administrator of the Commonwealth of Australia were tabled, notifying that he had proclaimed the following provisions of an act to come into operation on the dates specified:

- Schedule 3—1 July 2003.

(Gazette No. GN 24, 18 June 2003).
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Wide Bay Electorate: Programs and Grants
(Question Nos 428 and 440)

Senator O’Brien asked the Minister for Communications, Information Technology and the Arts, and the Minister for the Arts and Sport, upon notice, on 10 July 2002:

(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Wide Bay.

(2) What was the level of funding provided through these programs and/or grants for the 1999-2000, 2000-01 and 2001-02 financial years.

(3) Where specific projects were funded: (a) what was the location of each project; (b) what was the nature of each project; and (c) what was the level of funding for each project.

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

The Department of Communications, Information Technology and the Arts administers the following programs and grants that offer assistance to the people living in the federal electorate of Wide Bay.

Federation Fund

(1) Three programs under the Department’s Federation Fund provided assistance to the people living in the federal electorate of Wide Bay

   Major Federation Fund (MFF)
   Federation Cultural and Heritage Projects (FCHP)
   Federation Community Projects (FCP)

(2) For each of the financial years 1999-2000, 2000-01 and 2001-02 Federation Fund programs provided the following support in the electorate of Wide Bay.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Federation Community Projects (FCP)</th>
<th>Federation Cultural and Heritage Projects (FCHP)</th>
<th>Major Federation Fund (MFF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999-2000</td>
<td>$144,000</td>
<td>$2 million</td>
<td>$500,000</td>
</tr>
<tr>
<td>2000 - 2001</td>
<td>$50,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2001-2002</td>
<td>$6,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$200,000</td>
<td></td>
<td></td>
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</tbody>
</table>

(3)

<table>
<thead>
<tr>
<th>PROJECT NAME</th>
<th>AMOUNT</th>
<th>RECIPIENT</th>
<th>DATE</th>
<th>PURPOSE BENEFICIARY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federation Community Projects (FCP)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Footsteps in a Tree Federation Heritage Centre</td>
<td>$40,000</td>
<td>Mundubbera Enterprise Association Inc</td>
<td>6/07/99</td>
<td>Local Community of Wide Bay</td>
</tr>
<tr>
<td>Monto Historical Restoration and Renovation Boondooma Homestead Conservation Works</td>
<td>$20,000</td>
<td>Monto Shire Council</td>
<td>6/07/99</td>
<td>Local Community of Wide Bay</td>
</tr>
<tr>
<td>Orchid Conservatorium Federation Project</td>
<td>$25,000</td>
<td>Wondai Shire Council</td>
<td>6/07/99</td>
<td>Local Community of Wide Bay</td>
</tr>
<tr>
<td></td>
<td>$35,000</td>
<td>Hervey Bay City Council</td>
<td>6/07/99</td>
<td>Local Community of Wide Bay</td>
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</table>
**QUESTIONS ON NOTICE**

<table>
<thead>
<tr>
<th>PROJECT NAME</th>
<th>AMOUNT</th>
<th>RECIPIENT</th>
<th>DATE</th>
<th>PURPOSE BENEFICIARY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gin Gin Railway Station Centenary Project</td>
<td>$20,000</td>
<td>Gin Gin &amp; District Historical Society Inc</td>
<td>6/07/99</td>
<td>Local Community of Wide Bay</td>
</tr>
<tr>
<td>Construction of Poona</td>
<td>$40,000</td>
<td>Poona Ratepayers &amp; progress Association</td>
<td>6/07/99</td>
<td>Local Community of Wide Bay</td>
</tr>
<tr>
<td>The Silo - Callide/Dawson Valley’s History</td>
<td>$20,000</td>
<td>Primary Industries Exhibition Inc</td>
<td>6/07/99</td>
<td>Local Community of Wide Bay</td>
</tr>
<tr>
<td>Federation Cultural and Heritage Projects (FCHP)</td>
<td>$2m</td>
<td>Maryborough City Council</td>
<td>15/10/99</td>
<td>Construction of the Centre, including a 920 seat theatre and 200 seat ‘Federation multi-purpose space’. Benefits: local and regional community.</td>
</tr>
<tr>
<td>Maryborough and District Entertainment and Cultural Centre</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Major Federation Fund (MFF)</td>
<td>$0.5m</td>
<td>Queensland Department of the Premier and Cabinet</td>
<td>15/10/99</td>
<td>The former Bank of New South Wales building in the Wharf Street precinct will be the centre of the Maryborough Network. The building will be conserved, exhibition space provided and a multi-media product developed. Heritage places in the Maryborough region will be interpreted. Benefits: local/regional community.</td>
</tr>
<tr>
<td>Maryborough Heritage Gateway (QHTN)</td>
<td></td>
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</table>

**Cultural Grants Programs**

(1) The Department administers a number of programs that provide assistance to regional and remote areas of Australia. Benefits to the people living in the electorate of Wide Bay come both from direct grants (Festivals Australia) and from benefits that flow on from the Department’s touring programs (Playing Australia, Visions and Contemporary Music Touring). The Department also administers the Regional Arts Fund for which funding is devolved to regional arts organisations in each State and Territory.
**Playing Australia**
Playing Australia is the Commonwealth Government’s national performing arts touring program. It is designed to assist the touring of performing arts across State and Territory boundaries and into regional areas where this is currently not commercially viable and there is a demonstrated public demand.

**Festivals Australia**
Festivals Australia is designed to assist the presentation of arts and cultural activities at Australian regional and community festivals. The emphasis is on supporting a project which adds to the quality and diversity of the arts and cultural programming of a festival.

**Visions of Australia**
Visions of Australia is the Commonwealth Government’s national touring exhibitions grant program which assists in the touring of cultural exhibitions across State/Territory boundaries. Funding is provided principally to assist with exhibition touring costs, with some funding for project development.

**Contemporary Music Touring Program**
The Contemporary Music Touring Program provides assistance to performers, agents and music organisations in the Australian contemporary music industry to undertake touring activities, particularly in regional areas. Assistance is provided on a competitive basis through two grant rounds per annum which are advertised in national newspapers. No grants have been provided to the Wide Bay electorate through this program.

**Regional Arts Fund**
Previously administered by the Australia Council, since 2001-2002 this program has been administered by devolution from the Department directly to the State regional arts organisations and the Territory governments. These regional arts organisations have established their own assessment panels, approved by the Minister, and have discretion over the allocation of grants in their own jurisdictions.

(2) Funding levels provided through these programs which benefit the Wide Bay electorate are as follows:

**Playing Australia** (these figures are for the total touring grant for organisations which include the Wide Bay electorate in their touring program)
- 1999-2000 - $130,546
- 2000-2001 - $1,080,286
- 2001-2002 - $488,470

**Festivals Australia**
- 1999-2000 - $17,750
- 2000-2001 - $20,000
- 2001-2002 - $16,996

**Visions of Australia** (these figures are for the total touring grant for exhibitions which include the Wide Bay electorate in their touring program)
- 1999-2000 - $89,800
- 2000-2001 - $249,532
- 2001-2002 - $62,401
**Contemporary Music Touring Program**

The Contemporary Music Touring Program had an appropriation of $1.05 million over three years from 1998-99 to 2000-01. Funding of $461,018* was provided in 1999-2000 and $678,189 in 2000-2001. No grants have been provided to the Wide Bay electorate through this program.

* These figures ($461,018) include grants for tours that did not proceed which were reallocated in later rounds.

**Regional Arts Fund**

<table>
<thead>
<tr>
<th>Period</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999-2000</td>
<td>n/a</td>
</tr>
<tr>
<td>2000-2001</td>
<td>n/a</td>
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<tr>
<td>2001-2002</td>
<td>$56,000</td>
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### Project Details

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<tr>
<th>PROJECT NAME</th>
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<th>RECIPIENT</th>
<th>DATE</th>
<th>PURPOSE/ BENEFICIARY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Festivals Australia</td>
<td>$14,200</td>
<td>Gayndah Orange Festival Incorporated</td>
<td>05-Jun-99</td>
<td>Local Community</td>
</tr>
<tr>
<td>Multiculturalism - Yesterday, Today and Tomorrow</td>
<td>$20,000</td>
<td>Gayndah Orange Festival Incorporated</td>
<td>10-Jun-01</td>
<td>Local Community</td>
</tr>
<tr>
<td>Trains, Planes and All That Jazz</td>
<td>$16,996</td>
<td>Maryborough &amp; Districts Promotions Bureau Inc</td>
<td>15-Sep-01</td>
<td>Local Community</td>
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<tr>
<td>Smorgasbord of Australian Song and Dance</td>
<td>$5,350</td>
<td>Murgon Shire Council</td>
<td>04-Jul-99</td>
<td>Local Community</td>
</tr>
<tr>
<td>The Drumming of our Hearts</td>
<td>$12,400</td>
<td>Yag’ubi Festivals Association Inc</td>
<td>01-Mar-00</td>
<td>Local Community</td>
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<tr>
<td>Playing Australia - Grants for tour which includes the electorate. Funds are for the whole tour. Art</td>
<td>$880,401</td>
<td>Australian Presenters Group</td>
<td>12-Mar-01</td>
<td>Towns Visited: Maryborough</td>
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<tr>
<td>Girl Talk</td>
<td>$50,000</td>
<td>HIT Productions</td>
<td>10-Oct-00</td>
<td>Towns Visited: Maryborough</td>
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<tr>
<td>Love Child</td>
<td>$48,699</td>
<td>HIT Productions</td>
<td>13-Aug-01</td>
<td>Towns Visited: Maryborough</td>
</tr>
<tr>
<td>Melbourne Comedy Festival Roadshow</td>
<td>$110,000</td>
<td>Melbourne International Comedy Festival</td>
<td>26-Apr-01</td>
<td>Towns Visited: Maryborough</td>
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<tr>
<td>Across The Top</td>
<td>$39,855</td>
<td>Musica Viva Australia</td>
<td>26-Apr-01</td>
<td>Towns Visited: Maryborough</td>
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<tr>
<td>Circus Monoxide</td>
<td>$130,546</td>
<td>Precarious Incorporated</td>
<td>05-Jul-99</td>
<td>Towns Visited: Gympie Maryborough</td>
</tr>
<tr>
<td>The Adventures of Snu</td>
<td>$184,210</td>
<td>Arts on Tour - NSW Ltd - Canute Productions</td>
<td>17-Jul-02</td>
<td>Towns visited: Maryborough</td>
</tr>
</tbody>
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**QUESTIONS ON NOTICE**
<table>
<thead>
<tr>
<th>PROJECT NAME</th>
<th>AMOUNT</th>
<th>RECIPIENT</th>
<th>DATE</th>
<th>PURPOSE/ BENEFICIARY</th>
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<tbody>
<tr>
<td>Circus Oz</td>
<td>$202,796</td>
<td>Circus Australia Ltd - Circus Oz the Touring Co</td>
<td>14-Apr-02</td>
<td>Towns visited: Maryborough</td>
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<tr>
<td>Melbourne Comedy Festival</td>
<td>$100,000</td>
<td>Melbourne International Comedy Festival</td>
<td>09-May-02</td>
<td>Towns visited: Maryborough</td>
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<tr>
<td>Carmen (1)</td>
<td>$136,975</td>
<td>Co-Opera Inc</td>
<td>18-Jun-02</td>
<td>Towns visited: Maryborough</td>
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<tr>
<td>HIT Productions</td>
<td>$48,699</td>
<td>HIT Productions</td>
<td>22-Sep-02</td>
<td>Towns visited: Maryborough</td>
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<tr>
<td>Visions of Australia - Grant for tour which includes the electorate. Funds are for the whole tour.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Out in the Cold; Australia’s UN presence in Korea</td>
<td>$41,000</td>
<td>Australian War Memorial</td>
<td>31-May-01</td>
<td>Towns Visited: Pialba</td>
</tr>
<tr>
<td>Hooked: The Tour Armlinks</td>
<td>$22,134</td>
<td>Craft Queensland Darwin Visual Arts Association</td>
<td>11-Apr-01</td>
<td>Towns Visited: Gympie</td>
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<tr>
<td>The Eye of the Beholder; Albert Tucker’s Photographs</td>
<td>$5,580</td>
<td>Museum of Modern Art at Heide</td>
<td>31-Jul-99</td>
<td>Towns Visited: Pialba</td>
</tr>
<tr>
<td>Ikuntji Tjuta: Paintings from Haasts Bluff</td>
<td>$59,420</td>
<td>Museums and Galleries Foundation of NSW</td>
<td>20-Sep-00</td>
<td>Towns Visited: Pialba</td>
</tr>
<tr>
<td>Rings of History: Contemporary Craft from Historical Timbers</td>
<td>$83,498</td>
<td>Museums and Galleries Foundation of NSW</td>
<td>21-Nov-01</td>
<td>Towns Visited: Gympie</td>
</tr>
<tr>
<td>Our Chinese Heritage, Our Museums</td>
<td>$44,000</td>
<td>New England Regional Art Museum</td>
<td>01-Feb-02</td>
<td>Towns Visited: Maryborough</td>
</tr>
<tr>
<td>Wood Dreaming: The Tour</td>
<td>$12,307</td>
<td>Regional Galleries Association of Queensland Inc.</td>
<td>1-Dec-99</td>
<td>Towns Visited: Gympie</td>
</tr>
<tr>
<td>They Came from the Bush - Our National Olympic Heroes</td>
<td>$35,700</td>
<td>Wagga Wagga City Council</td>
<td>11-Oct-01</td>
<td>Towns Visited: Maryborough</td>
</tr>
<tr>
<td>Grants to recipients based in electorate</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regional Arts Fund Choral Convention</td>
<td>$1,000</td>
<td>Fraser Coast Harmony Choir</td>
<td>07-Jun-02</td>
<td>Assistance for Choir to participate in choral convention in Wollongong</td>
</tr>
<tr>
<td>Good Night Out</td>
<td>$55,000</td>
<td>Queensland Arts Council</td>
<td>01-Apr-02</td>
<td>Respond to regional demand for assistance in researching, planning, sourcing and marketing arts products.</td>
</tr>
</tbody>
</table>
Broadcasting

Television Black Spots Program (TVBSP)

(1) The $35 million TVBSP aims to assist communities fix between 200 and 250 analog television 'black spot' areas. The TVBSP is part of the Commonwealth Government’s $120 million Television Fund which is funded from the successful second partial sale of Telstra. The TVBSP plays a vital role in the Government’s strategy to improve communications at the national level by working together with communities.

There are two components to the Program:
- New Services; and
- Replacement of Obsolete Equipment at Existing Self Help Retransmission Sites.

(2) For each financial year the TVBSP provided the following funding:

- 1999/2000, $0
- 2000/2001, $13,745.00
- 2001/2002, $34,179.48

(3) The location, nature and level of funding for each TVBSP project is explained in the following tables.

<table>
<thead>
<tr>
<th>Coordinating Body</th>
<th>Black Spot</th>
<th>Purpose of funding</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banana Shire Council</td>
<td>Moura</td>
<td>New Services</td>
<td>$1,549.00*</td>
</tr>
<tr>
<td>Banana Shire Council</td>
<td>Thangool</td>
<td>New Services</td>
<td>$1,549.00*</td>
</tr>
<tr>
<td>Banana Shire Council</td>
<td>Biloela</td>
<td>New Services</td>
<td>$1,549.00*</td>
</tr>
<tr>
<td>Banana Shire Council</td>
<td>Banana</td>
<td>New Services</td>
<td>$1,549.00*</td>
</tr>
<tr>
<td>Banana Shire Council</td>
<td>Theodore</td>
<td>New Services</td>
<td>$1,549.00*</td>
</tr>
<tr>
<td>Cooloola Shire Council #</td>
<td>Cooloola Cove &amp; Tin Can Bay</td>
<td>New Services</td>
<td>$1,344.48*</td>
</tr>
<tr>
<td>Monto Shire Council</td>
<td>Monto</td>
<td>New Services</td>
<td>$2,000.00*</td>
</tr>
<tr>
<td>Monto Shire Council</td>
<td>Langley, Kapaldo</td>
<td>New Services</td>
<td>$2,000.00*</td>
</tr>
<tr>
<td>Monto Shire Council</td>
<td>Bancroft</td>
<td>New Services</td>
<td>$2,000.00*</td>
</tr>
<tr>
<td>Banana Shire Council</td>
<td>Cracow</td>
<td>Replacement of Obsolete Equipment</td>
<td>$32,835.00^</td>
</tr>
</tbody>
</table>

* Technical survey reimbursements (under the New Services component it was a requirement that a technical survey be carried out to determine the level and extent of the television reception problem).

^ Approved on 21 December 2001, which included $262.00, paid directly to the Australian Broadcasting Authority for apparatus licences. The first payment of $16,286.50 was made 15 February 2002.

# The Cooloola Shire Council is in the electorate of Fairfax but the Cooloola Cove & Tin Can Bay television black spot is in the electorate of Wide Bay.

Licensed Broadcasting

Regional Equalisation Plan

(1) The Regional Equalisation Plan provides assistance to commercial television broadcasters to meet the cost of digital television conversion in regional and remote Australia. This includes the three regional commercial television broadcasters in the regional Queensland licence area which covers the federal electorate of Wide Bay.

(2) and (3) The program commenced in 2000-01 and is to provide assistance of $13.6 million to each broadcaster (Seven Network, Southern Cross Broadcasting and WIN Television) over 8 years. The
total assistance of $40.8m represents 50% of the regional Queensland commercial television broadcasters’ estimated capital and operational costs for digital conversion.

**NETWORKING THE NATION (NTN)**

(1) Networking the Nation - The Commonwealth’s five-year $250 million Regional Telecommunications Infrastructure Fund, is helping bridge the gaps in telecommunications services, access and costs between urban and non-urban Australia.

The following NTN programs provide assistance to people living in the federal electorate of Wide Bay:
- Untimed Local Calls;
- Mobile Phones on Highways; and
- Mobile Coverage in Selected Population Centres (funding applies to 2002/03 and 2003/04 Financial Years)
- Mobile Coverage on Selected Regional Highways (funding applies to 2002/03 and 2003/04 Financial Years)

The NTN Board administered Funds benefiting the Wide Bay electorate are:
- Networking the Nation (RTIF/General Fund),
- Local Government Fund,
- Building Additional Rural Networks (BARN) and
- Remote and Isolated Island Fund

(2) For NTN projects specifically funded in Wide Bay:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999/2000</td>
<td>$23,800</td>
</tr>
<tr>
<td>2000/2001</td>
<td>nil</td>
</tr>
<tr>
<td>2001/02</td>
<td>$1,230,035</td>
</tr>
</tbody>
</table>

Total $1,253,835

For all NTN Board Programs funding provided to Wide Bay and apportioned as part of regional, State or national projects, the allocation to Wide Bay is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999/2000</td>
<td>$843,950</td>
</tr>
<tr>
<td>2000/2001</td>
<td>$774,849</td>
</tr>
<tr>
<td>2001/2002</td>
<td>561,599</td>
</tr>
</tbody>
</table>

Total $2,180,398

(3) The total Networking the Nation funding over the period 1999-2002 for Wide Bay is $3,434,233. This funding includes 5 projects specific only to the Wide Bay electorate. A further 22 projects have been funded on a regional, state and nation wide basis and the total funding for these projects has been apportioned to show the benefit to Wide Bay.

**Details of Projects Specifically Benefiting the Wide Bay Electorate**

**Project Code: QLD2000/208**

Year Funded: 1999/2000

Project: Expansion of Education Facilities at MECA, - Phase II

Organisation: North Burnett Regional Economic Development Council Inc

Contact: Mr Dean Power Ph: 07 41663124

Amount Approved: $23,800

Funding Source: Networking the Nation – General Fund
Project Location: The North Burnett region is located west of Bundaberg and approx 4 hrs from Brisbane

Project Description: An extension to an existing Networking the Nation project located in Monto, this project will provide additional computers and a printer for the Monto Education and Communication Annex.

Beneficiary Electorate(s): Wide Bay

**Project Code:** QLD2001/330

Year Funded: 2001/2002

Project Title: Bay Connect Maryborough

Organisation Title: Community Solutions Hervey Bay Association Inc

Primary Contact: Ms Margaret Butler Ph: 07 4197 4337

Amount Approved Total: $376,520

Project Description: Funding is provided to expand the Bay Connect public internet access project in Hervey Bay to Maryborough and the towns of Tiaro and Aldershot.

Location: Maryborough, Aldershot and Tiaro

Electorates Benefiting: Wide Bay

**Project Code:** QLD2002/389

Year Funded: 2001/2002

Project Title: Eidsvold Information and Enterprise Centre

Organisation Title: Eidsvold State School

Primary Contact: Mr Gerard Mills Ph: 41651325

Amount Approved Total: $120,750

Project Description: Funding is being sought to establish a public access centre including videoconferencing facilities.

Electorates Benefiting: Wide Bay

**Project Code:** QLD2002/382

Year Funded: 2001/2002

Project Title: Mobile Telephony for Fraser Island

Organisation Title: Fraser Island Association Inc

Primary Contact: Mr Eric Parups Ph: 07 4124 5088

Amount Approved Total: $582,765.00

Project Description: Establishment of mobile services for Fraser Island.

Electorates Benefiting: Wide Bay

**Project Code:** QLD2001/333

Year Funded: 2001/2002

Project Title: Wide Bay Tel

Organisation Title: Wide Bay 2020 Regional Planning Advisory Committee

Primary Contact: Mr Bernard Cleary Ph: 07 4151 9746

Amount Approved Total: $150,000

**QUESTIONS ON NOTICE**
Project Description: Top up funding to assist development of appropriate legal/institutional structures with a network partner with a view to delivering enhanced telecommunications services to the region.
Location: Wide Bay, Queensland.
Project Description: Funding for the development of a detailed Business case and technical requirements for improved telecommunications services in Wide Bay region.
Electorates Benefiting: Wide Bay
Total funding for projects for Wide Bay which are part of regional, state or national projects is $1,253,835. Funding for these projects has been averaged, marked*, across all beneficiary electorates.
For Statewide projects, funding has been averaged, marked*, across the following rural electorates: Wide Bay, Blair, Bowman, Capricornia, Dawson, Dickson, Fadden, Fairfax, Fisher, Forde, Groom, Herbert, Hinkler, Kennedy, Leichhardt, Longman, McPherson, Maranoa, Moncrieff, Oxley, Petrie, Rankin.

Project Code: MST2000/80
Year Funded: 1999/2000
Project: Nationalising E Momentum in Local Government
Organisation: Australian Local Government Association
Contact: Ms Kylie McIntosh Ph: 02 6281 1211
Amount Approved: $1,093*
Funding Source: Networking the Nation - Local Government Fund
Project Location: This project has a national focus
Project Description: This project involves consultations with all State and Territory Local Government Associations to determine priorities and processes in responding to emerging opportunities and proposals for local government to better utilise the full potential of online services.
Beneficiary Electorate/s: National

Project Code: MST2000/81
Year Funded: 1999/2000
Project: Teleworking to the Fore
Organisation: Kondinin Group Incorporated
Contact: Mr Lui Marcelli Ph: 08 9478 3343
Amount Approved: $4,375*
Funding Source: Networking the Nation – General Fund
Project Location: The project will have a particular, initial focus on NSW and Queensland but will have nation-wide impacts.
Project Description: This project will involve conducting a range of consultations and promotion activity, and developing a range of associated material, to stimulate telework in rural areas, in active collaboration with the ongoing TeleTask project.
Beneficiary Electorate/s: Statewide, NSW & Qld

Details of Regional, Statewide and National Projects Benefiting the Wide Bay Electorate
Project Code: MST2000/95
Year Funded: 1999/2000
Project: FRAN Internet Access for ALL
Organisation: Farmwide Pty Ltd
Contact: Mr Robert Ceramidas   Ph: 02 6273 6395
Amount Approved: $318,406*
Funding Source: Networking the Nation – Internet Access Fund
Project Location: This project has a national focus
Project Description: This project seeks to provide local call internet access to all communities throughout Australia currently without it, backed by promotion, training and other support and services.
Beneficiary Electorate/s: National

**Project Code: QLD1999/166**
Year Funded: 1999/2000

Project: A Network of Communities Project
Organisation: Learning Network Queensland
Contact: Ann Gooley   Ph: 07 3404 3922
Amount Approved: $79,943#
Funding Source: Networking the Nation – General Fund
Project Location: Statewide
Project Description: Funding will enable the Queensland Open Learning Network (QOLN) to extend and improve Internet access to regional, rural and remote areas throughout Queensland. This will be achieved through the building of a Virtual Community Learning and Information Network, which will link 45 community learning centres to local Internet Service Providers. The centres will be open to all community members who may use Internet services to access information, learning services, government services or any other services required by the community.
Beneficiary Electorate/s: Statewide

Details of Regional, Statewide and National Projects Benefitting the Wide Bay Electorate

**Project Code: QLD2000/210**
Year Funded: 1999/2000

Project: Queensland Local Government - Connecting Communities
Organisation: Local Government Association of Queensland Inc.
Contact: Mr Steve Greenwood
Position: Manager, Planning and Social Policy
Phone: 07 3000 2237
Amount Approved: $46,668#
Funding Source: Networking the Nation – Local Government Fund
Project Location: Statewide
Project Description: This project has four components and has been developed following completion of an audit undertaken by the LGAQ aimed at determining a strategic, coordinated approach to “fill the gaps” in the telecommunications infrastructure and services and open up public access to videoconferencing facilities.
It includes:
The development of a ‘best practice’ Online E-commerce model for QLD Local Government which will encompass a full range of e-commerce applications and solutions and facilitation of community group online presence. The model will be trialed in up to 10 local government areas.

A Telephone Bill Paying System for those rural, regional and remote councils without this facility. Ability to pay Council fees and charges via telephone will bring benefits to the community in terms of ease of access, speedier processing of transactions and reduced paper work.

Development of a detailed Telecommunications Strategic Plan for Queensland Local Government and facilitation of individual Strategic Telecommunications Plans for all regional, rural and remote Queensland Councils. The project includes 8 regional one-day workshops for QLD Local Government.

A two-year, Videoconferencing Pilot which will provide participating Councils and communities with opportunities to evaluate the use of this technology in addressing equity of access issues.

Beneficiary Electorate/s: Statewide

Details of Regional, Statewide and National Projects Benefiting the Wide Bay Electorate

Code: QLD1999/176

Year Funded: 1999/2000

Project Name: Queensland Local Government – Connecting Communities.

Applicant: Local Government Association of Queensland (Inc.)

Project Description: The project will survey/audit Queensland’s Local Government to identify their current telecommunications equipment and service levels, including videoconferencing facilities. The project will identify opportunities for local government. The project aims to bring Queensland’s rural and regional Local Governments, and hence their communities, up to world-class standard in telecommunications abilities.

Project Location: Covers 125 local councils and 9 community councils across Queensland

Funds Approved: $707*

Funding Source: Networking the Nation – General Fund

Contact Person: Mr Steve Greenwood Ph: 07 3000 2237

Beneficiary Electorate/s: Wide Bay, Blair, Bowman, Brisbane, Capricornia, Dawson, Dickson, Fadden, Fairfax, Fisher, Forde, Griffith, Groom, Herbert, Hinkler, Kennedy, Leichhardt, Lilley, Longman, Maranoa, McPherson, Moncrieff, Moreton, Oxley, Petrie, Rankin, Ryan

Code: QLD1999/177

Year Funded: 1999/2000

Project Name: Queensland Electronic Business Network (QeNet) for non-urban regional, rural and remote Queensland.

Applicant: Office of Small Business; Department of State Development (DSD), Information Industries Branch, Queensland Department of Communication and Information, Local Government and Planning.

Project Description: Pilot a network of volunteer community trainers to deliver AUSe.NET workshops to small/medium enterprises (SMEs) in approximately 20 regional, rural and remote areas. The workshops will educate business about the benefits of e-commerce, as well as providing some assistance in business planning for utilising e-commerce in the participant’s business. AUSe.NET, is an independent, not for profit, organisation established and owned by the Commonwealth, in partnership with industry, to encourage the use of e-commerce among SMEs.
Monday, 23 June 2003

**QUESTIONS ON NOTICE**

Project Location: Non-urban regional, rural and remote Queensland  
Funds Approved: $10,380*

Funding Source: Networking the Nation – General Fund  
Contact Person: Matthew Andrew  Ph: 07 3225 2020  

**Details of Regional, Statewide and National Projects Benefiting the Wide Bay Electorate**  
**Project Code: QLD2000/195**  
Year Funded: 1999/2000  
Project: Dawson Callide Net  
Organisation: Banana Shire Council  
Contact: Mr Jon Gillespie  
Position: DCnet project manager  
Phone: 07 4997 2091  
Amount Approved: $102,500*  
Funding Source: Networking the Nation – Internet Access Fund  
Project Location: Duaringa, Wowan/Dululu, Dingo, Bauhinia and Baralaba, including the Woorabinda aboriginal community  
Project Description: The project will provide untimed local call access to the internet by establishing six POPs in the communities of Baralaba, Wowan, Bauhinia, Duaringa and Dingo. The facilities at Baralaba will also allow local call access to the indigenous community at Woorabinda. The project will also provide training to the targeted communities.  
Beneficiary Electorate/s: Wide Bay, Capricornia, Hinkler, Maranoa.

**Project Code: QLD2000/197**  
Year Funded: 1999/2000  
Project: Central Queensland Community Informatics  
Organisation: Central Queensland University with support from Rockhampton City Council  
Contact: Professor Stewart Marshall  Position: Dean, Faculty of Informatics & Communication, CQU  
Phone: 07 4930 9866  
Amount Approved: $54,412*  
Funding Source: Networking the Nation – General Fund  
Project Location: The shires of Livingstone, Mount Morgan, Fitzroy and Duaringa  
Project Description: Establish four community telecentres in the Shires of Fitzroy, Livingstone, Mt Morgan and Duaringa. These centres will be pivotal in developing a community network program where users will be encouraged to communicate and interact in the online environment.  
Beneficiary Electorate/s: Wide Bay, Capricornia, Hinkler, Maranoa.

**Details of Regional, Statewide and National Projects Benefiting the Wide Bay Electorate**  
**Project Code: QLD2000/201**  
Year Funded: 1999/2000
Project: South Burnett LGA Council Connect
Organisation: South Burnett Local Government Association Inc.
Contact: Mr Cameron Bisley  Ph: 07 41695100
Amount Approved: $19,668*
Funding Source: Networking the Nation – Local Government Fund
Project Location: The shires of Rosalie, Nanango, Kingaroy, Wondai, Murgon, Cherbourg Community Council and Kilkivan
Project Description: This project will enable member Councils of the South Burnett Local Government Association (SBLGA) to enhance the delivery of services to their community by adding an e-commerce capability to their websites. It will also implement a Market-Bid module that will enable local suppliers to communicate with Council as to what products and services they have available and at what price. This project builds on the existing South Burnett Online project.
Beneficiary Electorate/s: Wide Bay, Blair, Groom.

Project Code: QLD2000/203
Year Funded: 1999/2000

Project: OPAL Under 25.Net
Organisation: State Library of Queensland
Contact: Ms Anna Raunik Ph: (07) 3214 3214
Amount Approved: $99,666*
Funding Source: Networking the Nation – General Fund
Project Location: Statewide - areas covered include Cape York Peninsula, Far North Queensland, the Gulf of Carpentaria, North West Queensland, the Central Highlands, South West Queensland and the Burnett region
Project Description: NTN funding assistance will enable the State Library of Queensland to increase and improve public internet access facilities and services in public libraries in rural and remote Queensland communities with a population under 25,000. Specifically, the project will provide around 100 public access computers, modems, scanners, printers and associated software. It will also provide technical support through the OPAL Help Desk support.
Beneficiary Electorate/s: Wide Bay, Blair, Capricornia, Kennedy, Leichhardt, Maranoa.

Details of Regional, Statewide and National Projects Benefiting the Wide Bay Electorate
Project Code: QLD2000/204
Year Funded: 1999/2000

Project: Burnett Inland Information Technology Strategy
Organisation: Burnett Inland Economic Development Organisation
Contact: Mr David Carter Ph: 07 4168 0211
Amount Approved: $97,632*
Funding Source: Networking the Nation – General Fund
Project Location: 11 rural shire councils including Nanango, Kingaroy, Wondai, Murgon, Mt Perry, Biggenden, Kilkivan, Gayndah, Mundubbera, Eidsvold and Monto
Project Description: An extension to the existing project will provide community access computers for a number of the communities of the Burnett region. An additional staffing position of Business Manager/Internet Awareness officer and training equipment will enable BIITS to meet community demand across this extensive region.
Beneficiary Electorate/s: Wide Bay, Blair.

**Project Code:** QLD2000/217  
Year Funded: 1999/2000  
Project: Wide Bay Digital Network  
Organisation: Wide Bay 2020 Regional Planning Advisory Committee  
Contact: Mr Bernard Cleary  Ph: 07 4151 9746  
Amount Approved: $8,500*

Funding Source: Networking the Nation – General Fund  
Project Location: Wide Bay region, including Bundaberg and Maryborough.  
Project Description: Provisional funding towards bandwidth and administration costs associated with an existing project which provides local call internet access to the Wide Bay area.  
Beneficiary Electorate/s: Wide Bay, Fairfax, Hinkler.

**Details of Regional, Statewide and National Projects Benefiting the Wide Bay Electorate**

**Project Code:** QLD2001/352  
Year Funded: 2001/02  
Project Title: Central Burnett Community Inter-prise Centre  
Organisation Title: Mundubbera Community Development Association Inc.  
Primary Contact: Mr Andrew Whitehead  Ph: 07 4165 4690  
Amount Approved Total: $120,610*  
Location: Mundubbera and surrounding shires of Inland Burnett region.  
Project Description: Funding for a public Internet access centre which is equipped with adaptive technology and a mobile outreach service covering the surrounding shires.  
Electorates Benefiting: Wide Bay, Blair, Maranoa.

**Project Code:** QLD2000/253  
Year Funded: 2000/2001  
Project Title: Business Education Adaptive Technology Communications  
Organisation Title: Mundubbera Community Development Association Inc.  
Primary Contact: Mr Wayne O’Callaghan  Ph: 07 4165 4690  
Amount Approved: $5,000*  
Funding Source: General Fund  
Location: Mundubbera  
Project Description: Funding provided for a business plan to establish a public access centre in Mundubbera, aimed at catering to the needs of the community, including people with disabilities.  
Beneficiary Electorate/s: Wide Bay, Maranoa.

**Project Code:** QLD2002/394  
Year Funded: 2001/02  
Project Title: Prison Visits via Videoconferencing Program  
Organisation Title: Legal Aid Queensland  
Primary Contact: Ms Louise Whitaker  Ph: 07 4615 3649  
Amount Approved Total: $26,242*  
Project Location: Correctional centres in Queensland.
Project Description: A program to enable families located in rural and remote areas of Queensland to access detainees in correctional centres via videoconferencing.

Details of Regional, Statewide and National Projects Benefiting the Wide Bay Electorate

Project Code: QLD2001/366
Year Funded: 2001/02
Project Title: SeniorNet Australia - Seniors helping seniors with I.T. & the Internet
Organisation Title: SeniorNet Australia Association Incorporated
Primary Contact: Mrs Narelle Rhodes Ph: 07 38106767
Amount Approved Total: $6,214*
Project Description: The SeniorNet project will provide specialised training materials and assistance to enable senior groups interested in online communication to develop in regional and remote Qld.

Project Code: QLD2002/392
Year Funded: 2001/02
Project Title: Queensland Local Government - Connecting Community Councils
Organisation Title: Local Government Association of Queensland Inc.
Primary Contact: Ms Catherine Anderson Ph: (07) 3000 2107
Amount Approved Total: $320,000*
Project Location: Various locations throughout Queensland and Torres Strait Islands
Project Description: To support Indigenous Community Councils throughout Queensland to develop online service capabilities for their communities.
Electorates Benefiting: Wide Bay, Capricornia, Dawson, Herbert, Kennedy, Leichhardt, Maranoa.

Project Code: QLD2002/390
Year Funded: 2001/02
Project Title: VideoAccess@qld
Organisation Title: Queensland Health
Primary Contact: Ms Danielle Hornsby Ph: 07 3405 6869
Amount Approved Total: $64,298*
Project Description: This project will upgrade Qld Health Department videoconferencing network through the purchase of new video conferencing equipment and software.

Details of Regional, Statewide and National Projects Benefiting the Wide Bay Electorate

Project Code: QLD2001/351
Year Funded: 2001/02
Project Title: Women Linking for Health
Organisation Title: Women’s Health Queensland Wide Inc
Primary Contact: Ms Linda McClelland Ph: 07 3839 9962

QUESTIONS ON NOTICE
Amount Approved Total: $2,860*
Location: Brisbane, Queensland
Project Description: Funding is provided for one videoconference unit, to be installed in the Women’s Health Queensland, Wide’s Spring Hill premises.
Electorates Benefiting: Wide Bay, Capricornia, Kennedy, Leichhardt, Maranoa.

**Project Code: MST2001/142**
Year Funded: 2001/02
Project Title: ICPA (AUST) Inc web Site Development Proposal
Organisation Title: Isolated Children’s Parents’ Association of Australia Incorporated
Primary Contact: Mrs Megan McNicholl  Ph: 07 46276490
Amount Approved Total: $625*
Location: Dulacca, Queensland
Project Description: Provide equipment, website enhancements and training to improve Association services to its clients.

Details of Regional, Statewide and National Projects Benefiting the Wide Bay Electorate

**Project Code: MST2001/146**
Year Funded: 2001/02
Project Title: Local Government Standard Operability in Transactions
Organisation Title: Australian Local Government Association
Primary Contact: Mr John Bijen  Ph: (02) 6122 9418
Amount Approved Total: $20,750*
Location: National
Project Description: To develop an interoperability framework that will ensure the seamless delivery of services across local government and offer standardised interfaces to multiple tiers of government.
NTN figures marked * are calculated values for funding as averaged across all beneficiary electorates for projects with a nationwide, statewide or regional focus.

MOBILE PHONES ON HIGHWAYS PROGRAM
(1) The Government provided $25 million over three years to facilitate continuous mobile phone service along a number of Australian highways for the maximum number of users, regardless of where they normally do business or reside. Access to mobile phone services is an increasingly important social, economic and personal safety facility, including when people are travelling along Australia’s highways, many of which pass through relatively isolated areas.

(2) The Bruce Highway was one of these highways and it passes through the Wide Bay electorate. The Mobile Phones on Highways (MPOH) program provides $25m in funding over 2001/02 and 2002/03:

2001/2002, $6,144,000
2002/2003, $18,856,000

(3) The Mobile Phones on Highways Program provides mobile phone coverage to the Bruce Highway in the Wide Bay Electorate. Funding for individual electorates under this program is unavailable.

Applicant: Vodafone Pacific Limited
Funding: $25,000,000
Funding Source: Mobile Phones on Highways Program

Mobile Phones on Highways Beneficiary Electorates:
Funding for individual electorates under this program is unavailable.

UNTIMED LOCAL CALLS AGREEMENT
(1) The Untimed Local Calls Agreement supports projects to upgrade remote telecommunications infrastructure to support the provision of untimed calls at the local call rate, access to the Internet at the untimed local call rate and other services.

(2) The Untimed Local Calls Agreement (ULC) provides $150m in funding over 2000/2001 to 2003/2004:

2000/2001, $15,000,000
2001/2002, $80,000,000
2002/2003, $25,000,000
2003/2004, $30,000,000

(3) The Untimed Local Calls Agreement provides untimed local calls and enhanced services to the
Auburn, Burnett, Nathan Gorge and Zamia Creek Extended Zones in the Wide Bay Electorate
Untimed Local Calls Project
Location:   Extended Zones of Australia
Applicant: Telstra Corporation Limited
Funding:  $150,000,000~
Project Description:
To upgrade remote telecommunications infrastructure to support the provision of untimed calls at
the local call rate, access to the Internet at the untimed local call rate and other services.
Beneficiary Electorate/s:   Wide Bay, Capricornia, Dawson, Farrer, Grey, Gwydir, Kalgoorlie, Ken-

Agriculture, Fisheries and Forestry: Performance Payments
(Question No. 1088)

Senator O’Brien asked the Minister representing the Prime Minister, upon notice, on 17
January 2003:
With reference to the answer to question on notice no. 945 advising that questions about the perform-
ance pay arrangements for secretaries, including reporting of performance pay, should be directed to the
Prime Minister:
(1) In relation to the payment of a performance bonus to the Secretary of the Department of Agricul-
ture, Fisheries and Forestry: what was the quantum of the bonus, if any, in each of the following fi-
nancial years: (a) 1999-2000; (b) 2000-01; and (c) 2001-02.
(2) If a performance bonus was paid to the Secretary of the Department of Agriculture, Fisheries and
Forestry in 2001-02: (a) why is the quantum of the bonus not divulged in the Department for Agri-
culture, Fisheries and Forestry’s annual report for 2001-02; (b) what performance criteria were
used; (c) who assessed the Secretary’s performance against the criteria; (d) who was the decision-
maker; and (e) what role did the Minister for Agriculture, Fisheries and Forestry or his office have
in relation to the payment.

Senator Hill—the Prime Minister has provided the following answer to the honourable
senator’s question:
(1) and (2) The process for performance assessment and pay for departmental secretaries encompasses
the following steps.
(i) Portfolio ministers and secretaries meet to discuss priorities and goals applicable to the 12
month assessment period. Ministers determine whether there will be a written agreement or
less formal arrangements such as an exchange of letters or a record of the discussion.
(ii) Towards the end of the assessment period, secretaries produce self-assessments of their per-
f ormance against the priorities and goals agreed with their ministers and incorporating issues
such as management of their departments, provision of leadership and maintenance of APS
values. The self-assessments are discussed by secretaries with their portfolio ministers and a
copy is then sent to the Secretary of the Department of the Prime Minister and Cabinet and the
Public Service Commissioner.
(iii) The Secretary of the Department of the Prime Minister and Cabinet and the Public Service
Commissioner then discuss secretaries’ performances over the year with portfolio ministers. If
there are any significant issues that arise in those discussions that were not covered in the secretaries’ self-assessments, discussions take place between the relevant secretary, the Secretary of the Department of the Prime Minister and Cabinet and the Public Service Commissioner.

(iv) The Secretary of the Department of the Prime Minister and Cabinet and the Public Service Commissioner prepare a draft report to the Prime Minister on performance and consult secretaries on the relevant sections of its content.

(v) The report is finalised and forwarded to the Prime Minister. The Prime Minister then decides on performance payments.

(Modified arrangements apply to the Secretary of the Department of the Prime Minister and Cabinet to the extent that the Secretary’s performance is discussed and reported on by the Public Service Commissioner alone.)

The Prime Minister, ministers and secretaries have worked on the basis that performance pay decisions will not be made public. It would be inconsistent with the parties’ understanding and would potentially undermine the value of the process to reveal that information. Departments are required, however, to include in their annual reports the aggregate remuneration of all managers receiving more than $100,000 for the financial year and the number of those managers whose total remuneration for the financial year falls into each successive $10,000 band above that amount.

Departmental Secretaries and Heads of Commonwealth Agencies

(Question No. 1254)

Senator Faulkner asked the Minister representing the Prime Minister, upon notice, on 10 March 2003:

As at 1 March 2003, what is: (a) the term of appointment; and (b) the date of expiry of the appointment, of each departmental secretary and each head of a Commonwealth agency.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:

I am advised that the term of appointment and the date of expiry of the appointment of each of the departmental secretaries (at 30 May 2003), the heads of Commonwealth authorities whose remuneration arrangements are the same as secretaries’ (specified statutory offices) and the heads of executive agencies under the Public Service Act 1999 are as follows:

<table>
<thead>
<tr>
<th>Position</th>
<th>Term of appointment (years)</th>
<th>Date of expiry of appointment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secretary of the Department of the Prime Minister and Cabinet</td>
<td>5</td>
<td>9 February 2008</td>
</tr>
<tr>
<td>Secretary of the Department of Defence</td>
<td>3</td>
<td>17 November 2005</td>
</tr>
<tr>
<td>Secretary of the Department of the Treasury</td>
<td>5</td>
<td>26 April 2006</td>
</tr>
<tr>
<td>Secretary of the Department of Agriculture, Fisheries and Forestry</td>
<td>5</td>
<td>16 January 2005</td>
</tr>
<tr>
<td>Secretary of the Attorney-General’s Department</td>
<td>5</td>
<td>23 January 2005</td>
</tr>
<tr>
<td>Secretary of the Department of Communications, Information Technology and the Arts</td>
<td>3</td>
<td>17 January 2005</td>
</tr>
<tr>
<td>Secretary of the Department of Education, Science and Training</td>
<td>3</td>
<td>9 March 2006</td>
</tr>
<tr>
<td>Secretary of the Department of Employment and Workplace Relations</td>
<td>5</td>
<td>17 January 2007</td>
</tr>
<tr>
<td>Position</td>
<td>Term of appointment (years)</td>
<td>Date of expiry of appointment</td>
</tr>
<tr>
<td>-------------------------------------------------------</td>
<td>-----------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>Secretary of the Department of the Environment and Heritage</td>
<td>3</td>
<td>10 March 2004</td>
</tr>
<tr>
<td>Secretary of the Department of Family and Community Services</td>
<td>3</td>
<td>17 January 2005</td>
</tr>
<tr>
<td>Secretary of the Department of Finance and Administration</td>
<td>5</td>
<td>17 January 2007</td>
</tr>
<tr>
<td>Secretary of the Department of Foreign Affairs and Trade</td>
<td>3</td>
<td>9 April 2006</td>
</tr>
<tr>
<td>Secretary of the Department of Health and Ageing</td>
<td>3</td>
<td>17 January 2005</td>
</tr>
<tr>
<td>Secretary of the Department of Immigration and Multicultural and Indigenous Affairs</td>
<td>5</td>
<td>4 February 2008</td>
</tr>
<tr>
<td>Secretary of the Department of Industry, Tourism and Resources</td>
<td>5</td>
<td>17 January 2007</td>
</tr>
<tr>
<td>Secretary of the Department of Transport and Regional Services</td>
<td>5</td>
<td>4 February 2008</td>
</tr>
<tr>
<td>Secretary of the Department of Veterans’ Affairs</td>
<td>3</td>
<td>10 March 2004</td>
</tr>
<tr>
<td>Public Service Commissioner</td>
<td>3</td>
<td>17 January 2005</td>
</tr>
<tr>
<td>Chief of the Defence Forces</td>
<td>3</td>
<td>3 July 2005</td>
</tr>
<tr>
<td>Auditor-General for Australia</td>
<td>10</td>
<td>1 May 2005</td>
</tr>
<tr>
<td>Australian Statistician</td>
<td>7</td>
<td>4 May 2007</td>
</tr>
<tr>
<td>Commissioner of Taxation</td>
<td>7</td>
<td>22 January 2007</td>
</tr>
<tr>
<td>Chief Executive Officer of Customs</td>
<td>4</td>
<td>30 June 2004</td>
</tr>
<tr>
<td>Director of the National Oceans Office</td>
<td>Not applicable</td>
<td>Currently acting appointment</td>
</tr>
<tr>
<td>Chief Executive of the Australian Greenhouse Office</td>
<td>3</td>
<td>18 March 2006</td>
</tr>
<tr>
<td>Chief Executive and Inspector-General in Bankruptcy of the Insolvency and Trustee Service Australia</td>
<td>5</td>
<td>30 June 2005</td>
</tr>
<tr>
<td>Chief Executive Officer of CrimTrac</td>
<td>3</td>
<td>21 January 2004</td>
</tr>
<tr>
<td>Chief Executive Officer of the National Office for the Information Economy</td>
<td>3</td>
<td>4 February 2004</td>
</tr>
<tr>
<td>Chief Executive Officer of the National Archives of Australia</td>
<td>5</td>
<td>6 April 2008</td>
</tr>
<tr>
<td>Director of the Bureau of Meteorology</td>
<td>1</td>
<td>30 June 2003</td>
</tr>
</tbody>
</table>

The information sought for heads of other Commonwealth agencies is not held centrally. Its collection would entail the expenditure of significant resources, which I am not prepared to authorise. If the honourable senator wants information in relation to specific offices, he might address his questions to the relevant minister.

**Manildra Group of Companies**

**(Question No. 1287)**

Senator O’Brien asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 18 March 2003:
What payments, subsidies, grants, gratuities or awards have been made to the Manildra group of companies, including but not necessarily limited to Manildra Energy Australia Pty Ltd, since March 1996.

**Senator Minchin**—The Acting Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

Manildra Energy Australia Pty Ltd has been paid ethanol subsidy payments amounting to $17,132,670.09 between 17 October 2002 and 30 May 2003. There is no record of any payment to Manildra Energy Australia Pty Ltd before 17 October 2002.

No record of payment for any other company from the Manildra group was found since March 1996.

**Veterans: Prosthesis Recipients**

(Question No. 1303)

**Senator Mark Bishop** asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 18 March 2003:

1. How many amputee veterans, by section 27 item of the Veterans’ Entitlements Act 1986, state of residence and postcode, receive: (a) a pension for their amputation; and (b) free prostheses.
2. How many authorised suppliers of limb prostheses are there in each state, by location.
3. What was the total expenditure in each of the past 3 years for: (a) maintenance on existing prostheses; and (b) new and replacement prostheses.
4. In how many cases did veterans make co-payments in the past 12 months for more expensive prostheses than allowed under the department’s guidelines.
5. How many veterans, by state, currently have a spare prosthesis.
6. What is the current average time taken by authorised suppliers for: (a) supply of new or replacement prostheses; and (b) repair and maintenance of existing prostheses.
7. What is the current status of tenders for suppliers of prosthetic aids, including time lines, number of invitations for tender issued, and intended number of providers.
8. With reference to the new draft guidelines issued by the department in New South Wales: (a) in the event that a veteran is no longer entitled to a spare prosthesis, what arrangements will be put in place to assist the veteran where a prosthesis malfunctions and requires maintenance; and (b) why will the 12-month warranty be voided for ‘fair wear and tear’.
9. With reference to paragraph 12.4 of the draft New South Wales Artificial Limb Services (ALS) guidelines: What role is there for the department in the event of a dispute between a veteran and the New South Wales ALS, or does this clause absolve the department from all responsibility for the veteran’s care.

**Senator Hill**—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

1. (a) and (b) As at December 2002, there were 491 eligible veterans receiving a disability pension due to amputation, under section 27 of the Veterans’ Entitlements Act 1986. All eligible veteran amputees receive a free prosthesis regardless of whether or not they receive a disability pension for their amputation.
2. The table below outlines the number of authorised prostheses suppliers by state and location:
<table>
<thead>
<tr>
<th>STATE</th>
<th>NUMBER SUPPLIERS</th>
<th>LOCATIONS</th>
</tr>
</thead>
</table>
| NSW   | 9               | Metropolitan – Broadmeadow, Harris Park, Lidcombe, Northmead, Redfern  
          Non-metropolitan – Albury, New Lambton, Nowra, Port Kembla |
| ACT   | 1               | Metropolitan - Woden  
          Non-metropolitan – Bendigo, Ballarat, Taralgon, Warnambool. |
| VIC   | 11              | Metropolitan – Caulfield, Fitzroy, Mount Eliza, Parkville, Noble Park x 2, Kew.  
          Non-metropolitan – Albury, New Lambton, Nowra, Port Kembla |
| QLD   | 15              | Metropolitan - Brisbane x 3 suppliers  
          Non-metropolitan - 12 amputee clinics in public hospitals throughout Queensland |
| SA    | 5               | Metropolitan – Adelaide City, Daw Park, Croydon  
          Non-metropolitan – Whyalla & Mt Gambier |
| NT    | 1               | Royal Darwin Public Hospital |
| WA    | 5               | Metropolitan – Perth x 3 separate services  
          Non-metropolitan – Fremantle, Bunbury |
| TAS   | 1               | There is one authorised prostheses supplier in Tasmania, located at the following:  
          Metropolitan - Hobart  
          Non-metropolitan – Burnie & Launceston |

(3) (a) and (b) The total expenditure for maintenance of existing prostheses and new and replacement prostheses over the past three years is detailed below. It is to be noted that it is not possible to break down the data to separate out maintenance, new and replacement costs.

<table>
<thead>
<tr>
<th></th>
<th>NSW/ACT</th>
<th>VIC</th>
<th>QLD</th>
<th>WA</th>
<th>SA/NT*</th>
<th>TAS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999/2000</td>
<td>$874,977</td>
<td>$328,824</td>
<td>$576,315</td>
<td>$186,175</td>
<td>$723,599</td>
<td>$84,983</td>
</tr>
<tr>
<td>2000/2001</td>
<td>$799,262</td>
<td>$302,913</td>
<td>$408,266</td>
<td>$198,950</td>
<td>$314,700</td>
<td>$94,585</td>
</tr>
<tr>
<td>2001/2002</td>
<td>$695,770</td>
<td>$347,701</td>
<td>$290,793</td>
<td>$179,940</td>
<td>$388,459</td>
<td>$114,128</td>
</tr>
<tr>
<td>Total</td>
<td>$2,370,009</td>
<td>$979,438</td>
<td>$1,275,374</td>
<td>$565,065</td>
<td>$1,426,758</td>
<td>$293,696</td>
</tr>
</tbody>
</table>

* SA/NT figures are based on full payments from the Department of Veterans’ Affairs (DVA) to prosthetic suppliers and lump-sum payments to the state supplier Orthotics and Prosthetics South Australia (OPSA). The lump-sum payments from DVA to OPSA do not provide an accurate indication of total expenditure for prostheses as these figures also include the provision of footwear and other supplies and therefore overstate the amounts for prostheses.

(4) Nil.

(5) DVA is unable to provide figures in relation to the number of veterans who have been provided with a spare prosthesis at any time. However, eligible veterans are entitled to two prostheses in a 3-year period, and are entitled to a spare prosthesis based on clinical need.

(6) (a) It generally takes between three weeks to seven weeks, depending on the complexity of the case. (b) It is generally done on the spot. More difficult repairs may take from a day to a week. When a complex repair is required, an interim prosthesis may be supplied.

(7) DVA does not have any direct contact with any prosthetic manufacturer in relation to the supply or maintenance of artificial limbs. DVA contracts with the Artificial Limb Scheme (ALS) in each
state, with the exception of Victoria, where the ALS has been devolved to the public hospital system. The contracted party is responsible for tendering and managing the supply of prosthetic aids.

(8) (a) and (b) The draft guidelines have been withdrawn and therefore the existing guidelines remain in force.

(9) The draft guidelines hold no status as the process has been halted, therefore the existing guidelines remain in force. There is no official role for DVA within the dispute resolution process for veterans under the NSW Artificial Limb Service (NSW-ALS). However, should a veteran complain directly to DVA, or the Minister for Veterans’ Affairs, the Department would immediately investigate the complaint and liaise with the appropriate authorities to resolve the complaint as quickly as possible.

Research and Development: Renewable Energy Technologies
(Question No. 1330)

Senator Brown asked the Minister for Science, upon notice, on 24 March 2003:

With reference to the answers to questions on notice nos 1065-1068 (Senate Hansard, 6 March 2003, p. 9306) in which the Minister stated that the Government has not specified narrow fields of research that may be addressed through the priorities initiative and has given agencies considerable flexibility to respond: Will the Minister confirm: (a) that energy efficiency and renewable energy are included within priority 4, including technologies that replace power generation; and (b) that biological sequestration such as in soil and old growth forests is included in priority 4.

Senator Alston—The Minister for Science has provided the following answer to the honourable senator’s question:

As reiterated previously, the government has not been overly prescriptive as to the way research agencies interpret and implement the national research priorities within their mandates. Energy efficiency, renewable energy and biological sequestration of carbon dioxide have been specified as being within priority goal 4 of the priority An environmentally sustainable Australia. The government has not prescribed specific technologies under priority goal 4.

Rio Tinto Foundation for a Sustainable Minerals Industry
(Question No. 1334)

Senator Brown asked the Minister representing the Prime Minister, upon notice, on 24 March 2003:

(1) Has Dr Robin Batterham communicated with the Government in any capacity regarding funding or allocation of money or benefits to the Rio Tinto Foundation for a Sustainable Minerals Industry; if so: (a) can details be provided including date, nature and content of the communication; and (b) can a copy of any written communications be provided.

(2) In the past 5 years, has Dr Batterham communicated with the Government in any capacity regarding carbon sequestration, clean coal or related energy matters; if so: (a) can details be provided including date, nature and content of the communication; and (b) can a copy of any written communications be provided.

(3) (a) What is Dr Batterham’s role on the Advisory Board of the Rio Tinto Foundation; (b) does he represent the Government as Chief Scientist or Rio Tinto as Chief Technologist.

(4) Has Dr Batterham reported to or advised the Government on any matters relating to the Rio Tinto Foundation; if so: (a) can details be provided including date, nature and content of the communication; and (b) can a copy of any written communications be provided.

QUESTIONS ON NOTICE
Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) I am advised that records of my Department and my Office do not indicate any direct communication from Dr Batterham to myself in either of his capacities regarding funding or allocation of money or benefits to the Rio Tinto Foundation for a Sustainable Minerals Industry.

(2) Yes. To assist me in my role of Chairman of the Prime Minister’s Science, Engineering and Innovation Council (PMSEIC), I have received briefing papers from Dr Batterham (who is the Executive Officer of PMSEIC) on a number of energy matters dealt with by PMSEIC. These papers constitute advice to the government and I do not propose to provide them. The agenda papers to which they refer are, however, publicly available at http://www.dest.gov.au/science/pmsein.

Dr Batterham’s other communications with the government are detailed in the response to Parliamentary Question No. 1335 of the Minister representing the Minister for Industry, Tourism and Resources, and to Parliamentary Question No. 1336 of the Minister representing the Minister for Science.

(3) I understand these questions are addressed in the responses to Parliamentary Question No. 1335 of the Minister representing the Minister for Industry, Tourism and Resources, and to Parliamentary Question No. 1336 of the Minister representing the Minister for Science.

I would like to add to the responses of my colleagues by commenting that Dr Batterham’s dual roles as Chief Scientist and Managing Director, Research and Technology Development at Rio Tinto, are well known. Dr Batterham’s Rio Tinto role was documented by Senator the Hon Nick Minchin, who was then Minister for Industry, Science and Resources, in his 20 May 1999 announcement of Dr Batterham’s appointment as Chief Scientist. I also understand that the Chief Scientist’s deed of appointment contained a detailed conflict of interest clause.

Rio Tinto Foundation for a Sustainable Minerals Industry
(Question No. 1336)

Senator Brown asked the Minister representing the Minister for Science, upon notice, on 24 March 2003:

(1) Has Dr Robin Batterham communicated with the Government in any capacity regarding funding or allocation of money or benefits to the Rio Tinto Foundation for a Sustainable Minerals Industry; if so: (a) can details be provided including date, nature and content of the communication; and (b) can a copy of any written communications be provided.

(2) In the past 5 years, has Dr Batterham communicated with the Government in any capacity regarding carbon sequestration, clean coal or related energy matters; if so: (a) can details be provided including date, nature and content of the communication; and (b) can a copy of any written communications be provided.

(3) (a) What is Dr Batterham’s role on the Advisory Board of the Rio Tinto Foundation; (b) does he represent the Government as Chief Scientist or Rio Tinto as Chief Technologist.

(4) Has Dr Batterham reported to or advised the Government on any matters relating to the Rio Tinto Foundation; if so: (a) can details be provided including date, nature and content of the communication; and (b) can a copy of any written communications be provided.

Senator Alston—The Minister for Science has provided the following answer to the honourable senator’s question:

(1) No.

(2) Yes. Details of those communications and copies of documents on record in the Office of the Chief Scientist are attached.
(3) (a) Dr Batterham’s role on the Advisory Board of the Rio Tinto Foundation is to offer advice on the basis of his experience, expertise and credentials in the area of sustainable research and development. With other Members, his role is to ensure the Advisory Board carries out its functions in accord with its Charter and Rules.

(b) His position on the Advisory Board is as Chief Technologist of Rio Tinto and he does not represent the Government.

(4) No.

Attachment

Details of communications on record and copies of documents

(2) (a) Details of communications on record.

<table>
<thead>
<tr>
<th>Document</th>
<th>Date</th>
<th>Nature</th>
<th>Content</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>8/3/02</td>
<td>Letter from the Chief Scientist to the Minister for Environment and Heritage</td>
<td>Chief Scientist provided advice on brave alternatives for linkages under the US/Australia Climate Action Partnership</td>
</tr>
<tr>
<td>2</td>
<td>13/3/02</td>
<td>Letter from the Chief Scientist to the Minister for Industry, Tourism and Resources</td>
<td>Chief Scientist thanked Minister for the opportunity to make a presentation on energy challenges and opportunities for Australia.</td>
</tr>
<tr>
<td>3</td>
<td>29/11/02</td>
<td>Presentation to Ministerial Council on Energy</td>
<td>Chief Scientist presented case for a national emissions-free electricity generation programme</td>
</tr>
<tr>
<td>4</td>
<td>5/2/03</td>
<td>Letter from the Chief Scientist to the Minister for the Environment and Heritage</td>
<td>Chief Scientist suggested to Minister that Australia accept the US invitation to join a US sequestration initiative</td>
</tr>
<tr>
<td>5</td>
<td>5/2/03</td>
<td>Letter from the Chief Scientist to the Minister for Industry, Tourism and Resources</td>
<td>Chief Scientist suggested to Minister that Australia accept the US invitation to join a US sequestration initiative</td>
</tr>
</tbody>
</table>

(2) (b) Copies of documents.

The Hon Dr David Kemp MP
Minister for the Environment and Heritage
Parliament House
CANBERRA ACT 2600

My Dear Minister

Thank you for the opportunity to discuss matters of mutual interest on Tuesday, 5 March 2002. Australian science is at the global forefront in many areas, and the field of climate change is one where I consider Australia has much to offer in partnership with colleagues in the United States in terms of the Climate Action Partnership signed on 27 February 2002. The vision to make Kyoto irrelevant is realiseable. You asked me for advice on excellent science, areas where Australian scientists might work with their American colleagues on the key issues. Australia’s science spans the range from ‘close’ to ‘blue sky’, from sustainable coal to artificial photosynthesis.

Further, there is already strong US-Australian partnership in science. Areas of activity already evolving centre on climate change and related research, with radioastronomy, entomology and molecular science.

QUESTIONS ON NOTICE
Apart from the generic areas where a US/Australia partnership can establish a lead, there are also opportunities of involvement with developing countries. Indonesia and Papua New Guinea offers possibilities in terms of their being choke points in oceanic heat transport and China and India in terms of emissions measurement.

This note builds on the briefing that you had already received from CSIRO, and perhaps others. The CSIRO focus on their present US/Australian collaborative projects includes climate modelling, climate change impacts and adaptation, the role of oceans in climate change and carbon cycle changes. My focus is to concentrate on the science of brave alternatives.

Hence I have included reference to projects I consider of merit. Their focus is more strategic, noting Australia’s competitive advantage in moving to sustainable energy so as to take a leading position in the commercial opportunities that will arise from new technologies.

During our discussion you mentioned your interaction with Ms Fiona Wain, the Chief Executive Officer of the Environment Business Australia (EBA) – the peak body representing the Australian environment industry. Given your suggestion we will meet on Monday, 11 March 2002. I have also accepted an invitation to speak to one of EBAs conferences, Enviro 2002: Business of the environment, on 5 April 2002.

I can provide further contacts if needed and in the meantime would urge you to consider whether a “Positioning Australia post Kyoto” might be a topic for the Sustainable Economic Committee of Cabinet.

Yours sincerely
Robin Batterham
Cc: The Hon. Dr Brendan Nelson MP
    The Hon. Mr Peter McGauran MP

Brave alternatives for linkages under the US/Australia Climate Action Partnership

Near term
Gas to liquids
Uses solar energy to reform methane gas for the production of hydrogen fuel. The CO2 produced is either captured for subsequent use or for sequestration.
Contact: Dr John Wright, CSIRO
Sustainable coal
Makes use of Australian coals in advanced gasification techniques that reduce the CO2 emission per unit of energy produced.
Contacts: Dr John Wright, CSIRO

Medium term
Carbon sequestration
Pumps CO2 into geological formations at depths greater than 800 m below the earth’s surface to minimise CO2 emissions in the atmosphere.
Contacts: Dr Peter Cook, Australian Petroleum CRC
         Dr John Bradshaw, Geoscience Australia

Longer term
Artificial photosynthesis
Utilises CO2 and solar energy (directly and indirectly) to yield valuable products such as carbohydrate for chemical feedstock, fuel, food, fibre and reduced priced power generation.
Contacts: Professor John Andrews, ANU
          Professor Christa Chritchley, University of QLD
My Dear Minister

Many thanks for the time yesterday that allowed me to present some of the challenges and opportunities that I see facing Australia.

I outlined briefly that there were significant opportunities in energy production and use that could position Australia to be well ahead of Kyoto. Whilst my focus yesterday was primarily on some of the longer-term issues, I mentioned that there were near term targets such as production of hydrogen and energy from our existing fossil fuel base, with CO\textsubscript{2} sequestered underground.

I should perhaps have also mentioned my support for HIsmelt as a strategic development of great interest to Australia. Of course in this area I have the perspective of Chief Scientist and my Rio Tinto Chief Technologist views as well. You may therefore be interested in the briefing that I was requested to give to Minister McGauran (attached).

Your sincerely,

Dr Robin Batterham
13 March 2002

cc The Hon Peter McGauran
The Hon. Peter McGauran MP
Minister for Science
Suite MF44
Parliament House
Canberra ACT 2600

My Dear Minister

I understand that earlier this week there were a series of presentations by Rio Tinto to senior Ministers and Departmental Heads on the status of the HIsmelt process and the likelihood of an application for an investment grant.

I would like to make some comments from a Chief Scientist perspective, noting of course that this is one of the rare occasion where my comments must be seen as equally coming from Rio Tinto.

My involvement with the project dates back to my days in CSIRO in the 1980’s. It was the first large scale, strategic collaboration between industry and CSIRO and it is fair to say that leading-edge R&D has been a hallmark of this project ever since. Indeed it is probably the largest R&D project ever undertaken in Australia by a single company (543 million). The development of world-class R&D infrastructure in several areas can be directly attributed to this partnership between industry, academia and CSIRO. Not surprisingly, this project is just as high-tech as any biotech or medical research project, but somewhat less glamorous.

My main point however is to emphasise the strategic nature of the project and its importance to Australia. This is not just R&D being commercialised on a grand scale but is a showcase for how a so-called old economy area can be greened up (at least 20% less greenhouse gases, 90% less Cox, etc.), made more cost-effective and of course at the same time utilise the extraordinary large resource of high phosphorous that will ultimately gain widespread use and be seen as the revolution in iron and steelmaking, just as the electric arc furnace was over a century ago. But this time it will be an Australian revolution.

QUESTIONS ON NOTICE
I realise fully that my dual interests here must be taken into account, but have no hesitation in pointing out that making Hismelt happen in Australia is a first-class example of the strategy that was agreed in ‘Backing Australia’s Ability’ of keeping our existing industries competitive, whilst inventing the new.

I am happy to provide further briefing, particularly on the technical side if that is needed.

With kind regards
Robin Batterham
13 March 2002

copies:
Mr Paul McClintock, Secretary to Cabinet
Dr Peter Shergold, Secretary, Department of Education, Science and Training
Mr Kieran Schnemann, Chief of Staff, Office of the Minister for Finance and Administration
Mr Chris Renwick, Chief Executive, Rio Tinto Iron Ore
Mr Pasquale Perazzelli, Gen Mgr – Commercialisation, Hismelt Corporation Pty Limited
**Getting emissions (way) down**

*Stationary power: a key target*

Robin Batterham  
Chief Scientist  
Commonwealth of Australia

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Efficiency improvements achieved by higher steam temperatures and pressures

- 1980: 39%
- 2000: 44%
- 2015 target: 52%
- But efficiency improvements alone will not meet greenhouse targets
- At present CO₂ capture using current power station technology is too expensive
- Need a concentrated stream of CO₂ to make capture and storage economic

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**Forecast emissions (tonnes of CO₂)**

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**Long term options:**

- The Australia Institute
- Artificial photosynthesis
- Cost effective hydrogen storage
- Fuel cells
- Wind power and photovoltaics

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**Cost of mitigation ($/tonne CO₂)**

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**Electricity costs for new entrants ($/MWh)**

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QUESTIONS ON NOTICE
Coal is important

- Low cost power is a key competitive advantage for Australia
- Coal provides the lowest cost and most secure source of electricity
- Now provides 85% of Australia's electricity
- Consumption will increase: forecast 71% share in 2020 (due to larger base)
- Coal is a key greenhouse gas reduction target: source of about half of Australia's energy sector greenhouse gas emissions
- Major point source of greenhouse gas emissions: less politically sensitive choice

The answer: coal gasification and carbon storage

- Coal gasification and combined cycle power generation allow near zero-emissions electricity generation from coal
- Capture of concentrated CO2 gas stream is much less costly
- All other air emissions are virtually eliminated
- Hydrogen production - a link to the energy future
- CO2 storage at scale has been demonstrated overseas and the economics are known - cheaper than renewables, despite high capture costs (which will decrease significantly). Public acceptability will be a crucial issue.

Zero emission coal – reducing emissions through sequestration

- Gasification and capture also works for brown coal and disposal sites nearby. Coal drying is still a heavy economic penalty but mining costs are very cheap.
- The same approach can also be used to produce liquid fuels and this is currently under study.

To rapidly reduce emissions

#1

Change the language: emission reduction is equivalent to renewables

To rapidly reduce emissions

#2

Establish a national emissions-free electricity generation program
- Evaluate low cost options
- Collaborate with international programs
- Import technology
- Understand local conditions
- Support technology demonstration
The Hon Dr David Kemp MP  
Minister for the Environment and Heritage  
Parliament House  
CANBERRA ACT 2600  

Dear Minister  

The Department of Education, Science and Training has passed me a copy, dated 23 December 2002, of the Aide Memoire and background material concerning the US sequestration initiative.  

I believe it is a splendid initiative that warrants close attention by the Australian Government.  

Sequestration is not yet held to be commonplace. It is not unknown nor all that difficult, it simply has not been used on a large scale to demonstrate its realistic costs and operating characteristics other than in a limited number of cases.  

I applaud US efforts to bring in the hydrogen economy. Those efforts require that hydrogen to be produced cost effectively will likely involve fossil fuels as source material.  

Halving emissions requires us to do much more than wait for renewables or for the relatively small reductions that are associated with greater use of natural gas. Rather it requires the adoption of an approach of renewables plus a swing to gas and a swing to zero emission coal usage.  

The zero emission area requires sequestration to be demonstrated in many areas of the world. US leadership here should therefore be applauded and supported.  

I commend the initiative and suggest it would be to Australia’s advantage to accept the US invitation to join and hence leverage Australian technology, both present and under development, to strengthen existing levels of collaboration.  

I have copied this letter to our colleague, the Hon Ian Macfarlane MP, Minister for Industry, Tourism and Resources.  

Yours sincerely  
Robin Batterham  
Cc:  The Hon Ian Macfarlane MP  
Minister for Industry, Tourism and Resources  
Parliament House  
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Gambling
(Question No. 1423)

Senator Allison asked the Minister representing the Prime Minister, upon notice, on 2 May 2003:

With reference to the Productivity Commission report no. 10, Australia’s Gambling Industries, dated 26 November 1999: Can information be provided on the progress made by the Ministerial Council on Gambling in respect of each of the following issues identified, and findings contained, in the report (pp 3-4):

- Quantification of the costs and benefits of the gambling industries is hazardous. Uncertainty about key parameters constrained the Commission to providing low and high estimates. For the gambling industries as a whole, estimates of their net contribution to society, ranged from a net loss of $1.2 billion to a net benefit of $4.3 billion. This masks divergent results for different gambling modes, with lotteries revealing clear net benefits, whereas gaming machines and wagering include the possibility of net losses.

- Policy approaches for the gambling industries need to be directed at reducing the costs of problem gambling – through harm minimisation and prevention measures – while retaining as much of the benefit to recreational gamblers as possible.

- The current regulatory environment is deficient. Regulations are complex, fragmented and often inconsistent. This has arisen because of inadequate policy-making processes and strong incentives for governments to derive revenue from the gambling industries.

- Restrictions on competition have not reduced the accessibility of gambling other than for casino games. With the possible exception of casinos, current restrictions on competition have little justification.

- Venue caps on gaming machines are preferable to state-wide caps in helping to moderate the accessibility drivers of problem gambling. However, more targeted consumer protection measures – if im-
implemented – have the potential to be much more effective, with less inconvenience to recreational gamblers.

• Existing arrangements are inadequate to ensure the informed consent of consumers, or to ameliorate the risks of problem gambling. Particular deficiencies relate to:
  – information about the ‘price’ and nature of gambling products (especially gaming machines);
  – information about the risks of problem gambling;
  – controls on advertising (which can be inherently misleading);
  – availability of ATMs and credit; and
  – pre-commitment options, including self-exclusion arrangements.

• In such areas, self-regulatory approaches are unlikely to be as effective as explicit regulatory requirements. In most cases, regulation can be designed to enhance, rather than restrict consumer choice, by allowing better information and control.

• Counselling services for problem gamblers serve an essential role, but there is a lack of monitoring and evaluation of different approaches, and funding arrangements in some jurisdictions are too short term.

• Services, awareness promotion and research activities related to problem gambling are likely to be most effectively funded from earmarked levies on all segments of the gambling industry, with the allocation of funds independently administered.

• The mutuality principle, combined with lack of constraints on gaming machine numbers, appears to be distorting the investment and pricing decisions of some clubs, with impacts on competitors. Of the options for dealing with it, only tax action at the state level appears feasible.

• Policy decisions on key gambling issues have in many cases lacked access to objective information and independent advice – including about the likely social and economic impacts – and community consultation has been deficient.

• An ideal regulatory model would separate clearly the policy-making, control and enforcement functions.

• The key regulatory control body in each state or territory should have statutory independence and a central role in providing information and policy advice, as well as in administering gambling legislation. It should cover all gambling forms and its principal operating criteria should be consumer protection and the public interest.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:

I refer the honourable senator to Senator Vanstone’s response to question No. 1484.

Governor-General
(Question No. 1453)

Senator Murray asked the Minister representing the Prime Minister, upon notice, on 13 May 2003:

(1) (a) Was the Prime Minister’s office provided with any information of any kind by any person or organisation prior to, or around the time of, Dr Hollingworth’s appointment as Governor General regarding Dr Hollingworth’s conduct with respect to the handling of matters relating to child sexual abuse in his prior occupations; (b) what was the timing, method and content of any such information; and (c) what action was taken in regard to such information.
QUESTIONS ON NOTICE

(2) (a) When and how was the Prime Minister’s office first alerted to allegations that Dr Hollingworth had mishandled matters relating to child sexual abuse; and (b) what action was taken in regard to such information.

(3) In relation to the above questions, can copies of any relevant documentation be provided.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) (a) No. (b) n/a. (c) n/a.

(2) (a) Press Reports. (b) See Prime Minister’s Press Conference of 21 February 2002.

(3) See (2) above.

United Nations: Security Council Members

(Question No. 1456)

Senator Webber asked the Minister representing the Prime Minister, upon notice, on 13 May 2003:

Are the comments attributed to the Prime Minister in the *West Australian*, of 15 April 2003, correct when they report that the Prime Minister has suggested the removal of veto powers from some permanent members of the United Nations (UN) Security Council; if so, can the Prime Minister advise which permanent members of the UN Security Council should lose their veto power.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:

The comments attributed to me in the *West Australian* of 15 April 2003 were inaccurate in suggesting that I had called for the removal of the veto powers from some permanent members of the United Nations Security Council. On 14 April, I had made the point in the course of an interview that reform of the Security Council was necessary but would be difficult to achieve. In that context, I specifically noted that asking any permanent member of the Security Council to voluntarily surrender their seat would be a major undertaking. That being the case, I suggested that a system that included the current permanent members, additional permanent members without a veto, and rotating elected members might result in a better representation of prominent and influential countries, from all regions, best able to contribute to international peace and security.

Cooperative Research Centre for Greenhouse Gas Technologies

(Question No. 1479)

Senator Brown asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 22 May 2003:

With reference to the environment statement for the 2003-04 Budget, which lists funding of $11.6 million for the ‘Cooperative Research Centre for Carbon Dioxide Sequestration’ as a new measure in the Industry, Tourism and Resources portfolio:

(1) Given that there is no existing Cooperative Research Centre (CRC) of this name, where is the funding going.

(2) (a) Is this funding new funding, additional to the existing CRC budget and (b) has it been approved by the CRC selection process.

(3) Why is additional funding being provided for geosequestration but none for research and development of renewable energy.

Senator Minchin—The Acting Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

QUESTIONS ON NOTICE
(1) The correct title is the Cooperative Research Centre for Greenhouse Gas Technologies. Geoscience Australia will be undertaking some of the research associated with the CRC.

(2) (a) Funding associated with carbon dioxide sequestration is not a new measure for this Budget. The funding associated with the ITR portfolio combines in-kind support from Geoscience Australia and anticipated funding from the CRC for Greenhouse Gas Technologies. An update to the Environment Budget Statement which removes references to the CRC for Carbon Dioxide Sequestration will be issued shortly (has been issued). (b) The anticipated funding from the new CRC arises from the Government's CRC selection process, which resulted in the announcement in December 2002 of $21.8 million over seven years for the CRC for Greenhouse Gas Technologies. In-kind support from Geoscience Australia's existing forward estimates was foreshadowed in the CRC selection process.

(3) The Government is providing substantial support for renewable energy, primarily via the Australian Greenhouse Office. The major Government initiatives in place are:

- The Mandatory Renewable Energy Target;
- Grant programs totalling over $300 million; and,
- The Renewable Energy Action Agenda.