INTERNET
The Journals for the Senate are available at

Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at

For searching purposes use
http://parliminfoweb.aph.gov.au

SITTING DAYS—2003

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

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

CANBERRA 1440 AM
SYDNEY 630 AM
NEWCASTLE 1458 AM
BRISBANE 936 AM
MELBOURNE 1026 AM
ADELAIDE 972 AM
PERTH 585 AM
HOBART 729 AM
DARWIN 102.5 FM
CONTENTS

THURSDAY, 14 AUGUST

Petitions—
  Interpreting Services..................................................................................................... 13603

Notices—
  Presentation .................................................................................................................. 13603

Business—
  Rearrangement .......................................................................................................... 13603
  Rearrangement .......................................................................................................... 13604

Notices—
  Postponement .......................................................................................................... 13604

Committees—
  Rural and Regional Affairs and Transport Legislation Committee—Extension of
    Time ......................................................................................................................... 13604
  Freeman, Ms Cathy ..................................................................................................... 13604
  Environment: Jabiluka Uranium Mine ...................................................................... 13604
  Health: Food Irradiation ............................................................................................. 13605
  Naidoc Week ............................................................................................................... 13605
  Military Detention: Australian Citizens ..................................................................... 13606
  Indonesia: Kopassus ................................................................................................... 13606
  Environment and Heritage Legislation Amendment Bill (No. 1) 2002,
    Australian Heritage Council Bill 2002 and
    Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002—
      In Committee .......................................................................................................... 13607
  Civil Aviation Legislation Amendment Bill 2003—
    Second Reading ....................................................................................................... 13651
    In Committee ........................................................................................................... 13653
    Third Reading .......................................................................................................... 13654
  Export Control Amendment Bill 2003—
    Second Reading ....................................................................................................... 13654
    Third Reading .......................................................................................................... 13656

Ministerial Arrangements ............................................................................................ 13656

Questions Without Notice—
  Research and Development: Policy ........................................................................... 13656
  Housing: Affordability ................................................................................................. 13657
  Immigration: Sex Industry .......................................................................................... 13658
  Australian Labor Party: Centenary House .................................................................. 13659
  Broadcasting: Terrorist Organisations ....................................................................... 13660
  Indigenous Affairs: Housing ....................................................................................... 13661
  Australian Defence Force and Australian Federal Police: Allowances ..................... 13662
  Telecommunications: Services .................................................................................. 13663
  Sport: Antidoping ......................................................................................................... 13664
  Solomon Islands .......................................................................................................... 13665
  Health Insurance: Mental Illness ................................................................................ 13667
  Indigenous Affairs: Education .................................................................................... 13667
  Social Welfare: Carer Allowance ............................................................................... 13668
  Fisheries: Illegal Operators ......................................................................................... 13669
  Questions Without Notice: Additional Answers—
    Solomon Islands ........................................................................................................ 13670

Answers to Questions on Notice—
  (Question Nos 1584 and 1585) .................................................................................... 13670
Questions Without Notice: Take Note of Answers—
   Answers to Questions.................................................................................................... 13671
Committees—
   Treaties Committee—Report: Government Response .................................................. 13676
Documents—
   Department of the Senate: Travelling Allowances ...................................................... 13679
Committees—
   Foreign Affairs, Defence and Trade References Committee—Membership .................. 13679
Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003—
   First Reading ................................................................................................................ 13680
   Second Reading ............................................................................................................ 13680
National Transport Commission Bill 2003 and
National Transport Commission (Consequential Amendments and Transitional
   Provisions) Bill 2003—
   Consideration of House of Representatives Message .................................................. 13683
Parliamentary Departments: Proposed Department of Parliamentary Services ................ 13683
Manildra Group of Companies ...................................................................................... 13683
Documents—
   Commonwealth-State Housing Agreement ................................................................. 13711
   Education: Higher Education ...................................................................................... 13712
   Treaties ......................................................................................................................... 13714
   Consideration ................................................................................................................ 13715
Committees—
   Foreign Affairs, Defence and Trade References Committee—Report .......................... 13715
   Consideration .............................................................................................................. 13718
Documents—
   Auditor-General’s Reports—Report No. 38 of 2002-03 .................................................. 13718
   Consideration .............................................................................................................. 13720
Adjournment—
   Grain Growers Association ......................................................................................... 13721
   Indonesia: Terrorist Attacks ......................................................................................... 13722
   Indigenous Affairs: Education ..................................................................................... 13723
   Manildra Group of Companies ................................................................................... 13725
Documents—
   Tabling ........................................................................................................................ 13726
Questions on Notice—
   Woomera: Climate—(Question No. 1610) ................................................................ 13727
   Defence Capability Investment Committee—(Question No. 1666) ............................. 13728
The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 a.m., and read prayers.

PETITIONS

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

Interpreting Services

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

The petition of the undersigned calls on the Senate to take immediate action to ensure the Government provides adequate and ongoing funding to provide no-charge interpreting services for Deaf and Deafblind Australians so that they (like other Australians from non-English speaking backgrounds) can have equitable access to private medical, dental and legal consultations as well as education and training and other life important events.

by Senator Stott Despoja (from 10,469 citizens).

Petition received.

NOTICES

Presentation

Senator Stott Despoja to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) the impact on children who witness domestic violence is consistent with symptoms of Traumatic Stress Disorder,

(ii) the effects of domestic violence on mothers and their children are regarded as so debilitating that some form of separation from the perpetrator must occur, and

(iii) both the Family Law Council (2002) report titled, Family Law and Child Protection, and the Family Court’s Magellan Project have recognised that children who are subject to serious abuse are not protected in the current Family Court system from continuing abuse; and

(b) urges the Government to:

(i) give urgent consideration to amending the Family Law Act 1975 to ensure that child safety is prioritised, including by giving consideration to requiring judges to prioritise child safety when determining the child’s best interests as the first condition of meeting those interests,

(ii) establish a Federal Child Protection Service for the family law system, as recommended by the Family Law Council’s 2002 report, in order to perform the function of investigating child abuse concerns and provide information arising from such investigations to courts exercising jurisdiction under the Act,

(iii) increase funding to develop cooperation between state and territory child protection authorities in order to provide the level of investigation and reporting required to improve current child protection services, and

(iv) improve the current lack of coordination between state and territory authorities and courts exercising jurisdiction under the Act.

BUSINESS

Rearrangement

Senator KEMP (Victoria—Minister for the Arts and Sport) (9.31 a.m.)—I move:

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

No. 8 Civil Aviation Legislation Amendment Bill 2003

No. 9 Export Control Amendment Bill 2003

Question agreed to.
Rearrangement

Senator KEMP (Victoria—Minister for the Arts and Sport) (9.31 a.m.)—I move:

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

(1) general business notice of motion no. 524 standing in the name of Senator O’Brien, relating to the Prime Minister’s dealings with the Chair of the Manildra Group, Mr Dick Honan; and

(2) consideration of government documents.

Question agreed to.

NOTICES

Postponement

An item of business was postponed as follows:

General business notice of motion no. 530 standing in the name of Senator Cherry for today, relating to compensation for Indigenous workers in Queensland, postponed till 18 August 2003.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Extension of Time

Senator FERRIS (South Australia) (9.32 a.m.)—At the request of Senator Heffernan, I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the provisions of the Aviation Transport Security Bill 2003 and a related bill be extended to 9 September 2003.

Question agreed to.

FREEMAN, MS CATHY

Senator RIDGEWAY (New South Wales) (9.34 a.m.)—I move:

That the Senate—

(a) notes the retirement of champion athlete Cathy Freeman from athletics on 16 July 2003;

(b) notes the tremendous contribution Cathy has made to Australian and international athletics including:

(i) being the first Aboriginal track and field athlete to represent Australia at an Olympic Games at Barcelona in 1992,

(ii) winning 200m and 400m gold medals at the 1994 Commonwealth Games in Victoria, Canada,

(iii) being the first woman to claim consecutive 400m world championship titles with victories in 1997 and 1999—the first time an Australian had won successive world titles in any sporting field,

(iv) holding 13 national athletics titles, and

(vi) winning the 400m gold medal at the Sydney Olympic games in 2000; and

(c) recognises the role she has also played in national reconciliation by being a great role model for young Indigenous people and by overcoming stereotypes of Indigenous Australians to become an Australian national icon.

Question agreed to.

ENVIRONMENT: JABILUKA URANIUM MINE

Senator NETTLE (New South Wales) (9.33 a.m.)—by leave—I move the motion as amended:

That the Senate—

(a) notes the announcement by the company ERA to backfill the uranium ore stockpile at Jabiluka mine site under a long-term care and maintenance plan;

(b) congratulates the traditional owners of the land, the Mirrar people, for their strong and ongoing opposition to uranium mining on their land;

(c) congratulates the community voices in Australia and overseas who have constantly campaigned to stop the Jabiluka uranium mine so as to protect the World Heritage values of Kakadu National Park; and
(d) calls on the Federal Government:

(i) to immediately implement the recommendations of the UNESCO World Heritage Committee’s report on Kakadu National Park, and

(ii) to implement outstanding recommendations from the Environment, Communications, Information Technology and the Arts References Committee report, *Jabiluka: The undermining of process—Inquiry into the Jabiluka uranium mine project*, including the recommendation that the Jabiluka uranium mine should not proceed because it is irreconcilable with the outstanding natural and cultural values of Kakadu National Park.

Question agreed to.

**HEALTH: FOOD IRRADIATION**

Senator Cherry (Queensland) (9.34 a.m.)—by leave—I move the motion as amended, deleting paragraph (c) at the request of the Labor Party:

That the Senate—

(a) notes that:

(i) the European Union in December 2002 imposed a moratorium on the further approvals of food irradiation due to research about the possible health effects, particularly in relation to cyclobutanones,

(ii) Food Standards Australia in the same month expanded the list of foods that can be irradiated in Australia to include a range of tropical fruits, and

(iii) a number of community campaigners have chosen to fast in protest against the approval of food irradiation in Australia, arguing that fasting is safer for their health than eating irradiated food; and

(b) calls on the Federal Government to urgently commission research on the health effects of food irradiation and to follow the lead of the European Union in not approving any further foods for irradiation until such research is completed.

Question agreed to.

**NAIDOC WEEK**

Senator Ridgeway (New South Wales) (9.34 a.m.)—I move:

That the Senate—

(a) notes:

(i) that it was NAIDOC (National Aboriginal and Islander Day Observance Committee) Week from 6 July to 13 July 2003 and that this year’s theme was, ‘Our Children, Our Future’, and

(ii) the high proportion of youth who make up the Indigenous Australian population, with the 2001 Census showing that 58 per cent of the Indigenous population is aged under 25 years, compared with the rest of the Australian population with only one-third (35 per cent) aged under 25 years;

(b) recognises the significance of NAIDOC Week in celebrating Indigenous culture and the individual achievements of Indigenous people throughout the country; and

(c) congratulates the 2003 National NAIDOC Award winners including:

Person of the Year: Ms Deborah Mailman
Apprentice of the Year: Ms Laurell Dodd
Scholar of the Year: Mr Frederick Penny
Female Elder of the Year: Mrs Violet French
Male Elder of the Year: Mr William Kennedy
Youth of the Year: Ms Stacey Kelly-Greenup
Sportsperson of the Year: Mr David Peachey
Artist of the Year: Ms Belynda Waugh.
Question agreed to.

MILITARY DETENTION: AUSTRALIAN CITIZENS

Senator Nettle (New South Wales) (9.35 a.m.)—by leave—I move the motion as amended:

That the Senate—

(a) notes:

(i) that Australian citizens Mamdouh Habib and David Hicks are currently incarcerated at Guantanamo Bay, Cuba, with Mr Habib still facing the possibility of a death sentence at the hands of the United States military, and

(ii) the comments by the Prime Minister (Mr Howard) regarding the sentencing of Bali Bomber Amrozi where he said, ‘If it’s the view of the Indonesian court that it be carried out then it should be carried out’; and

(b) calls on the Government:

(i) to reaffirm its opposition to capital punishment as a matter of principle,

(ii) to reaffirm its commitment to the fundamental tenets of common law, namely, habeas corpus and judicial review of executive action, and

(iii) to take immediate action to secure the release and return of Mr Hicks and Mr Habib to Australia to face the allegations against them according to Australian Standards of Justice.

Question agreed to.

INDONESIA: KOPASSUS

Senator Nettle (New South Wales) (9.36 a.m.)—I move:

That the Senate—

(a) notes:

(i) the serious allegations of kidnap, beating and arson in relation to the tactics of Indonesian Special Forces ‘Kopassus’ in their deployment in Aceh,

(ii) the unresolved allegation that Kopassus was involved in the murder of United States citizens near Freeport, West Papua, in 2002,

(iii) that Kopassus members have been found to be responsible for the murder of West Papuan independence leader Theys Eluay in November 2001,

(iv) that Kopassus troops trained East Timorese militias responsible for massacring civilians and attacking Australian forces in East Timor, and

(v) that Kopassus members have been found to have links with terrorist organisations including the now disbanded Laskar Jihad; and

(b) calls on the Government:

(i) to cancel any planned re-establishment of cooperation with Kopassus,

(ii) to acknowledge that it is not in the best interests of Australia or the region to extend tacit support for an organisation which engages in terrorising civilian populations, and

(iii) to heed the advice of Professor Damien Kingsbury of Australia’s Deakin University that Indonesia’s military is ‘part of the problem, not part of the answer’ and that restoring military cooperation should be off the agenda until the Indonesian military ‘is thoroughly reformed, including closing its business and criminal networks, and it is brought under full civilian authority’.

Question put.

The Senate divided. [9.41 a.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes......... 9
Noes......... 40
Majority..... 31

AYES

Allison, L.F. *
Bartlett, A.J.J.
Brown, B.J.

Cherry, J.C.

CHAMBER
I move:

(1) Schedule 1, page 17 (after line 18), after item 16, insert:

16A After section 74

Insert:

74A Minister may request referral of a larger action

(1) If the Minister receives a referral in relation to a proposal to take an action by a person, and the Minister is satisfied the action that is the subject of the referral is a component of a larger action the person proposes to take, the Minister may decide not to accept the referral.

(2) If the Minister decides to not accept a referral under subsection (1), the Minister:

(a) must give written notice of the decision to the person who referred the proposal to the Minister; and

(b) must give written notice of the decision to the person who is proposing to take the action that was the subject of the referral; and

(c) may, under section 70, request of the person proposing to take the action that was the subject of the referral, that they refer the proposal, to take the larger action, to the Minister.

(3) To avoid doubt, sections 73 and 74 do not apply to a referral that has not been accepted in accordance with subsection (1).

(4) If the Minister decides to accept a referral under subsection (1), the Minister must, at the time of making a decision under section 75:

(a) give written notice of the decision to the person who referred the proposal to the Minister; and

(b) publish in accordance with the regulations (if any), a copy or summary of the decision.

16B After subsection 75(1)

Insert:

(1AA) To avoid doubt, the Minister is not permitted to make a decision under subsection (1) in relation to an action that was the subject of a referral that
was not accepted under subsection 74A(1).

16C Subsection 77(3)
Repeal the subsection.

16D Subsection 77(5)
Repeal the subsection.

16E After section 77
Insert:

77A Action to be taken in a particular manner

(1) If, in deciding whether the action is a controlled action or not, the Minister has made a decision (the component decision) that a particular provision of Part 3 is not a controlling provision for the action because the Minister believes it will be taken in a particular manner (whether or not in accordance with an accredited management plan for the purposes of a declaration under section 33 or a bilaterally accredited management plan for the purposes of a bilateral agreement), the notice to be provided under section 77 must set out the component decision, identifying the provision and the manner.

Note: The Minister may decide that a provision of Part 3 is not a controlling provision for an action because he or she believes that the action will be taken in a manner that will ensure the action will not have (and is not likely to have) an adverse impact on the matter protected by the provision.

(2) A person must not take an action that is the subject of a notice that includes a particular manner under subsection (1), in a way that is inconsistent with the manner specified in the notice.

Civil penalty:
(a) for an individual—1,000 penalty units, or such lower amount as is prescribed by the regulations;
(b) for a body corporate—10,000 penalty units, or such lower amount as is prescribed by the regulations.

This amendment is about split referrals and it gives the minister the power to require that whole projects be referred to the minister and not just smaller components of those projects. In doing so the amendment gives effect to the government’s express desire that proponents would not be able to thwart or circumvent the referral, assessment and approvals provisions of the EPBC Act by splitting projects into smaller components. In this regard the explanatory memorandum for the EPBC Bill says:

An action may be a series of activities carried out over a particular time period (for example, under a licence or permit). This is intended to ensure a person cannot avoid the provisions of the Act by breaking one action into many small actions.

Controlled action decisions have been made on split projects over the past two years but there is still some ambiguity about whether the minister has the ability to enforce the government’s stated commitment that I have just quoted. Our amendment will simply provide that certainty.

When a proposal is referred to the minister, he or she must decide whether the action requires approval under part 9—in other words, whether it is a controlled action. Under part 7 the minister can decide that an action will not require approval under part 9 if it is taken in a specified manner. The problem with this process at the moment is that the manner specified is not enforceable. A person who takes an action in contravention of the manner specified will be guilty of breaching the act only if it can be established that the action had a significant impact or is likely to have a significant impact on a matter protected under the relevant provisions of part 3. The amendment rectifies this problem by inserting a statutory obligation to comply with the manner specified outlined in the
notice of decision. It also imposes penalties for noncompliance.

In addition, the amendment repeals section 77(5). That section provides that reasons for controlled action decisions do not need to be given in relation to referrals where the person proposing to take the action stated in the referral that they thought it was a controlled action. In the interests of improved accountability and transparency it is appropriate for reasons to be provided in all circumstances. I point out that this is almost identical to Senator Lees’s amendment (109) but in Senator Lees’s amendment a minor error has been picked up.

Question put:

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

The committee divided. [9.53 a.m.]

(The Chairman—Senator J.J. Hogg)

AYES

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

NOES

Barnett, G. Brandis, G.H.
Buckland, G. Campbell, G.
Carr, K.J. Chapman, H.G.P.
Colbeck, R. Collins, J.M.A.
Crossin, P.M. Denman, K.J.
Eggleston, A. Ferguson, A.B.
Ferris, J.M. * Forshaw, M.G.
Harris, L. Heffernan, W.
Hill, R.M. Hogg, J.J.
Humphries, G. Hutchins, S.P.
Johnston, D. Kemp, C.R.
Kirk, L. Knowles, S.C.
Lees, M.H. Lightfoot, P.R.
Ludwig, J.W. Lundy, K.A.
Mackay, S.M. Marshall, G.

McGauran, J.J.J. McLucas, J.E.
Payne, M.A. Ray, R.F.
Scullion, N.G. Stephens, U.
Tchen, T. Webber, R.
Wong, P.

* denotes teller

Question negatived.

Senator ALLISON (Victoria) (9.56 a.m.)—by leave—I move:

(12) Schedule 1, item 31, page 27 (lines 1 and 2), omit “However, the Minister may extend the period in paragraph (a) or (b),”.

(13) Schedule 1, item 31, page 27 (after line 2), after subsection 324G(2), insert:

(2A) If the Australian Heritage Council does not complete the assessment of a place against the National Heritage criteria within the period specified in paragraph (2)(a) or (b), the Minister may, by notice in writing, extend the period by up to 24 months if all reasonable efforts were made to complete the assessment within the relevant period.

(2B) If the Australian Heritage Council does not complete the assessment of a place against the National Heritage criteria by the time specified in the notice provided under subsection (2A), the Minister may, by notice in writing, provide an extension of up to 24 months if all reasonable efforts were made to complete the assessment within the period specified in the notice.

(2C) If the Minister extends the period for the completion of an assessment of a place against the National Heritage criteria under subsection (2A) or (2B), the Minister must within 10 business days:

(a) publish a notice including the reasons for the extension on the Internet; and

(b) if the place was nominated by a person, or a person notified the Minister under subsection
324F(1A)—provide copies of the notice and the reasons for the decision to the person.

These amendments are to do with the time frame for assessments by the Heritage Council. These amendments impose time limits on the production of assessments of places of national heritage value by the Australian Heritage Council. It is important to ensure that assessments are done in a timely manner, in particular to ensure that there are not go-slow on politically contentious assessments.

The bill currently gives the AHC 12 months to complete an assessment, but the minister can grant an extension of time for an indefinite period. Our amendment gives the minister the capacity to grant a maximum of two extensions of time to the AHC for the production of assessments if all reasonable efforts were made to complete the assessment within the relevant period. Each extension is for up to 12 months, meaning that all assessments must be completed within five years, which should be enough time for the AHC to complete an assessment and consider new studies et cetera, even for very large areas. The amendment also provides that if the minister grants an extension of time then he or she must publish on the Internet a copy of the notice and the reasons for the decisions. If a person nominated the place then that person must be provided with the reasons for that decision.

Senator LUNDY (Australian Capital Territory) (9.57 a.m.)—I would like to take this opportunity to revisit an issue that was discussed at some length yesterday, regarding the Commonwealth assets listed on the heritage register. Whilst that amendment of the Labor opposition was defeated, there is a follow-up question that goes specifically to what I described as the minister’s dodgy maths for the number of sites that would be transferred across. It relates specifically to nine sites on Norfolk Island. I know Senator Allison did ask some questions about the Norfolk Island sites as well. Specifically, the question is: will the nine sites, which I understand either have listing or are waiting to be listed, be listed prior to that crown land being sold off on Norfolk Island?

Senator HILL (South Australia—Minister for Defence) (9.59 a.m.)—I have to take that on notice because I do not know of any plan to sell off land on Norfolk Island. I would have to find out exactly what the detail of that is and, if it is proposed to sell Commonwealth land on Norfolk Island, what the timetable of that is. I would need to check the state of consideration of the heritage assessment. There is obviously a range of quite complex issues within it.

Senator LUNDY (Australian Capital Territory) (9.59 a.m.)—I ask the minister to do that as soon as possible, because what I am interested in is an undertaking from the government that the nine areas, which apparently are on the indicative list of the register, will not be sold until they are listed on the new register.

Senator BROWN (Tasmania) (10.00 a.m.)—It is an appropriate time for me to ask the minister about the critically endangered swamp eyebright plant in the Southport Lagoon conservation area in southern Tasmania. This plant is found in only one place, and the population is down to some 250 mature individuals. The plant is listed as critically endangered because it is confined to that area. It actually occupies a space of less than 10 hectares. There is only one population, and it is declining. There are extreme fluctuations in the numbers of plants and, clearly, it is faced with extinction. The access road through the Southport Lagoon conservation area to the Recherche Bay logging area goes right through this area of habitat of this critically endangered plant. Could the
Thursday, 14 August 2003  SENATE  13611

minister give me the status of the study of the impact of that access road, which was begun in May 12 months ago but is now on hold and is slated for renewed roadworks if the logging proceeds at the end of the year? In the assessment of the status of the plant, it names that road as a specific danger, not just directly but through the introduction of rootrot fungus, for example, which could endanger this plant, which is making its last stand on the planet. I ask the minister: is the swamp eyebright on the critically endangered list under the current legislation? If so, what will be the impact of the road on that eyebright? To be blunt, isn’t it a matter of that road not being allowed to proceed without danger to this plant, which as I said is making its last stand? What other action would be appropriate to protect the plant other than ensuring that that road does not proceed?

Senator HILL (South Australia—Minister for Defence) (10.03 a.m.)—I do not know off-hand the status of the swamp eyebright, and I have to confess that I do not know of this particular access road. I will seek advice and hopefully will be able to provide further information to Senator Brown. In relation to the matter he raised yesterday about the listing of Recherche Bay, it now seems, from what I am told today, that the nomination has not been made but the council has changed its approach to this particular issue. The nomination, I am told, is being prepared by a group comprising the parliamentary Greens—I am surprised Senator Brown does not know these things—the National Trust, the Recherche Bay Protection Group, the Australian Gardens Historical Society and the Tasmanian Conservation Trust. I am told the formal nomination is being prepared for consideration by the Tasmanian Heritage Council on 24 September.

Senator BROWN (Tasmania) (10.04 a.m.)—The actual question I asked the minister yesterday was related to a letter to me from the Minister for the Environment and Heritage, Dr Kemp, saying that the Tasmanian Heritage Council was to have expert individuals look at the status with a view to a nomination and to do research, which was obviously to look at the natural and cultural values of the area. I am asking the minister whether that process is proceeding and how it is going as far as process is concerned.

Senator HILL (South Australia—Minister for Defence) (10.05 a.m.)—My officials believe that the Tasmanian Heritage Council changed its approach subsequent to the letter of Dr Kemp to Senator Brown. The process being adopted now is the one that I have just outlined.

Senator BROWN (Tasmania) (10.06 a.m.)—If that is the case, can the minister tell me why Dr Kemp did not contact me to inform me that that process had been changed? Otherwise, clearly I am in a position of being misled that there is a process of assessment taking place, when it is not taking place. The minister informed me that the Tasmanian Heritage Council was having an independent expert assessment of the north-east peninsula of Recherche Bay. If that process has changed, it was incumbent upon the minister to let me know that that process had changed and to let anybody else he had so informed know. I now ask the minister why Dr Kemp did not inform me and indeed why that change has been made. What are the factors involved? I can tell him that the groups he named—and he did name the Tasmanian Greens amongst them—did not want to be left in the position where they did the assessment. There was a commitment there by the Tasmanian Heritage Council, and I ask why that commitment has been reneged on.

Senator HILL (South Australia—Minister for Defence) (10.07 a.m.)—
Tasmanian Heritage Council is not a Commonwealth body. As I understand it, a new way of approaching the matter was agreed on by the council and the groups I listed, which include the parliamentary Greens. So it would seem that those on the ground, so to speak, adopted a new process in relation to this matter which they obviously believed was a better process. Why didn’t Dr Kemp tell Senator Brown of this? I do not know the answer. It might be that Dr Kemp was not told himself, because this is a Tasmanian process and not a Commonwealth process, or it might have been that he assumed that Senator Brown would be a party to it because the parliamentary Greens are a party to it.

Senator BROWN (Tasmania) (10.08 a.m.)—We are looking here at national heritage, and if ever there is a place that qualifies as being a prime listing for the National Estate it would be the north-east peninsula of Recherche Bay for the reasons I outlined yesterday. It is to do with its cultural as well as its natural heritage—in particular as a meeting place between the great French scientific expedition of D’Entrecasteaux and the Pallevar people in 1793. It was a very extensive meeting, and it has been very extensively diarised by the French expeditioners of the time. I have just alluded to a further factor that is involved here, which is that one of the most critically endangered species in Australia, the swamp eyebright in Tasmania—which, by the way, is a most beautiful flowering plant—is right in the way of roadworks being proposed for a very limited but destructive logging operation to be undertaken by Gunns Pty Ltd at any time that a voluntary moratorium is listed.

We have here a critically endangered suite of values. The minister wrote to me saying that there was an independent assessment of these values being done by the Tasmanian Heritage Council and that it was an appropriate way to proceed. But what I want to draw Senator Hill’s attention to is a decision—for reasons unknown; I believe it was a political decision involving the Premier of Tasmania, Mr Jim Bacon, intervening in the process—saying that the Tasmanian Heritage Council will not do an independent study. He went on to say that therefore the community groups, without the money, the wherewithal or the expertise—they would have to go and look for those—would have to do the study if they wanted this area protected.

What I am pointing to here is a totally inadequate process for doing an assessment of a critically endangered area by the system that is in place. Surely the Commonwealth should move in to do this assessment if the state government will not. Why should it be left to community groups to do this work? Is this not prime national heritage that is at stake here? I ask the government: ought it not move in to ensure there is an independent study done? Why put it to a group of communities which, at the end, will no doubt have their expertise questioned by the logging industry which wants to get in and make money out of logging part of that peninsula? It ought to be done at arms length by government and it ought to be independent. I asked the minister what the reasons were for suddenly not having that study done in Tasmania, because I believe they are political and I believe they are the outcome of pressure from Gunns on the Tasmanian government, which has said it will not help by doing the study that is required.

It is the worst of my fears—and the fears of the Greens—about this legislation that is happening now right in front of this committee. I want the minister to be able to assure us that there is a better process than this—that it will not be at the behest of a pressure group, which has a development afoot, that is simply moving right across a proper process for establishing critically endangered Na-
tional Estate and putting the kybosh on it as best they can. I ask the minister: will he ensure that he gets a response from the Tasmanian government as to why that funding was not provided, if that is the problem, for the Tasmanian Heritage Council to go ahead with this decision to do an independent study? I am sure Senator Hill will agree with me that, on the face of it, it does not add up.

It is not a reasonable process to say to community groups, ‘Yes, this is endangered; within months they are going to be in there logging, you go and do the work that says that they should not do it.’ You cannot have prime Australian heritage sites—cultural and natural—and an extraordinarily important historic landscape subject to such imminent damage as this, and you cannot have governments withdrawing and saying to the community, ‘You sort it out, you prove it to us or the damage is going to occur.’ I ask the minister: will he find out why that independent study is not proceeding and is there a Commonwealth facility to do that independent archaeological, historic and natural assessment as to the value of this peninsula? Might I also flag with the minister a real problem arising here. This is going to become a huge dispute in Tasmania in the New Year if it is not properly dealt with now.

The Tasmanian Heritage Council made an interim listing of about a hectare around the French garden site on the peninsula and down south on the point, where the observatory was. But the logging is going to occur. It is just 10 hectares of logging within this 140-hectare peninsula, but to get into the peninsula they have to go through the Southport Lagoon conservation area, which is protected. That requires the permission of the Premier of Tasmania—he has to give his go-ahead—and it will threaten the highly endangered swamp eyebright. The peninsula is a cultural landscape because the French moved across it in a great number of surveys. They met up with the Indigenous people in the second year and there are extraordinarily detailed descriptions of their interrelationship with the Tasmanian Aboriginal people. It is a remarkable record of positive contact between those two totally different cultures.

This small peninsula, with its intact sites, is extremely important. I would be happy to provide the minister with maps of the French expeditions and an indication of the complexity of the historical values of what we know about this peninsula. Frankly, there is no way. Gunns is logging thousands of hectares a year. To log this 10 hectares on this peninsula is way out of court. The minister and I have different approaches to many things, but I appeal to him to get some information about this issue and the way it is being handled. I think the Tasmanian government is being influenced by Gunns to make a very big mistake that will damage one of the most important small cultural landscapes in the nation.

I reiterate: the garden was put there by the French. There is a second garden that has not been located yet, possibly in the woods there, that is the site of the first European burial in Tasmania. It is the site of a duel between a woman who secreted herself onto a French expedition dressed as a man, got sick of being slagged off for her effeminate ways, had a duel with one of the crew and was winged on the peninsula—a very famous woman in French history. She later fell in love with one of the crew on board. The two of them, sadly, succumbed to a tropical disease in Indonesia on the way home and died within a day of each other. So did D’Entrecasteaux himself. They were caught up with the revolution occurring in France.

The historical collection relating to this peninsula, including the first collection of the floral emblems of both Tasmania and Victoria, is still intact in the drawers of conserva-
toriums in Paris and in Florence. The historical record of this contact is quite extraordinary. For Gunns to be going in to log the centre of this cultural landscape—I understand it will now be after Christmas because they simply do not have enough equipment to get there in the meantime—is just not on. But it is going to happen. We had a process for an independent assessment and suddenly—I think it is due to pressure from the Tasmanian government and/or the logging industry—the independent experts who are going to assess this peninsula for its cultural value are withdrawn.

One of the most eminent archaeologists in Australia, Professor Mulvaney, and Dr Bickford from Sydney, also an eminent expert in the field, have been to the site and have said this is an extraordinarily important cultural landscape which must be protected. I would appeal to the minister to talk with the Minister for the Environment and Heritage about the tragic situation unfolding in Tasmania around this natural heritage site, and to move to protect the Commonwealth’s interest in this site.

Senator LUNDY (Australian Capital Territory) (10.21 a.m.)—I thought I would take this opportunity to recap events in this chamber leading up to this morning’s debate and highlight Labor’s view about this group of bills. Labor’s amendments in this place yesterday—all of which were not successful—went to the heart of what we see as the fundamental problem with these bills: that is, the independence of the Heritage Commission and the ability for independent decisions to be made about what items and what places receive heritage protection. Obviously, with those amendments having failed, Labor does not now believe that this bill is supportable in any form, and I should flag that Labor intends to move a couple more amendments in this debate on related matters. I express my disappointment and concern that the government was not able to recognise Labor’s view that the independence factor was our fundamental claim—our case for what could make this bill workable.

As I stated yesterday, many of my colleagues have stated that Labor recognise that there did need to be some change to heritage protection and our amendments created the opportunity to maintain that critical independence of the Heritage Commission as well as to make those upgrading and updating changes that we think were also constructive and positive. So it is disappointing that that has occurred. For the record, I would also make it clear that Labor will not be supporting the Democrat amendments, Senator Lees’s or anyone else’s as we proceed through this bill, but we will be taking the opportunity to comment and reflect on the issues at hand.

Question put:
That the amendments (Senator Allison’s) be agreed to.
The committee divided. [10.28 a.m.]
(The Temporary Chairman—Senator G.H. Brandis)

Ayes............ 10
Noes............ 38
Majority........ 28

AYES
Allison, L.F. * Brown, B.J. Greig, B. Murray, A.J.M. Ridgeway, A.D.

NOES
Barnett, G. Brandis, G.H. Buckland, G. Calvert, P.H. Campbell, G. Carr, K.J.

* denotes teller

Question negatived.

Senator ALLISON (Victoria) (10.32 a.m.)—by leave—I move Democrat amendment (61) on sheet 2990:

(61) Schedule 1, item 32, page 63 (lines 1 to 8), omit section 341ZC, substitute:

341ZC Minimising any impact on heritage values

A Commonwealth agency must not take an action that has, will have or is likely to have any impact on the heritage values of a National Heritage place or a Commonwealth Heritage place, unless:

(a) there is no feasible and prudent alternative to taking the action; and

(b) all measures that can reasonably be taken to mitigate the impact of the action on the heritage values of a National Heritage place or a Commonwealth Heritage place have been and will be taken.

This is an important amendment. It was my understanding that this amendment, as with other amendments, had the government’s agreement. I wonder if the minister can indicate his intentions with regard to this amendment.

Senator HILL (South Australia—Minister for Defence) (10.33 a.m.)—We think the amendment can be further improved, and we have been party to seeking to further improve it. Later on in the list of amendments to be dealt with by the committee is a clause that is not dissimilar but which is a better clause. For example, one change is that our amendment makes clear that it has to be an adverse impact, which is not the case in Senator Allison’s amendment. Whereas we are supportive of the general direction that she is advocating, we are not supportive of her amendment in the explicit terms in which it has been drafted.

Question negatived.

Senator ALLISON (Victoria) (10.34 a.m.)—I move Democrat amendments (8), (15), (18), (34) and (38) on sheet 2990:

(8) Schedule 1, item 31, page 26 (line 11), omit “, within a reasonable time”.

(15) Schedule 1, item 31, page 29 (lines 21 and 22), omit “, within a reasonable time”.

(18) Schedule 1, item 31, page 30 (line 35), omit “, within a reasonable time”.

(34) Schedule 1, item 32, page 47 (line 2), omit “, within a reasonable time”.

CHAMBER
(38) Schedule 1, item 32, page 47 (lines 28 and 29), omit “However, the Minister may extend the period in paragraph (a) or (b)”. Question negatived.

Senator ALLISON (Victoria) (10.35 a.m.)—by leave—I move Democrat amendments (21) and (47) on sheet 2990:

(21) Schedule 1, item 31, page 33 (lines 7 and 8), omit the heading to section 324M, substitute:

324M Minister must consider advice of the Australian Heritage Council and public comments

(47) Schedule 1, item 32, page 54 (lines 18 and 19), omit the heading to section 341M, substitute:

341M Minister must consider advice of the Australian Heritage Council and public comments

Senator LUNDY (Australian Capital Territory) (10.37 a.m.)—While the minister is collecting his thoughts to respond to that, another opening has been created for Labor to say that the name of the commission or council is actually not a point about semantics, as Senator Allison implied. As I said earlier, the fundamental issue here is: with the commission gone, their independence goes too. That change is far more than just a name. I highlighted that point—as, I think, Senator Allison well knows—because the whole decision making structure has moved from an independent commission to an advisory council, with the decisions about heritage listing residing with the minister’s office. That is what has changed. It is far more than just a name change. I pointed out the use of the word ‘commission’ as a symbol of the significance of that change—a change which, I say again, means that Labor is now unable to support what is before us as we proceed through the debate.

Senator HILL (South Australia—Minister for Defence) (10.38 a.m.)—Very briefly, again, we are supportive of the direction of Senator Allison’s amendments. In fact, that direction is taken up in further amendments that will be dealt with later in the debate. Presuming that the Senate passes those further amendments, it will largely achieve what Senator Allison is seeking to achieve.

Senator ALLISON (Victoria) (10.39 a.m.)—I take this opportunity to point out to the government that they are not largely similar; they are in fact identical. The minister may wish to reconsider his position on that.
A division having been called and the bells being rung—

Senator Hill—Under the guise of a point of order, I would like to say that I am prepared to change my position, and I seek leave to cancel the division.

Leave granted.

Question agreed to.

Senator ALLISON (Victoria) (10.41 a.m.)—by leave—I move amendments (2) and (3):

(2) Schedule 1, page 17 (after line 20), after item 17, insert:

17A Section 137

Repeal the section, substitute:

137 Requirements for decisions about World Heritage

In deciding whether or not to approve for the purposes of section 12 or 15A the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with:

(a) Australia’s obligations under the World Heritage Convention; or

(b) the Australian World Heritage management principles; or

(c) a plan that has been prepared for the management of a declared World Heritage property under either section 316 or 321.

(3) Schedule 1, item 18, page 17 (lines 23 to 30), omit section 137A, substitute:

137A Requirements for decisions about National Heritage places

In deciding whether or not to approve for the purposes of section 15B or 15C the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with:

(a) the National Heritage management principles; or

(b) an agreement made under Part 5 or Part 14 in relation to the protection and conservation of a National Heritage place; or

(c) a plan that has been prepared for the management of a National Heritage place under either section 324S or 324X.

These amendments will help ensure consistency in the treatment of World Heritage and national heritage places under the Environment Protection and Biodiversity Conservation Act. Section 137A of this bill currently provides that, in deciding whether to approve an action under part 9 for the purposes of section 15B or 15C:

... the Minister must not act inconsistently with:

(a) the National Heritage management principles; or

(b) an agreement to which the Commonwealth is party in relation to a National Heritage place.

Our amendment to section 137A clarifies that the relevant agreements are conservation agreements made under part 14. The amendment also ensures that the minister must act consistently with the management plan made under the act for a national heritage place. Our amendments to section 137 make similar changes in relation to World Heritage properties. At present, section 137 only requires the minister to act consistently with Australia’s obligations under the World Heritage convention. Our amendment requires that, in deciding whether to approve an action for the purposes of the World Heritage provisions in part 3—in other words, subsections 12 and 15A—the minister must not act inconsistently with Australia’s obligations under the World Heritage convention management plan made under the act in relation to a World Heritage property or the Australian World Heritage management principles.
Senator LUNDY (Australian Capital Territory) (10.43 a.m.)—It is probably timely to make a few observations about what seems to be going on here. I note the minister sought leave to cancel that last division, and I note Senator Allison’s comments that this amendment was in fact identical to an amendment that we will be required to subsequently address, which has been brought forward under the name of Senator Lees. What we are participating in here is an exercise in potentially having a duplicate series of amendments before the chamber with the government not having quite worked out which ones of which batch they are going to support. This is really a comment in the interests of having the debate proceed in a cohesive way: perhaps the government should work those things out before the division bells are rung.

Senator HILL (South Australia—Minister for Defence) (10.44 a.m.)—In relation to the amendments before the chamber at the moment, I am told that the alternative amendment, which is still in the general direction of Senator Allison’s amendment, actually goes further than hers, so I would think that she would probably in this instance want to adopt the amendment that has been foreshadowed by Senator Lees.

Question negatived.

Senator ALLISON (Victoria) (10.45 a.m.)—I move Democrat amendment (4):

(4) Schedule 1, page 17 (after line 30), after item 18, insert:

18A After section 170A
Add:

170B Publication of information on the Internet
Without limiting the operation of section 170A, the Secretary must publish on the Internet each week, in relation to the immediately preceding week, all matters which are permitted or required by this Act to be made available to the public.

This amendment improves the transparency of government decision-making by providing that all matters which are required to be made available to the public under this act must be published on the Internet for the preceding week.

Question negatived.

Senator ALLISON (Victoria) (10.46 a.m.)—I move Democrat amendment (5):

(5) Schedule 1, page 22 (after line 8), after item 29, insert:

29A Section 318
Repeal the section, substitute:

318 Commonwealth compliance with plans
(1) The Commonwealth or a Commonwealth agency must not contravene a plan made by the Minister under section 316, or authorise any other person to contravene such a plan.

(2) Where a plan has not been made under section 316, the Commonwealth or a Commonwealth agency must take all reasonable steps to not act inconsistently with the Australian World Heritage management principles.

This amendment provides that the Commonwealth or a Commonwealth agency must not contravene a management plan for a World Heritage property or authorise any other person to contravene such a plan. We think this is important since the act does not currently stop the Commonwealth or a Commonwealth agency authorising another person to contravene a plan. The amendment also inserts a new requirement that, where a plan has not been made for the management of a World Heritage property under the act, the Commonwealth or a Commonwealth agency must take all reasonable steps to not act inconsistently with the Australian World Heritage management principles.
Senator HILL (South Australia—Minister for Defence) (10.46 a.m.)—Again, I am advised that the alternative amendment is in the same direction as that of Senator Allinson’s but goes further. This is another instance where she, no doubt wishing to gain as much as possible in the direction she is seeking, might prefer to support the amendment foreshadowed by Senator Lees.

Senator BROWN (Tasmania) (10.47 a.m.)—This could be the appropriate time for me to ask the minister about the impact from outside World Heritage areas on World Heritage areas and where it is in this legislation that the government is empowering the minister or the advisory council to ensure the protection of values of World Heritage areas from external threat. A very clear example of this is occurring at the moment with the logging of the Styx Valley, the Huon Valley, the Weld Valley and the Picton Valley in Tasmania, where eminent experts in the field have pointed out that, for example, the wilderness values of the World Heritage area are being infringed. Currently there is a major logging coupe under Snowy North, one of the peaks of the Snowy Range in Tasmania, where, by the way, this morning snow has fallen down to 300 metres right across the Styx Valley. There is no way anybody could say other than that that is damaging the World Heritage values of the Snowy Range itself and its wilderness values.

The International Union for the Conservation of Nature has called on the Australian government to protect the World Heritage area from this impact on the World Heritage values and particularly the degradation of the wilderness values of the World Heritage area by this creeping series of logging coupes, the danger of breakaway fires and feral animals and plants being brought in and, of course, the remoteness and intactness of the wilderness itself being compromised by logging right up to World Heritage boundaries. It is damaging the World Heritage value. It is, after all, one of the listings in Australia that is a wilderness listing as such; it is the Tasmanian World Heritage wilderness by name.

I ask the minister what value the government puts on this wilderness quality in the Tasmanian World Heritage wilderness and why it has taken no action against this damage to the wilderness value for which the World Heritage area is named by these processes which are working away at the deterioration of the World Heritage values for which the area was nominated.

Senator HILL (South Australia—Minister for Defence) (10.50 a.m.)—This legislation does not alter Australia’s obligations under the World Heritage convention. Under that convention Australia commits to the conservation of World Heritage listed assets, and that might be affected by actions outside the listed boundary. It has always been a contentious area, but in principle what I have said I think is correct. It is contentious in the sense that it would have to be proven that the actions outside are significantly and detrimentally affecting the World Heritage values inside. I think the same principles will apply in relation to an asset that is listed under the new national list, because it is listed for its values and the obligation is to conserve the values. I know that in relation to Tasmania there has been a long and at times contentious debate about the effect of certain logging actions in what I think used to be referred to as the shoulder areas or the margins of the World Heritage list. They are debates that the scientists have and assessments are made. I know it is an area that has been of interest to the World Heritage Commission in the past. The bottom line of what I am saying is that what was the position in the past, as I understand it, continues. Therefore, Senator Brown in his efforts in this area is at least not detrimentally affected by the
changes that are proposed in the chamber today.

Senator BROWN (Tasmania) (10.53 a.m.)—I have been making out—and the minister is echoing that—that in very important aspects the changes being made in the chamber do not help. Why change from a situation which does not have teeth to a situation which does not have teeth? I will approach this more directly with the minister and ask if he can name one authority in the department, in the World Heritage Unit, in academia anywhere in the world and in the IUCN who has said that the encroachment to the borders of the World Heritage area by logging in Tasmania does not damage the wilderness values of World Heritage property.

Senator HILL (South Australia—Minister for Defence) (10.54 a.m.)—You are testing me now. As I recall it, at the time of the debate on the RFA legislation and the negotiation of the Tasmanian RFA, there were different points of view. I can remember the authorities of some on the other side of the argument, but my recollection is that the effect of the logging on such a huge area of wilderness nevertheless remained an issue in contention.

Senator BROWN (Tasmania) (10.55 a.m.)—I will give the minister the duration of this debate, which has a long while to go, to ask him, and in fact to challenge him, to come back and name an authority who says that the logging currently in the Styx, Huon and Weld valleys—and I mentioned earlier that there is logging right under Snowy North at the moment; cable logging is occurring in the Valley of the Giants—is not impacting on the wilderness values of the World Heritage area. Underlying this is the reality that commercial interests—in this case Gunns Ltd—override timeless heritage values for the nation as a whole. The whole point and the central thrust of the argument is that this legislation does not give teeth to protecting heritage areas against such prodigious commercial interests. Short-term commercial interests win out over the long-term national interest.

The minister is not going to come back and answer my challenge, because there is no answer to it. The fact is that the World Heritage values in Tasmania are being damaged today by those logging activities. It is not just the wilderness values; there are threats to other values. Indeed, the Styx Valley should be part of the World Heritage area, because it is of World Heritage value and adds to the stature of the World Heritage area. I am not going to get any good answer out of the government—nor would I if the opposition were sitting over there—on this central question of our nationhood, which is: where do we draw the line on the continual attrition of the natural, historic and cultural values of this nation which is occurring at a greater rate now than ever before? This is not some process where we are turning it around. It is occurring at a greater rate than ever before in history and this legislation does not have the teeth to stop it. It does not have the teeth to stop it because we are in a materialist age which says you must not get in the way of companies like Gunns making money at the expense of not just this generation of Australians but all generations to come.

The World Heritage values in Tasmania are being damaged; that is the totality of expert opinion. But this government is not doing anything about it and, under the regional forest agreement, the Prime Minister stamped his approval on the process—wide-eyed and knowingly. This legislation does not countermand that deliberate support for the frittering of extraordinarily important values, which is at the heart of the matter we are debating today. It is something that is going to have to be corrected. We cannot
undo the damage being done now, but we have to put an end to this process down the line. This legislation is not going to do that. Question negatived.

Senator ALLISON (Victoria) (10.58 a.m.)—I move Democrat amendment (6):

(6) Schedule 1, item 31, page 25 (after line 25), after subsection 324F(1), insert:

(1A) If a person believes:

(a) a place may have one or more National Heritage values; and
(b) any of those heritage values are under threat,

the person may notify the Minister and ask the Minister to consider including the place and its National Heritage values on the National Heritage List.

This is another amendment that requires the publication on the Internet of descriptions of places nominated for inclusion on the National Heritage List. Obviously, this will help ensure greater transparency of the process and mean that interested parties can easily find out about what has and has not been nominated.

Question negatived.

Senator ALLISON (Victoria) (10.59 a.m.)—by leave—I move Democrat amendments (7), (9), (10) and (11) on sheet 2990:

(7) Schedule 1, item 31, page 24 (after line 31), after subsection 324E(3), insert:

(3A) After giving the Chair of the Australian Heritage Council a written request under subsection (2), the Minister must within 10 business days publish a brief description of the nomination on the Internet. In publishing the description, the Minister may have regard to section 324Q.

Note: The description published on the Internet may not contain certain information kept confidential under section 324Q.

(9) Schedule 1, item 31, page 26 (lines 12 and 13), omit paragraph 324F(5)(a), substitute:

(a) within 10 business days publish a copy or summary of the instrument published in the Gazette on the Internet and in any other place required under the regulations (if any); and

(10) Schedule 1, item 31, page 26 (lines 19 and 20), omit paragraph 324F(5)(c), substitute:

(c) if the place was nominated by a person, or a person notified the Minister under subsection (1A)—advise the person within 10 business days that the place has been included in the National Heritage List.

(11) Schedule 1, item 31, page 26 (after line 20), at the end of section 324F, add:

(6) If the Minister decides not to include a place in the National Heritage List under this section, the Minister must:

(a) within 10 business days publish on the Internet the reasons for the decision; and
(b) if the place was nominated by a person, or a person notified the Minister under subsection (1A)—within 10 business days advise the person of the decision and give written reasons for the decision; and
(c) give written reasons for the decision to anyone who asks for them.

These amendments all relate to emergency listing. Amendment (7) makes it explicit that any person can ask the minister to consider including a place, and its national heritage values, on the National Heritage List where that person believes any of those heritage values are under threat. Amendment (9) ensures that, if the minister places a site on the National Heritage List through the emergency listing provisions, he or she must within 10 business days publish a copy of the
instrument on the Internet and any other place required by the regulations. The current provision does not impose a time limit on when an instrument must be published nor specify that it must be published on the Internet.

Amendment (10) requires the minister to advise the person who nominated the site for emergency listing within 10 business days that the place has been included on the National Heritage List. Currently there is no time limit. Amendment (11) inserts new requirements that provide that, if the minister decides not to include a place on the National Heritage List under the emergency listing provisions, he or she must publish reasons for the decision on the Internet within 10 business days of the place having been nominated by the person; advise the person of the decision within 10 business days, giving written reasons for the decision; and give written reasons for the decision to anybody at all who asks for them.

Senator LUNDY (Australian Capital Territory) (11.01 a.m.)—Again I am provoked to reflect that the series of amendments put forward by the Democrats is about drawing the minister to account for the decision making process and the notification of that process. And all of that is absolutely essential. I think Senator Allison would agree that every non-government party has had serious difficulty with the accountability of the coalition government. It is extraordinarily difficult, if not impossible in some cases, to make the ministers accountable for very much at all. The best way to deal with this issue is to ensure that the decision making process is not left up to the minister and the minister’s office but retained with an independent commission—but that, of course, is not the case anymore.

Question negatived.

Senator ALLISON (Victoria) (11.02 a.m.)—by leave—I move Democrats amendments (14), (16) and (17) on sheet 2990:

(14) Schedule 1, item 31, page 29 (after line 18), at the end of subsection 324J(3), add:

; and (c) publish a copy of the instrument published in the Gazette and the reasons for the decision on the Internet.

(16) Schedule 1, item 31, page 29 (line 27), at the end of subsection 324J(4), add:

; and (c) within 10 business days publish the decision and the reasons for the decision on the Internet.

(17) Schedule 1, item 31, page 29 (line 25), after “person” (second occurring), insert “within 10 business days”.

These amendments relate to decisions about the inclusion of a place on the National Heritage List. Amendment (14) requires that, if a minister decides to include a place on the National Heritage List, he or she must publish the decision, and the reasons for the decision, on the Internet. Amendments (16) and (17) require that, if the minister decides not to include a place on the National Heritage List, he or she must publish the decision, and the reasons for the decision, on the Internet within 10 business days of making that decision. The current provision does not contain Internet publication requirements.

The amendments further amend section 324J(4) by requiring that, in instances where a person nominates a place, the minister must advise that person of the decision and provide written reasons within 10 business days. This time constraint is a new one. The amendments also improve section 324J(7) which deals with the notification of the minister’s decision to remove a place or its values from the National Heritage List where that place was included following an emergency listing nomination. Our amendments require that the minister must publish a copy
of the instrument in the Gazette and the reasons for the decision on the Internet. He or she must give written reasons for the decisions to each person identified as an owner or an occupier of the place and to anyone who asks for them. In instances where a place was nominated by a person, the minister must notify that person of the decision and provide written reasons to them. This must all be done within 10 business days.

Senator HILL (South Australia—Minister for Defence) (11.04 a.m.)—These amendments are identical to amendments further on in the debate, so to save time we will agree to them at this stage.

Question agreed to.

Senator ALLISON (Victoria) (11.05 a.m.)—I move Democrats amendment (20) on sheet 2990:

(20) Schedule 1, item 31, page 33 (lines 5 and 6), omit subsection 324L(6), substitute:

(6) The Minister must publish within 10 business days a copy of the instrument being published in the Gazette on the Internet and in any other place required under the regulations (if any).

This amendment relates to the removal of places or national heritage values from the National Heritage List. This amendment provides that, when removing a place or its values from the National Heritage List, the minister must publish a copy of the instrument in the Gazette on the Internet and in any other place required under the regulations and that must be done within 10 business days. The current provision does not require publication of the instrument on the Internet, nor does it impose any time constraints.

Question negatived.

Senator ALLISON (Victoria) (11.05 a.m.)—by leave—I move Democrats amendments (22), (23) and (24) on sheet 2990:

(22) Schedule 1, item 31, page 33 (lines 9 to 14), omit subsection 324M(1), substitute:

(1) Before the Minister removes from the National Heritage List under section 324L all or part of a place or one or more of a place’s National Heritage values in a removal for loss of value, the Minister must:

(a) give the Chair of the Australian Heritage Council a written request for the Council to give the Minister advice on the proposed removal; and

(b) publish a notice on the Internet and in a daily newspaper circulating in each State and self-governing Territory in accordance with the regulations (if any):

(i) describing the proposed removal; and

(ii) inviting anyone to give the Minister comments within 20 business days on the proposed removal.

(23) Schedule 1, item 31, page 33 (lines 15 and 16), omit subsection 324M(2).

(24) Schedule 1, item 31, page 33 (lines 17 to 18), omit subsections 324M(2) and (3), substitute:

(2) In making a decision under section 324L to remove all or part of a place or one or more of a place’s National Heritage values, the Minister must consider:

(a) any advice received from the Australian Heritage Council; and

(b) any comments received in response to an invitation published by the Minister.

However, the Minister is not required to consider any advice or comments received after the period specified by the Minister under subsection (1).

The bill currently requires that before the minister removes all or part of a place, or one or more of a place’s national heritage values, from the National Heritage List, he or
she must consult the AHC. These amendments ensure that the minister must also seek and consider public comments before removing all or part of a place, or one or more of a place’s national heritage values, from the National Heritage List. However, the minister is only required to consider public comments if they are received within a period specified by the minister, which can be no less than 20 business days.

Question negatived.

Senator ALLISON (Victoria) (11.07 a.m.)–I move Democrat amendment (25) on sheet 2990:

(25) Schedule 1, item 31, page 38 (line 2), after “consider,”, insert “comments from the Australian Heritage Council, and”.

This amendment relates to management plans for national heritage places in Commonwealth areas made in consultation with the AHC. This amendment requires the minister to seek and consider comments from the Australian Heritage Council prior to making, amending or replacing a management plan for a national heritage place located in a Commonwealth area. This amendment guarantees the Australian Heritage Council a pivotal role in the preparation and implementation of management plans for these areas.

Question negatived.

Senator Allison—I think it would be helpful for the chamber, Chair, if the minister were to indicate whether the government intends to support similar amendments as we go through. Otherwise, I think it is hard for those who are in this chamber to understand what is going on.

Senator Hill—A number of these fit into a category that I would describe as heading in a direction that the government is prepared to accept, but not in the explicit terms of Senator Allison’s draft, and that applies to the last one. As I have indicated, where they are identical, we would be prepared to agree to them at this stage to save time. I do not know whether that is any help, Senator Allison.

Senator Allison—I missed the comments of the minister. Is he intending to support them—not mine but the ones that are coming?

Senator Hill—I am sorry; I missed that. I was trying to identify whether there were any other remaining identical amendments. I missed Senator Allison’s point; she might like to repeat it.

Senator Allison—I missed the minister’s point, too. I was not sure whether he said that he was intending to support the ones that will follow. I think that is what he said.

Senator Hill—What I said was that, if they are identical to those which we have agreed to, then I will support them. I am trying to find out whether they are. If Senator Allison just progresses the matter, I think that we will be able to deal with them as they come before the chair.

Senator ALLISON (Victoria) (11.10 a.m.)–It is actually my understanding that the minister did agree with them, but we will move on. I move Democrat amendment (26) on sheet 2990:

(26) Schedule 1, item 31, page 38 (lines 15 to 19), omit section 324U, substitute:

324U Compliance with plans by the Commonwealth and Commonwealth agencies

(1) The Commonwealth or a Commonwealth agency must not contravene a plan made by the Minister under section 324S, or authorise any other person to contravene such a plan.

(2) Where a plan has not been made under section 324S, the Commonwealth or a Commonwealth agency must take all reasonable steps to not act inconsistently with the National Heritage management principles.
This amendment relates to compliance plans by the Commonwealth and Commonwealth agencies in terms of management plans for national heritage places in Commonwealth areas and the national heritage management principles. At the present time the Commonwealth and/or Commonwealth agencies are prohibited from contravening a management plan for a national heritage place in a Commonwealth area. However, there is uncertainty regarding the issue of whether or not the Commonwealth or a Commonwealth agency can authorise another person to contravene a management plan for these areas. This amendment clarifies that the Commonwealth or a Commonwealth agency cannot authorise another person to contravene a management plan for a national heritage place in a Commonwealth area. Furthermore, it ensures that, where a management plan has not been made in relation to a national heritage place in a Commonwealth area, the Commonwealth and/or Commonwealth agencies must take all reasonable steps to not act inconsistently with the national heritage management principles. These amendments tie in with our amendment to section 137A.

Senator LUNDY (Australian Capital Territory) (11.11 a.m.)—Again, it is probably timely for Labor to make the observation that this dynamic we are seeing, with the minister contemplating whether or not the Democrats amendments are the same as Senator Lees’ amendments, is really an exercise in the government working out whether they are going to do a deal with the Democrats or do a deal with Senator Lees. Because so many of the amendments not only are, I think, similar but also cover the same territory, the minister is now sitting back and just picking and choosing the ones that will meet the government’s objectives as far as the deal that was being negotiated leading up to the debate today goes. So, again, from Labor’s point of view, we are not supporting these amendments.

What we are dealing with is the nature and extent of that deal between various parties on the crossbench—primarily, in this case, the Democrats and Senator Lees. It just makes for an interesting observation. Senator Bartlett was, obviously, quite right when he said, in his speech in the second reading debate yesterday, that the negotiations did not go too well. What we are observing now is, effectively, a negotiation occurring in the chamber.

Question negatived.

Senator ALLISON (Victoria) (11.12 a.m.)—I move Democrat amendment (27) on sheet 2990:

(27) Schedule 1, item 31, page 38 (lines 27 to 32), omit section 324W, substitute:

324W Review of plans at least every 5 years

(1) At least once in every 5 year period after a plan for managing a National Heritage place is made under section 324S, the Minister must cause a review of the plan to be carried out.

(2) The review must:

(a) assess whether the plan is consistent with the National Heritage management principles in force at the time; and

(b) assess whether the plan is effective in protecting and conserving the National Heritage values of the place; and

(c) make recommendations for the improved protection of the National Heritage values of the place.

(3) Before carrying out a review under subsection (1), the Minister must cause a notice to be published on the Internet and in a daily newspaper circulating in each State and self-governing Territory, inviting anyone to give the Minister comments within 20 business days on the effectiveness of the plan in protecting and conserving the National Heritage values of the place and
whether the plan is consistent with the National Heritage management principles.

This amendment relates to the contents of reviews of management plans. The current bill requires the minister to carry out a review of management plans for national heritage places in Commonwealth areas once every five years. This amendment specifies the particular issues that the review must include. These are: an assessment of whether the plan is consistent with the national heritage management principles, an assessment of whether the plan is effective in protecting and conserving the national heritage values of the place, and recommendations for the improved protection of the national heritage values of the relevant place. It also ensures that the minister must seek public comments on the review of the management plan.

Question negatived.

Senator ALLISON (Victoria) (11.14 a.m.)—I move Democrat amendment (28) on sheet 2990:

(28) Schedule 1, item 31, page 40 (line 26), omit “and assessment”, substitute “, assessment and monitoring”.

This amendment creates an obligation to assist the minister and the Australian Heritage Council in monitoring national heritage values. Proposed section 324Z requires all Commonwealth agencies that own or control a place that may have one or more national heritage values to take all reasonable steps to assist the minister and the Australian Heritage Council in the identification and assessment of the place’s national heritage values. This amendment extends the obligation of Commonwealth agencies so as to ensure that they are also required to assist the minister and the Australian Heritage Council to monitor the place’s national heritage values.

Question negatived.

Senator ALLISON (Victoria) (11.15 a.m.)—I move Democrat amendment (29) on sheet 2990:

(29) Schedule 1, item 31, page 41 (line 3), after 324ZA(1) insert:

(1A) Before a Commonwealth agency executes a contract under this section, the agency must give the Minister prior notification of the intended sale or lease 40 business days before the execution of the contract.

This amendment ensures that, if a Commonwealth agency proposes to sell or lease a Commonwealth area, it must notify the minister at least 40 business days prior to the day on which the contract for the sale or lease of the area is executed.

Question negatived.

Senator ALLISON (Victoria) (11.15 a.m.)—I move Democrat amendment (30) on sheet 2990:

(30) Schedule 1, item 31, page 43 (line 3), omit subparagraph 324ZC(2)(e), substitute:

(e) all nominations, assessments and approvals under this Division during the period of review; and
(f) compliance with this Act in relation to National Heritage places; and
(g) any other matters that the Minister considers relevant.

This is a review of the National Heritage List amendment. Proposed section 324ZC requires the minister to conduct a review of the National Heritage List at least once every five years. This amendment ensures that the report prepared in relation to the review includes details of all nominations, assessments and approvals under part 15 division 1A and compliance with the act in relation to national heritage places.

Question negatived.

Senator ALLISON (Victoria) (11.16 a.m.)—I move Democrat amendment (31) on sheet 2990:
(31) Schedule 1, page 43 (after line 3), after item 31, insert:

31A Section 330

Repeal the section, substitute:

330 Commonwealth compliance with plans

(1) The Commonwealth or a Commonwealth agency must not contravene a plan made by the Minister under section 328, or authorise any other person to contravene such a plan.

(2) Where there is no plan under section 328, the Commonwealth or a Commonwealth agency must take all reasonable steps to not act inconsistently with the Australian Ramsar management principles.

This amendment is to do with Commonwealth compliance with management plans for Ramsar wetlands and the Australian Ramsar management principles. It is the same as our amendments (5) and (23) in that it only applies to management plans prepared in relation to Ramsar wetlands in Commonwealth areas; that is, it clarifies that the Commonwealth or a Commonwealth agency cannot authorise another person to contravene a management plan for a Ramsar wetland in a Commonwealth area. It also ensures that where a management plan has not been made in relation to a Ramsar wetland in a Commonwealth area the Commonwealth and Commonwealth agencies must take all reasonable steps to not act inconsistently with the Australian Ramsar management principles.

Question negatived.

Senator ALLISON (Victoria) (11.17 a.m.)—I move Democrat amendments (32), (33), (35), (36) and (37) on sheet 2990:

(32) Schedule 1, item 32, page 45 (after line 21), after subsection 341E(3), insert:

(3A) After giving the Chair of the Australian Heritage Council a written request under subsection (2), the Minister must

within 10 business days publish a brief description of the nomination on the Internet. In publishing the description, the Minister may have regard to section 341Q.

Note: The description published on the Internet may not contain certain information kept confidential under section 341Q.

This amendment is about the publication of details of nominations on the Internet. This amendment is the same as our amendment (6) only it applies to the nomination of places for inclusion on the Commonwealth Heritage List. It requires the minister to publish a description of all nominations for the inclusion of a place on the National Heritage List on the Internet and it is part of a collection of amendments that ensure greater transparency in the listing process by ensuring a description of all nominations is published on the Internet. Members of the public will be able to monitor the progress of nominations and find out what places have been nominated.

Senator HILL (South Australia—Minister for Defence) (11.18 a.m.)—I understand this amendment is identical to one which was foreshadowed and which we have accepted in principle would improve the legislation before the chamber and, therefore, we agree to it.

Question agreed to.

Senator ALLISON (Victoria) (11.18 a.m.)—by leave—I move Democrat amendments (33), (35), (36) and (37) on sheet 2990:

(33) Schedule 1, item 32, page 46 (after line 18), after subsection 341F(1), insert:

(1A) If a person believes:

(a) a place may have one or more Commonwealth Heritage values; and

CHAMBER
(d) any of those heritage values are under threat;

the person may notify the Minister and ask the Minister to consider including the place and its Commonwealth Heritage values on the Commonwealth Heritage List.

(35) Schedule 1, item 32, page 47 (lines 3 and 4), omit paragraph 341F(5)(a), substitute:

(a) within 10 business days publish a copy or summary of the instrument published in the Gazette on the Internet and in any other place required under the regulations (if any); and

(36) Schedule 1, item 32, page 47 (lines 10 to 12), omit paragraph 341F(5)(c), substitute:

(c) if the place was nominated by a person, or a person notified the Minister under subsection (1A)—advise the person within 10 business days that the place has been included in the Commonwealth Heritage List.

(37) Schedule 1, item 32, page 47 (after line 12), at the end of section 341F, add:

(6) If the Minister decides not to include a place in the Commonwealth Heritage List under this section, the Minister must:

(a) within 10 business days publish on the Internet the reasons for the decision; and

(b) if the place was nominated by a person, or a person notified the Minister under subsection (1A)—within 10 business days advise the person of the decision and give written reasons for the decision; and

(c) give written reasons for the decision to anyone who asks for them.

These amendments relate to the emergency listing provisions of the bill. Amendment (33) makes it explicit that any person can ask the minister to consider including a place and its Commonwealth heritage values on the Commonwealth Heritage List where that person believes any of those heritage values are under threat.

Amendments (34) and (35) ensure that, if the minister places a site on the Commonwealth Heritage List through the emergency listing provisions, he or she must within 10 business days publish a copy of the instrument on the Internet and any other place required by the regulations. The current provision does not impose a time limit on when an instrument must be published nor specify that it must be published on the Internet. Amendment (36) requires the minister to advise the person who nominated the site for emergency listing within 10 business days that the place has been included on the Commonwealth Heritage List. There is currently no time limit.

Amendment (37) inserts new requirements that provide that, if the minister decides not to include a place on the Commonwealth Heritage List under the emergency listing provisions, he or she must publish reasons for the decisions on the Internet within 10 business days of making a decision and, if the place was nominated by a person, advise the person of the decision within 10 business days and give them written reasons for that decision, and give written reasons for the decision to anyone who asks for them.

Question negatived.

Senator ALLISON (Victoria) (11.21 a.m.)—I move Democrat amendment (39) on sheet 2990:

(39) Schedule 1, item 32, page 47 (after line 29), after subsection 341G(2), insert:

(2A) If the Australian Heritage Council does not complete the assessment of a place against the Commonwealth Heritage criteria within the period specified in paragraph (2)(a) or (b), the Minister may, by notice in writing, extend the period by up to 24 months if all reasonable efforts were made to
complete the assessment within the relevant period.

(2B) If the Australian Heritage Council does not complete the assessment of a place against the Commonwealth Heritage criteria by the time specified in the notice provided under subsection (2A), the Minister may, by notice in writing, provide an extension of up to 24 months if all reasonable efforts were made to complete the assessment within the period specified in the notice.

(2C) If the Minister extends the period for the completion of an assessment of a place against the Commonwealth Heritage criteria under subsection (2A) or (2B), the Minister must within 10 business days:

(a) publish a notice including the reasons for the extension on the Internet; and

(b) if the place was nominated by a person or a person notified the Minister under subsection 341F(1A)—provide copies of the notice to the person.

The bill currently provides that where the minister receives a nomination for inclusion of a place on the Commonwealth Heritage List he or she must pass the nomination on to the AHC and request it to assess whether the place meets any of the Commonwealth heritage criteria. These assessments must be completed within 12 months; however, the minister can extend the time frame for completion of the assessments indefinitely. The power to extend the period for completion of assessments indefinitely enables the minister and the AHC to postpone making decisions in relation to contentious nominations. It also gives the minister and the AHC the power to ignore certain public nominations and concentrate on themes and places of their choosing.

Amendments (38) and (39) limit the ability of the minister and the AHC to abuse the assessment process by imposing strict time limits on the preparation of assessments. Under these amendments, the AHC will have 12 months to complete an assessment. If the assessment is not completed at the end of 12 months, the minister may grant an extension of up to 24 months. However, the extension can only be granted if all reasonable efforts were made to complete the assessment within the initial 12-month period. If the assessment is still not completed at the end of the extended period, the minister may grant a second extension of up to 24 months. However, again, this extension may only be granted if all reasonable efforts have been made to complete the assessment within the specified period. These amendments also provide that, if the minister grants an extension of time, he or she must publish a copy of the notice and the reasons for the decision on the Internet. If a person nominates the place then that person must be provided with reasons for the decision.

Question negatived.

Senator ALLISON (Victoria) (11.24 a.m.)—by leave—I move Democrat amendments (41) and (44) on sheet 2990:

(41) Schedule 1, item 32, page 50 (lines 18 and 19), omit “, within a reasonable time”.

(44) Schedule 1, item 32, page 51 (line 33), omit “, within a reasonable time”.

I have already spoken to these amendments. They were grouped because they simply add the words ‘within a reasonable time’ to assessment processes.

Question agreed to.

Senator ALLISON (Victoria) (11.25 a.m.)—by leave—I move Democrat amendments (40), (42), (43) and (45) on sheet 2990:

(40) Schedule 1, item 32, page 50 (after line 15), at the end of subsection 341J(3), add:
and (c) publish a copy of the instrument published in the Gazette and the reasons for the decision on the Internet.

(42) Schedule 1, item 32, page 50 (line 22), after “person” (second occurring), insert “within 10 business days”.

(43) Schedule 1, item 32, page 50 (line 24), at the end of subsection 341J(4), add:

; and (c) within 10 business days publish the decision and the reasons for the decision on the Internet.

(45) Schedule 1, item 32, page 51 (line 34) to page 52 (line 4), omit paragraphs 341J(7)(a) and (b), substitute:

(a) within 10 business days publish a copy of the instrument published in the Gazette and the reasons for the decision on the Internet; and

(b) within 10 business days give written reasons for the removal or alteration to each person identified by the Minister as an owner or occupier of all or part of the place; and

(c) give written reasons for the removal or alteration to anyone else who asks the Minister for them; and

(d) if the place was included on the List following a nomination made under section 341E, or a person notified the Minister under subsection 341F(1A)—advise the person who made the nomination, or who notified the Minister, within 10 business days, of the decision and give the person written reasons for the decision.

These amendments relate to the listing process and the decision about inclusion of a place on the Commonwealth Heritage List. Section 341 currently requires that, if the minister includes a place on the Commonwealth Heritage List, he or she must notify the owners and occupiers of the place and the person who nominated the place if the place was nominated. Amendment (40) inserts an additional requirement for the minister to publish a copy of a notice of decision and the reasons for the decision on the Internet. This amendment will ensure greater transparency in the listing process.

Other amendments require that, if the minister decides not to include a place on the Commonwealth Heritage List, he or she must publish details of the decision and the reasons for the decision on the Internet and provide a statement of reasons to the person who nominated the place within 10 business days. These are some of our general amendments on transparency in the listing process. Under the emergency listing provisions, the minister can include a place on the Commonwealth Heritage List if he or she believes the place may have one or more Commonwealth heritage values and any of those values are under threat. After including a place and its values on the list, under these provisions the minister must ask the AHC to assess whether the place does in fact have any Commonwealth heritage values. At the completion of the assessment, the minister must decide whether to keep the place and its heritage values on the Commonwealth Heritage List.

Further amendments require the minister to notify the owners and occupiers of the place and the person who nominated the place for inclusion on the list, including the person who notified the minister of the need to include a place on the Commonwealth Heritage List under the emergency listing provisions, and to provide them with reasons for the decision within 10 business days of the decision. As the bill currently stands, there is no requirement to provide this information to a person who notifies the minister of the need to include a place on the Commonwealth Heritage List under emergency listing provisions.

Question negatived.
Senator ALLISON (Victoria) (11.28 a.m.)—I move Democrat amendment (46) on sheet 2990:

(46) Schedule 1, item 32, page 54 (lines 16 and 17), omit subsection 341L(7), substitute:

(7) The Minister must publish within 10 business days a copy of the instrument published in the Gazette on the Internet and in any other place required under the regulations (if any).

This amendment relates to publication of decisions to remove places or Commonwealth heritage values from the Commonwealth Heritage List. This amendment provides that when removing a place or its values from the Commonwealth Heritage List the minister must publish a copy of the instrument published in the Gazette on the Internet and any other place required under the regulations. That must be done, again, within 10 business days. The current provision does not require publication of the instrument on the Internet, nor does it impose any time constraints.

Question negatived.

Senator ALLISON (Victoria) (11.28 a.m.)—by leave—I move Democrat amendments (48), (49) and (50) on sheet 2990:

(48) Schedule 1, item 32, page 54 (lines 20 to 25), omit subsection 341M(1), substitute:

(1) Before the Minister removes from the Commonwealth Heritage List under section 341L all or part of a place or one or more of a place’s Commonwealth Heritage values, the Minister must:

(a) give the Chair of the Australian Heritage Council a written request for the Council to give the Minister advice on the proposed removal; and

(b) publish a notice on the Internet and in a daily newspaper circulating in each State and self-governing Territory in accordance with the regulations (if any):

(i) describing the proposed removal; and

(ii) inviting anyone to give the Minister comments within 20 business days on the proposed removal.

(49) Schedule 1, item 32, page 54 (lines 26 and 27), omit subsection 341M(2).

(50) Schedule 1, item 32, page 54 (lines 28 and 29), omit subsection (3), substitute:

(2) In making a decision under section 341L to remove all or part of a place or one or more of a place’s Commonwealth Heritage values, the Minister must consider:

(a) any advice received from the Australian Heritage Council; and

(b) any comments received in response to an invitation published by the Minister.

However, the Minister is not required to consider any advice or comments received after the period specified by the Minister under subsection (1).

Amendments (48) to (50) relate to advice on removals from the Commonwealth Heritage List. The minister must, under these amendments, consider advice from the Australian Heritage Council, which is currently not provided for in the bill.

Question negatived.

Senator ALLISON (Victoria) (11.29 a.m.)—by leave—I move Democrat amendments (51) and (52) on sheet 2990:

(51) Schedule 1, item 32, page 59 (line 16), after “consider,”, insert “comments from the Australian Heritage Council, and”;

(52) Schedule 1, item 32, page 59 (after line 27), after subsection 341T(1), insert:

(1A) The Minister must decide within 60 business days of receipt of a plan under subsection (1) whether or not to endorse the plan.

(1B) Within 10 business days of making a decision under subsection (1A), the
Minister must inform the agency in writing of the decision and publish on the Internet a notice of the decision.

These amendments relate to management plans. Amendment (51) requires the minister to seek and consider comments from the Australian Heritage Council prior to making, amending or replacing a management plan for a Commonwealth heritage place and guarantees the AHC a pivotal role in the preparation and implementation of management plans for these areas. Amendment (52) includes time frames for endorsing management plans for Commonwealth heritage places. At present there is no time frame for doing so or for making decisions concerning the endorsement of management plans for Commonwealth heritage places. This amendment requires the minister to decide whether to endorse a management plan for a Commonwealth heritage place within 60 business days of receiving the plan. It also requires the minister to notify the relevant Commonwealth agencies that prepared the plan of the decision and to publish a notice of the decision on the Internet within 10 days.

Senator LUNDY (Australian Capital Territory) (11.31 a.m.)—I guess it is coming to that time again to provide Labor’s friendly reminder what this debate is really about: will the government do the deal with the Democrats, or will they reserve their right to do a bigger deal with Senator Lees when her amendments come about? It is an interesting observation for Labor that this whole series of amendments that we are going through is about accountability. The amendments are about the ministerial decision making process under the new regime being more accountable and transparent. None of this would have been necessary if Labor’s amendments had been supported and the independence of the Heritage Commission had been retained.

Question negatived.

Senator ALLISON (Victoria) (11.32 a.m.)—by leave—I move Democrat amendments (53) and (54) on sheet 2990:

(53) Schedule 1, item 32, page 60 (lines 13 to 17), omit section 341V, substitute:

41V Compliance with plans by the Commonwealth and Commonwealth agencies

(1) The Commonwealth or a Commonwealth agency must not contravene a plan made under section 341S, or authorise any other person to contravene such a plan.

(2) Where there is no plan under section 341S, the Commonwealth or a Commonwealth agency must take all reasonable steps to not act inconsistently with the Commonwealth Heritage management principles.

(54) Schedule 1, item 32, page 60 (lines 25 to 32), omit section 341X(2), substitute:

341X Review of plans at least every 5 years

(1) At least once in every 5 year period after a plan for managing a Commonwealth Heritage place is made under section 341S, the Commonwealth agency must cause a review of the plan to be carried out.

(2) The review must:

(a) assess whether the plan is consistent with the Commonwealth Heritage management principles in force at the time; and

(b) assess whether the plan is effective in protecting and conserving the Commonwealth Heritage values of the place.

(3) Before carrying out a review under subsection (1), the Commonwealth agency concerned must cause a notice to be published on the Internet and in a daily newspaper circulating in each State and self-governing Territory inviting anyone to give the...
Commonwealth agency comments within 20 business days on the effectiveness of the plan in protecting and conserving the Commonwealth Heritage values of the place and whether the plan is consistent with the Commonwealth Heritage management principles.

Again, these amendments relate to management plans. At present the Commonwealth and all Commonwealth agencies are prohibited from contravening a management plan for a Commonwealth heritage place, but there is uncertainty regarding the issue of whether the Commonwealth or a Commonwealth agency can authorise another person to contravene a management plan for these areas. Amendment (53) clarifies that the Commonwealth or a Commonwealth agency cannot authorise another person to contravene a management plan for a Commonwealth heritage place. Furthermore, it ensures that, where a management plan has not been made in relation to a Commonwealth heritage place, the Commonwealth and all Commonwealth agencies must take all reasonable steps to not acting inconsistently with the management principles.

The bill currently requires the minister to carry out a review of management plans every five years. Amendment (54) specifies the particular issues that the review must include. They are: an assessment of whether the plan is consistent with the national heritage management principles, assessment of whether the plan is effective in protecting and conserving national heritage values, and recommendations for the improved protection of national heritage values of the relevant place. It also ensures that the minister seeks public comment on the review of management plans.

Question negatived.

Senator ALLISON (Victoria) (11.34 a.m.)—I move Democrat amendment (55) on sheet 2990:

(55) Schedule 1, item 32, page 61 (line 17), omit “and assessment”, substitute “assessment and monitoring”.

This amendment is about the obligation to assist in monitoring Commonwealth heritage values. The bill currently requires all Commonwealth agencies that own or control a place that may have one or more Commonwealth heritage values to take all reasonable steps to assist the minister and the AHC in the identification and assessment of the place’s Commonwealth heritage values. This amendment extends the obligation on the Commonwealth agencies so as to ensure they are also required to assist the minister and the Australian Heritage Council to monitor the place’s Commonwealth heritage values.

Question negatived.

Senator ALLISON (Victoria) (11.34 a.m.)—by leave—I move Democrat amendments (56), (57), (58) and (59) on sheet 2990:

(56) Schedule 1, item 32, page 61 (lines 20 to 26), omit subsection 341ZA(1), substitute:

(1) If a Commonwealth agency owns or controls a place, it must prepare a written heritage strategy and give a copy of the strategy to the Minister as soon as practicable and, in any case, within 2 years after the later of:

(a) the time the agency first owns or controls a place; and

(b) the commencement of this section.

Note: The heritage strategy will apply to every place the agency owns or controls.

The principal objective of a heritage strategy is to outline a strategic approach for the Commonwealth agency to effectively manage places which it owns or controls for the long-
term protection and conservation of their Commonwealth Heritage values.

(1B) Before making a heritage strategy, the Commonwealth agency must consult with the Australian Heritage Council and take into account any advice which it receives from the Council.

(57) Schedule 1, item 32, page 61 (line 28), at the end of subsection 341ZA(2), add:

A copy of the amended or new heritage strategy must be provided to the Minister within 20 business days of the date on which the strategy is amended or replaced.

(58) Schedule 1, item 32, page 62 (after line 8), after subsection 341ZA(4), insert:

(4A) The Minister will advise the Commonwealth agency if the agency’s heritage strategy (including a replacement of an earlier strategy) or an amendment of the agency’s heritage strategy is consistent with the Commonwealth Heritage management principles. A heritage strategy or an amendment of a strategy must not be inconsistent with the Commonwealth Heritage management principles.

(59) Schedule 1, item 32, page 62 (after line 31), after subsection 341ZB(3), insert:

(3A) A Commonwealth agency must include, in its annual report, details of the implementation of its heritage strategy.

These amendments insert a requirement for Commonwealth agencies to consult with the AHC when preparing heritage strategies. They stipulate that the principal objective of heritage strategies is to outline a strategic approach for the Commonwealth agency to effectively manage places which it owns or controls for the long-term protection and conservation of their Commonwealth heritage values. It requires details of the implementation of the strategy to be included in the agency’s annual report and requires the strategies to be consistent with heritage management principles.

Question negatived.

Senator ALLISON (Victoria) (11.35 a.m.)—I move Democrat amendment (60) on sheet 2990:

(60) Schedule 1, item 32, page 62 (after line 32), at the end of section 341ZB, add:

(5) Where the Minister receives a copy of a report under paragraph (1)(c) that indicates that a place owned or leased by a Commonwealth agency may have one or more Commonwealth Heritage values, the Minister may, in consultation with relevant Commonwealth Ministers, use the report as a basis for nominations to the Commonwealth Heritage List.

This relates to deemed nominations for inclusion on the Commonwealth Heritage List. Section 341ZB requires Commonwealth agencies to assess the Commonwealth heritage values of the places they own and to produce a register of the Commonwealth heritage values of the places they own. After completing the assessment and establishing the register, each Commonwealth agency must provide a report on the assessment and a copy of the register to the minister. This amendment allows the minister to treat the report as a nomination for the purposes of section 341E, and it merely reduces unnecessary duplication in paperwork.

Question negatived.

Senator ALLISON (Victoria) (11.37 a.m.)—I move Democrat amendment (62):

(62) Schedule 1, item 32, page 63 (after line 34), after subsection 341ZE(1), insert:

(1A) If a Commonwealth agency proposes to sell or lease a Commonwealth area in the Australian jurisdiction that is or includes all or part of a Commonwealth Heritage place, the Commonwealth agency must notify the Minister of the intended transaction at least 40
This amendment ensures that if a Commonwealth agency proposes to sell or lease a Commonwealth area that includes a Commonwealth heritage place, it must notify the minister at least 40 business days prior to the day on which the contract for the sale or lease of the area is executed.

Question negatived.

Senator ALLISON (Victoria) (11.38 a.m.)—I move Democrat amendment (63):

(63) Schedule 1, item 32, page 66 (line 22), omit paragraph 341ZH(2)(e), substitute:

(e) all nominations, assessments and approvals under this Division during the period of the review; and

(f) compliance with this Act in relation to Commonwealth Heritage places; and

(g) any other matters that the Council considers relevant.

This amendment relates to the review. The proposed section 341ZC requires the minister to conduct a review of the Commonwealth heritage list at least every five years and this amendment ensures the report prepared in relation to the review includes details of all nominations, assessments and approvals under part 15 division 3A and compliance with the act in relation to Commonwealth heritage places.

Question negatived.

Senator ALLISON (Victoria) (11.39 a.m.)—I move Democrat amendment (65):

(65) Schedule 1, item 46, page 68 (line 27), after paragraph (e), add:

Note: Without limiting the generality of the definition, the heritage values of places outlined in the definition of environment includes places listed in the Register of the National Estate.

This amendment is about the definition of environment. It includes a note to the definition of environment to clarify that the heri-
tage values of places include places on the Register of the National Estate.

Question negatived.

Senator ALLISON (Victoria) (11.40 a.m.)—I move Democrat amendment (19):

(19) Schedule 1, item 31, page 30 (line 36) to page 31 (line 5), omit paragraphs 324J(7)(a) and (b), substitute:

(a) within 10 business days publish a copy of the instrument published in the Gazette and the reasons for the decision on the Internet; and

(b) within 10 business days give written reasons for the removal or alteration to each person identified by the Minister as an owner or occupier of all or part of the place; and

(c) give written reasons for the removal or alteration to anyone else who asks the Minister for them; and

(d) if the place was included in the List following a nomination of it—advise the person who made the nomination within 10 business days of the removal or alteration and give the person written reasons for it.

This is another amendment which relates to publications of reasons for decisions, with the usual requirement to put them in the Gazette and on the Internet, 10 business days notice, and so forth.

Question negatived.

Senator ALLISON (Victoria) (11.42 a.m.)—I move Democrat amendment (3) on sheet 3044:

(3) Schedule 1, item 48, page 69 (lines 8 to 10), omit the definition of indigenous heritage value, substitute:

indigenous heritage value of the place means the heritage value that is of significance to indigenous persons generally or a particular group of indigenous persons in accordance with their practices (including laws and cultural practices), observances, customs, traditions, beliefs or history.

This amendment amends the definition of ‘Indigenous heritage values’ in the bill. It is required because the bill currently contains provisions that may result, we think, in inadequate statutory protection being provided to places of Indigenous heritage significance. Indigenous heritage values of a place are currently defined as:

... the heritage value of the place that is of particular significance to indigenous persons in accordance with their traditions.

The key problem is the potential for historic heritage values of Indigenous communities to be excluded from this definition. For example, archaeological surveys of an area known to have been occupied by a particular Indigenous community may reveal burial remains or evidence of human settlement—for instance: middens, stone tools et cetera. The Indigenous group or community may have no known tradition that places importance on the objects that are discovered. However, these objects clearly would have special historic significance to the Indigenous group or community over and above their significance to other Australians.

Similarly, the customs and beliefs of an Indigenous community may have traditionally attributed significance to a place, but these customs and beliefs may no longer be acknowledged and observed by the Indigenous community. In these circumstances it is arguable that the heritage value of a place is not an Indigenous heritage value because the special significance of the place to the Indigenous community is not in accordance with their traditions, rather the place has historical, cultural significance that is unrelated to the customs and beliefs currently held by the community. This issue is also of concern to ATSIC and it is my understanding that a letter was sent to the minister from ATSIC in the last few days regarding this.
The problem with the definition of ‘Indigenous heritage values’ arises in the context of the statutory protection that will be afforded to national heritage values under part 3 of the EPBC Act. Proposed subsections 15B(4), 15C(7) and 15C(8) prohibit a person from taking an action that has, will have or is likely to have a significant impact on the national heritage values of a national heritage place, to the extent that those national heritage values are Indigenous heritage values, without the approval of the minister under part 9. By way of example, subsection 15B(4) says:

A person must not take an action that has, will have or is likely to have a significant impact on the National Heritage values, to the extent that they are indigenous heritage values, of a National Heritage place.

This creates a two-stage process for establishing a breach of those provisions of sections 15B and C that relate to Indigenous heritage values. Firstly, it will be necessary to establish that the relevant action has, will have or is likely to have a significant impact on national heritage values of a national heritage place. Secondly, the applicant or prosecutor will have to prove that the value threatened by the action is an Indigenous heritage value. Establishing the second element will require the applicant to prove that the relevant heritage value is of particular significance to Indigenous persons in accordance with their tradition. This ensures that those heritage values that are included in the National Heritage List on the basis of their social, cultural or spiritual importance to a particular cultural group or community will not be protected under subsections 15B(4), 15C(7), 15C(8) unless a link between the value and the traditions of the relevant group or community can be established.

There is considerable uncertainty associated with what will constitute ‘traditions’ for these purposes. This could result in many heritage values that are of great importance to contemporary Indigenous communities not being able to be protected under these provisions. It is also arguable that places that are only of historic significance to an Indigenous group or community as opposed to being of significance in accordance with their traditions will not be protected under these provisions.

If it cannot be proven that the national heritage values of a national heritage place are of particular significance to Indigenous persons in accordance with their traditions, these values will only be able to be protected under the other provisions in sections 15B and C that rely on heads of power unrelated to Indigenous issues. In other words, it will be necessary to establish that the defendant’s action was taken or will be taken for the purpose of trade or commerce et cetera. To ensure that Indigenous heritage is appropriately protected, the Democrats propose the following definition:

... indigenous heritage value of the place means the heritage value that is of significance to Indigenous persons generally or a particular group of Indigenous persons in accordance with their practices (including laws and cultural practices), observances, customs, traditions, beliefs or history.

It is our view that this is an improvement on the amendment which has been circulated by Senator Lees. Our amendment makes it clear that an Indigenous heritage value can be of significance to Indigenous persons generally and a particular group of Indigenous persons in accordance with their practices (including laws and cultural practices), observances, customs, traditions, beliefs or history.

Senator Lees’s amendment only specifies Indigenous persons. It is necessary, we think, to specify that the values can apply to a particular group of Indigenous persons since there is the ambiguity that I mentioned as to what ‘Indigenous persons’ means and whether this implies all Indigenous persons or can include a particular group of Indigenous persons.
Our amendment also specifically includes reference to laws and cultural practices. If the minister does not intend to support this amendment, I would appreciate some response from him as to why this is the case. I also ask the minister to indicate whether the government intends to bring the ATSIHP bills—which were to some extent dealt with in the Senate some years ago—on for debate. To some extent the Democrats think it is important that that legislation is dealt with and that the EPBC Act is not replied upon for Indigenous cultural heritage. So I ask that some assurances be provided to the chamber that that legislation is forthcoming. If it is not, I would like some dates on which we can expect to see the legislation to be debated. If we cannot, then I urge the chamber to support this legislation because, as we know, many Indigenous sites are at risk or have been lost. If we cannot properly deal with heritage protection through the ATSIHP bills then I commend this amendment to the chamber as a way of making sure that we do it through this legislation. I ask the minister to respond to the matters that I have raised.

Senator HILL (South Australia—Minister for Defence) (11.50 a.m.)—The issue of Indigenous heritage is obviously very important but also very complex, and it is no secret that there are strongly held and differing views within the Indigenous community on the issue. Some would argue that it is inappropriate for Indigenous heritage to be within legislation of this type at all, but the view of the government is that it is necessary to have contemporary and effective legislation to protect sites of significance. As we have said, the current legislation is inadequate in that regard and the government is still intending to bring to the Senate new site protection legislation. There has been a long consultation on the detail of that legislation. That consultation is still not complete. I thought it was all but complete before the last election, but it did not quite reach finality. I am assured by the current minister that the process has continued and the bill will be brought to the parliament as soon as possible. I cannot give a specific date.

This legislation deals with something different in this area—Indigenous heritage that comes within the definition of ‘national significance’. When it does, it achieves the protection that is set out within the legislation. On the issue of the definition of Indigenous heritage, again there has been a range of views. I am told that, whilst ATSIC may have preferred an even wider definition, through Commissioner Dillon it is prepared to accept this definition. I gather that there has been a flow of correspondence on that issue. The definition that we will accept does not go as far as that proposed by Senator Allison, but we think in the circumstances, the type and purpose of the legislation we are dealing with today, it is appropriate. I think as time goes by, and as a result of the continuing debate on these complex issues and changes of view within the Indigenous community, there may be argument for further changes in this area, but we think that what we have put before the chamber today and the changes to the definition as foreshadowed in amendments that are to come later in this debate achieve the purpose of being able to protect Indigenous heritage of national significance.

Senator LUNDY (Australian Capital Territory) (11.54 a.m.)—I think Senator Hill has made it clear that he is supporting Senator Lees’s proposition rather than the Democrat proposition. But I would like to get a little more information from the minister about the Democrat bill. Firstly, can the minister tell the committee whether the original intention was to bring forward that bill as part of this package—the minister mentioned that he thought negotiations would have been completed—and at what
point were those plans changed, if that were the case? Secondly, can you provide the chamber with an assurance that that bill will be debated in the upcoming sittings of parliament?

Senator HILL (South Australia—Minister for Defence) (11.55 a.m.)—It was never intended to be part of this legislation. It was always being negotiated as a separate piece of legislation—although, to be fair, there are some within the Indigenous community who believe it should be. In other words, there are some within the Indigenous community who argue that no matter of Indigenous significance should be within this legislation and there are some who argue that every matter of Indigenous significance should, by definition, be a matter of national significance and therefore be included. That is why I say that this is a very complex subject. But the government always intended to treat the two matters separately, and that is still our intention. We think it is a better way to go, at least at this time in history.

As to the timing of the debate, I do not think I can say more than I have said. The government would wish to have the sites legislation debated as soon as possible. Therefore, as soon as the consultation process has been completed, we will do so.

Senator ALLISON (Victoria) (11.56 a.m.)—The minister has given this place assurances that the ATSIP bills will come here and that discussions are continuing. Can the minister indicate what discussions are currently being held? It is my understanding that very little has been done with regard to the legislation for some time. Can the minister also indicate whether it is the government’s current thinking that the bill would be re-presented in the Senate largely in the form which was agreed with Indigenous groups at the time, going back now at least three years? I think former Senator Woodley was involved in that process. We have not heard about any further consultations since then. Can the minister outline exactly what stage this legislation is at in bringing it to the Senate?

Senator HILL (South Australia—Minister for Defence) (11.57 a.m.)—I do not think it is appropriate for me to meddle with a negotiating process. I can assure you that I appreciate that this is a complex negotiation. It is in the interests of all parties if the major constituencies are brought on side. Therefore, if a piece of legislation can be produced that the Indigenous community broadly accepts, the mining community broadly accepts and the pastoral community broadly accepts, in wanting to protect Aboriginal sites in good spirit, which is the basis of this proposed legislation, it is a much better outcome. That is why the government has been prepared to undertake such a comprehensive and time-consuming negotiating process. It is still not quite complete, but I am advised that it is getting there. Certainly, as I have said, it is the government’s intention to complete that process and bring a bill to the parliament as soon as possible.

Senator ALLISON (Victoria) (11.58 a.m.)—I hope the minister was not suggesting that the chamber is meddling in these matters. The provisions within this bill certainly improve the situation for the protection of Indigenous sites. They do not go as far as they should across the board—even if it is not generally agreed—for a range of reasons. There is still deep concern about Indigenous heritage. I asked whether the minister could outline what ‘continuing’ means. Does that mean everyone sitting with the draft bill on their desk or are there meetings taking place? If so, when was the last time the government met with ATSIC on this issue or with other groups who are keen on the bill? It is my understanding that Indigenous groups were happy with the bill as it
was last drafted. So before we decide on this amendment it would be useful for us to know where that debate is at and what further consultation the minister expects to take place before we see that legislation back in the Senate.

Senator HILL (South Australia—Minister for Defence) (12.00 p.m.)—I do not think I can properly take it further. It is the responsibility of the minister to conduct these negotiations. I have been assured that they are continuing to take place and that the minister is anxious to complete the process and bring the bill to the parliament as soon as possible. I do not think it is appropriate that he has to account for whom he saw on which particular day and whom he is intending to see next week and so forth. I simply ask Senator Allison to accept that we are very serious in our desires to effectively protect sites. As with this legislation, it is a situation where we have a range of different pieces of state legislation. We are trying to develop consistency and to encourage higher standards, which is the sort of leadership that the Commonwealth wishes to show, certainly from our side of politics. It is a task that has taken a long time, which is in the complex and sensitive nature of these issues, but it is our intention to bring such a bill to the parliament as soon as possible.

Senator HILL (South Australia—Minister for Defence) (12.04 p.m.)—I am a little puzzled by the question. I would have thought that if the sites were listed under the Tasmanian Aboriginal site protection legislation then they would be protected under that legislation. One of the difficulties in this area is that there is another part of the Indigenous community who either are uncomfortable with or believe it inappropriate to identify the location of sites and therefore, if the state is setting rules for forestry activities and is unaware of the location of Aboriginal heritage sites, it is very difficult for it to take those into account. I cannot see that the Commonwealth would have a list of prospective Indigenous sites as referred to by Senator Brown, but if there is a particular Indigenous site that he believes might be characterised as being of national heritage.
significance and which is being affected by the regional forest agreement then we would be prepared to have a look at that. There is always the possibility of a renegotiation of aspects of an agreement with the state where, following the agreement, new information comes to light—and new information relating to Indigenous heritage of significance is always treated very seriously.

Senator BROWN (Tasmania)  (12.06 p.m.)—I would be satisfied if the minister could furnish the Senate with a list of sites in Tasmania that were listed but have been given ministerial exemption for their disturbance and/or destruction by the logging processes since the regional forest agreement came into being. There is no sensitivity about that. If there is an Aboriginal site and it has been disturbed or destroyed by logging, there is no longer a secret about it—certainly the people doing the logging know about it. This comes under the Commonwealth arrangement with the state. I am sure the minister knows about it but, if not, I would like the minister to find out about it and to come back to the chamber with that information.

Senator HILL (South Australia—Minister for Defence)  (12.07 p.m.)—Again I am not quite sure what is being sought. If it is a site that is listed under the Tasmanian legislation then I do not see how a Commonwealth ministerial authority would apply. If it has been listed under the Commonwealth legislation—for example, it is on the Register of the National Estate—then those issues were addressed at the time of the signing of the RFA, and advice of the Australian Heritage Commission was taken into account in the signing of that agreement. That was our obligation under section 30 of the existing legislation.

If Senator Brown is referring to an application to list under the Commonwealth legislation post the Tasmanian RFA, that is something that I could explore to see whether there have been either any new sites listed under the Commonwealth legislation or, alternatively, nominations under the Commonwealth legislation since the Tasmanian RFA. I therefore simply ask for some further clarification as to what is being sought. I am not trying to avoid what has been asked of me; I just do not think I can deliver in the terms that he has given.

Senator BROWN (Tasmania)  (12.09 p.m.)—I can clarify: since the regional forest agreement, there has been quite extensive logging activity in Tasmania. As that occurs, on some occasions, the areas are studied to see if they have sites of significance, and sites of significance are discovered. I would think that it would be imperative that the Commonwealth is notified of those sites. This is a Commonwealth agreement which gives the state the responsibility for protecting not only natural but also cultural sites.

I think the system is not working. What I am asking the minister is whether he will find out from the state if there are sites which had been protected under Tasmanian legislation under the terms of the regional forest agreement which have then been removed from protection so that logging could proceed. I ask the minister to establish whether any of those sites were of national significance. In my view, Indigenous heritage is of national significance wherever it is, but the Commonwealth may have a different view on that. I want the minister to establish whether such a process—where sites are found, listed, notified and then authority is given for their destruction—is occurring and what the Commonwealth’s arrangement is for ensuring that national heritage is not being destroyed through this process.

Senator HILL (South Australia—Minister for Defence)  (12.10 p.m.)—I think what I can do is ask of the Tasmanians,
firstly, whether sites have been discovered on land that was to be prospectively harvested and, in each instance, what then occurred— whether there was an exemption given or a listing made—and, secondly, whether sites have been discovered post harvesting and, if so, what has then occurred to endeavour to protect their heritage value. I do not know of the Commonwealth having been advised of any of that information.

**Senator BROWN (Tasmania) (12.11 p.m.)**—I thank the minister for that, because that is exactly what I do want to point out. I must tell you that I have just recently become aware that this process might be happening, and I am sure that the minister would be as concerned as I am. I think there needs to be a relationship whereby the Commonwealth is made aware of sites. I am very keen for him to establish whether that process is occurring in Tasmania and, if it needs to be checked, to ensure that sites which do have national significance are not being damaged or disposed of in this way. There is a process in Tasmania where ministerial exemption can be given, but that is not a public process as far as I am aware. Certainly there has not been any publicity about it, but I am very concerned about it. I thank the minister if he will do as he says he intends to do and get some indication of how many sites have been affected if this practice is occurring.

**Senator HILL (South Australia—Minister for Defence) (12.12 p.m.)**—I will do that, and the other thing I will do is check as to whether there have been any applications for protection under the existing Commonwealth Indigenous sites legislation. I do not recall any up until the last election, but I will check as to whether there have been any since then.

Question put:

That the amendment (Senator Allison’s) be agreed to.
These amendments make sure that on commencement of schedule 1 the minister must include all of Australia’s World Heritage properties and their World Heritage values on the National Heritage List. It also requires the minister to determine whether the World Heritage properties contain any other national heritage values that should be included on the National Heritage List.

For some time we have been discussing this matter of World Heritage properties, and it seems to us to be very logical that these sites, which are of World Heritage status and value, should be immediately put on our National Heritage List. The government argues that there are some sites which would not be appropriate to put straight onto the list because there would be further consultation required. The most often cited case is the wet tropics in Queensland, where Indigenous groups would like to see that early listing amended in order to pick up some of the Indigenous values that are not currently on it. We would argue that there is still an opportunity to do that, that if these sites—and there are not that many of them—were to be put immediately on the National Heritage List, given the very extensive assessment process that has already taken place for them, this not only would be a good and important gesture but would indicate that the National Heritage List was just that.

The government also argues that the list already has a very high level of protection, and that is true. But this is about whether or not we have a list which can truly be said to be of national significance and there are no more significant sites than those that are currently on World Heritage. We see no reason why this should not happen. The government argument goes along the lines that there needs to be more work. That is fine: put them on the list, do further work on them, make them a priority and then adjust that assessment as necessary.
I urge the ALP to think about this one. If they vote against this, it is an indication that they do not see great value in World Heritage, that they do not see World Heritage sites in this country as of national significance. I know they are not supporting any of these amendments because it is not their old regime and it is not what they proposed to do with their amendments. However, it seems to me that this, for a whole range of reasons, is a very important thing to do and I strongly urge senators to think carefully about these amendments and support them.

Senator HILL (South Australia—Minister for Defence) (12.25 p.m.)—I will just briefly explain the government’s position. We do not support the amendments, but it is not because we do not wish the World Heritage assets to be listed on the national list. We do believe that the process of assessment should take place and, further, that that can have incidental beneficial outcomes. I pick up the point that Senator Allison mentioned in relation to the Wet Tropics that is not listed on the World Heritage List for its indigenous values, which would be described as cultural values, yet there may well be a strong argument, and I have certainly heard the argument put, that those values are such that it would deserve listing under that heading on the Australian national list. Therefore, we think that it is better an assessment process take place, and that is why we have drafted the bill in the way we have.

Senator LUNDY (Australian Capital Territory) (12.26 p.m.)—It must be extremely humiliating for the Democrats to go through this extended exercise in trying to salvage at least a little of their deal with the government on these bills. I think, on this matter like every other matter, Labor has made it very clear that we do not think these bills are salvageable. I know we are going to be taking an opportunity at some point in hopefully the not-too-distant future to put forward a couple of amendments of our own, but we have made our position clear. We think the crossbenchers had the opportunity to preserve the most important principle and the fundamental issue, and that was the independence. When push comes to shove in all these Democrat amendments that we are now considering—and the amendments that we will consider that have been foreshadowed by Senator Lees—what we are talking about is trying to now make a fundamentally flawed regime a little more accountable by tinkering with it around the edges. Labor is not engaging in the process. We are not supporting the amendments. We do not believe that the accountability regime will be effective once you give the minister the power to make these decisions.

Senator BROWN (Tasmania) (12.28 p.m.)—The problem there is that Labor has got its amendments coming down the line—the same as the Greens do. We do not know what the outcome is going to be in the vote at the end of today. It is going to be close. Anybody who has looked at some of the earlier amendments and the way the vote went there would know that. I think we are caught in the position where, yes, we do have flawed legislation—it is seriously flawed—but it is heading for potential enactment and, under those circumstances, we certainly have to do what we can to influence the quality of the legislation, to bring it from one out of 10 to two out of 10 if we can.

When it comes to the World Heritage properties, of course they should be listed on a National Heritage List. They are listed, and they should remain so. They should be made as safe as possible. The question is about the ability of this bill to protect anything. Here is a chance for the parliament to establish a baseline list of World Heritage properties to go onto the new National Heritage List, which comes out of the ashes of the burning and destruction of the list that had been
drawn up with the nation’s best expertise over the last 35 years. The parliament has a right to feed into that list. It has the right to establish it. Senator Allison is right: the World Heritage properties in Australia obviously qualify for the National Heritage List. As has been said so often, they are the cream of the cultural and natural heritage properties of this nation and from around the world. I agree with Senator Allison that Labor should support the amendments. Certainly the Greens will be.

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

The committee divided. [12.34 p.m.]
(The Temporary Chairman—Senator L.J. Kirk)

Ayes…………… 10
Noes…………… 38
Majority……… 28

AYES

NOES

Question negatived.

Senator ALLISON (Victoria) (12.38 p.m.)—by leave—I move Democrat amendments (1) to (40) on sheet 3045:

(1) Schedule 1, item 31, page 22 (line 26), after “and”, insert “may”.

(2) Schedule 1, item 31, page 27 (after line 6), after subsection 324G(3), insert:

Requirements relating to assessments generally

(3A) Before giving the Minister an assessment under this section whether a place meets any of the National Heritage criteria, the Australian Heritage Council:

(a) must publish, in accordance with the regulations (if any), a notice:

(i) stating that the Council is assessing whether the place meets any of the National Heritage criteria; and

(ii) inviting comments in writing, within a specified period of no less than 20 business days, on whether the place meets any of the National Heritage criteria and whether the place should be included in the National Heritage List; and

(b) must consider, subject to subsection (5), the comments (if any) the Council receives within the period.

The Council must give the Minister a copy of the comments with the assessment.

(3) Schedule 1, item 31, page 27 (line 30), omit the heading to section 324H, substitute:

324H Inviting public comments after assessment

(4) Schedule 1, item 31, page 27 (line 31) to page 28 (line 6), omit subsection 324H(1) (including the note), substitute:

CHAMBER
(1) Within 20 business days of the day on which the Minister receives an assessment from the Australian Heritage Council under section 324G, the Minister may publish a notice inviting comments on whether the place that is the subject of the assessment should be included, or should remain, on the National Heritage List and what heritage values should be included, or should remain, on the National Heritage List for the place.

(5) Schedule 1, item 31, page 28 (lines 7 to 10), omit subsection 324H(2), substitute:

(2) If the Minister receives an assessment from the Australian Heritage Council under section 324G that a place meets one or more of the National Heritage criteria and the Minister proposes:

(a) not to include the place on the National Heritage List; or
(b) to remove the place from the National Heritage List; or
(c) not to include all of the heritage values of the place that the Council is satisfied cause the place to meet the National Heritage criteria on the National Heritage List; or
(d) to remove one or more of the National Heritage values of the place that the Council considers the place has from the National Heritage List,

the Minister must publish a notice under subsection (1).

(6) Schedule 1, item 31, page 28 (lines 11 to 17), omit subsection 324H(3), substitute:

(3) The notice must:

(a) include a statement setting out the details of the decision the Minister proposes to make under section 324J and the reasons for the proposed decision; and
(b) state that comments are to be given to the Minister within:

(i) 40 business days after the notice is published; or
(ii) if the place is included in the National Heritage List under section 324F (emergency listing)—20 business days after the notice is published.

(7) Schedule 1, item 31, page 28 (lines 22 to 26), omit subsection 324H(5), substitute:

(5) On the first day on which the Minister publishes the notice under subsection (1), the Minister must publish, in accordance with the regulations (if any):

(a) the assessment given to the Minister under section 324G for the place; and
(b) a summary of the documents (if any) given to the Minister by the Australian Heritage Council under subsection 324G(3A) or (4) with the assessment.

(8) Schedule 1, item 31, page 28 (after line 26), at the end of section 324H, add:

(6) To avoid doubt, if the Minister receives an assessment from the Australian Heritage Council under section 324G that a place meets one or more of the National Heritage criteria, the Minister must not make a decision under section 324J to do any of the things outlined in subsections (2)(a)-(d) unless the Minister has complied with the requirements in this section.

(9) Schedule 1, item 31, page 28 (line 29) to page 29 (line 9), omit subsections 324J(1) and (2), substitute:

(1) After receiving from the Australian Heritage Council an assessment under section 324G whether a place, except one that is or includes a place included in the National Heritage List under section 324F (whether before, on or after receipt of the assessment), meets any of the National Heritage criteria, the Minister must:
(a) by instrument published in the Gazette, include in the National Heritage List the place and its National Heritage values specified in the instrument; or

(b) decide not to include the place in the National Heritage List.

Note 1: Section 324F is about emergency listing.

Note 2: The Minister may include a place in the National Heritage List only if the Minister is satisfied that the place has one or more National Heritage values (see subsection 324C(2)).

Note 3: Section 324N deals with how additional National Heritage values may be included in the National Heritage List for a National Heritage place.

(2) The Minister must comply with subsection (1):

(a) within 20 business days after the day on which the Minister receives the assessment; or

(b) if the Minister publishes a notice under section 324H in relation to the place—within 60 business days after the end of the period mentioned in subsection 324H(3)(b) for the place.

(10) Schedule 1, item 31, page 29 (lines 29 to 31), omit “Within 15 business days after the end of the period mentioned in subsection 324H(3) for a place included in the National Heritage List under section 324F (emergency listing).”, substitute:

“After receiving from the Australian Heritage Council an assessment under section 324G concerning a place (the listed place) included in the National Heritage List under section 324F."

(11) Schedule 1, item 31, page 29 (line 34), omit “place”, substitute “listed place”.

(12) Schedule 1, item 31, page 30 (line 1), omit “place”, substitute “listed place”.

(13) Schedule 1, item 31, page 30 (line 5), omit “place”, substitute “listed place”.

(14) Schedule 1, item 31, page 30 (line 7), omit “place”, substitute “listed place”.

(15) Schedule 1, item 31, page 30 (lines 18 to 20), omit the note.

(16) Schedule 1, item 31, page 30 (after line 20), after subsection (5), insert:

(5A) The Minister must comply with subsection (5):

(a) within 20 business days after the day on which the Minister receives the assessment; or

(b) if the Minister publishes a notice under section 324H in relation to the place—within 15 business days after the end of the period mentioned in subsection 324H(3)(b) for the place.

(17) Schedule 1, item 31, page 31 (line 12), omit “subsection 324G(4)”, substitute “section 324G”.

(18) Schedule 1, item 31, page 31 (line 14), after “notice”, insert “(if any)”.

(19) Schedule 1, item 31, page 35 (after line 32), before subsection 324R(2)(a)(i), insert:

(ia) publication of the assessment under section 324H; or

(20) Schedule 1, item 31, page 36 (line 4), omit “324J(1) or (5)”, substitute “324J(2) or (5A)”.

(21) Schedule 1, item 32, page 43 (line 16), after “and”, insert “may”.

(22) Schedule 1, item 32, page 47 (after line 33), after subsection 341G(3), insert:

Requirements relating to assessments generally

(3A) Before giving the Minister an assessment under this section whether a place meets any of the Commonwealth Heritage criteria, the Australian Heritage Council:

(a) must publish, in accordance with the regulations (if any), a notice:

(i) stating that the Council is assessing whether the place
meets any of the Commonwealth Heritage criteria; and
(ii) inviting comments in writing, within a specified period of no less than 20 business days, on whether the place meets any of the Commonwealth Heritage criteria and whether the place should be included in the Commonwealth Heritage List; and
(b) must consider, subject to subsection (5), the comments (if any) the Council receives within the period. The Council must give the Minister a copy of the comments with the assessment.

(23) Schedule 1, item 32, page 48 (line 21), omit the heading to section 341H, substitute:
341H Inviting public comments after assessment

(24) Schedule 1, item 32, page 48 (lines 22 to 31), omit subsection 341H(1) (including the note), substitute:
(1) Within 20 business days of the day on which the Minister receives an assessment from the Australian Heritage Council under section 341G, the Minister may publish a notice inviting comments on whether the place that is the subject of the assessment should be included, or should remain, on the Commonwealth Heritage List and what heritage values should be included, or should remain, on the Commonwealth Heritage List for the place.

(25) Schedule 1, item 32, page 48 (lines 32 to 35), omit subsection 341H(2), substitute:
(2) If the Minister receives an assessment from the Australian Heritage Council under section 341G that a place meets one or more of the Commonwealth Heritage criteria and the Minister proposes:
(a) not to include the place on the Commonwealth Heritage List; or
(b) to remove the place from the Commonwealth Heritage List; or
(c) not to include all of the heritage values of the place that the Council is satisfied cause the place to meet the Commonwealth Heritage criteria on the Commonwealth Heritage List; or
(d) to remove one or more of the Commonwealth Heritage values of the place that the Council considers the place has from the Commonwealth Heritage List, the Minister must publish a notice under subsection (1).

(26) Schedule 1, item 32, page 49 (lines 1 to 7), omit subsection 341H(3), substitute:
(3) The notice must:
(a) include a statement setting out the details of the decision the Minister proposes to make under section 341J and the reasons for the proposed decision; and
(b) state that comments are to be given to the Minister within:
(i) 40 business days after the notice is published; or
(ii) if the place is included in the Commonwealth Heritage List under section 341F (emergency listing)—20 business days after the notice is published.

(27) Schedule 1, item 32, page 49 (lines 12 to 17), omit subsection 341H(5), substitute:
(5) On the first day on which the Minister publishes the notice under subsection (1), the Minister must publish, in accordance with the regulations (if any):
(a) the assessment given to the Minister under section 341G for the place; and
(b) a summary of the documents (if any) given to the Minister by the Australian Heritage Council under
subsection 341G(3A) or (4) with the assessment.

(28) Schedule 1, item 32, page 49 (after line 17), at the end of section 341H, add:

(6) To avoid doubt, if the Minister receives an assessment from the Australian Heritage Council under section 341G that a place meets one or more of the Commonwealth Heritage criteria, the Minister must not make a decision under section 324J to do any of the things outlined in subsections (2)(a) to (d) unless the Minister has complied with the requirements in this section.

(29) Schedule 1, item 32, page 49 (line 20) to page 50 (line 5), omit subsections 341J(1) and (2), substitute:

(1) After receiving from the Australian Heritage Council an assessment under section 341G whether a place, except one that is or includes a place included in the Commonwealth Heritage List under section 341F (whether before, on or after receipt of the assessment), meets any of the Commonwealth Heritage criteria, the Minister must:

(a) by instrument published in the Gazette, include in the Commonwealth Heritage List the place and its Commonwealth Heritage values specified in the instrument; or

(b) decide not to include the place in the Commonwealth Heritage List.

Note 1: Section 341F is about emergency listing.

Note 2: The Minister may include a place in the Commonwealth Heritage List only if the Minister is satisfied that the place has one or more Commonwealth Heritage values and the place is either entirely within a Commonwealth area or is outside the Australian jurisdiction and is owned or leased by the Commonwealth or a Commonwealth agency (see subsection 341C(2)).

Note 3: Section 341N deals with how additional Commonwealth Heritage values may be included in the Commonwealth Heritage List for a Commonwealth Heritage place.

(2) The Minister must comply with subsection (1):

(a) within 20 business days after the day on which the Minister receives the assessment; or

(b) if the Minister publishes a notice under section 341H in relation to the place—within 60 business days after the end of the period mentioned in subsection 341H(3)(b) for the place.

(30) Schedule 1, item 32, page 50 (lines 26 to 28), omit “Within 15 business days after the end of the period mentioned in subsection 341H(3) for a place included in the Commonwealth Heritage List under section 341F (emergency listing),”.

“After receiving from the Australian Heritage Council an assessment under section 341G concerning a place (the listed place) included in the Commonwealth Heritage List under section 341F,”.

(31) Schedule 1, item 32, page 50 (line 31), omit “place”, substitute “listed place”.

(32) Schedule 1, item 32, page 50 (line 33), omit “place”, substitute “listed place”.

(33) Schedule 1, item 32, page 51 (line 1), omit “place”, substitute “listed place”.

(34) Schedule 1, item 32, page 51 (line 3), omit “place”, substitute “listed place”.

(35) Schedule 1, item 32, page 51 (lines 16 to 18), omit the note.

(36) Schedule 1, item 32, page 51 (after line 18), after subsection 341J(5), insert:

(5A) The Minister must comply with subsection (5):
(a) within 20 business days after the
day on which the Minister receives
the assessment; or
(b) if the Minister publishes a notice
under section 341H in relation to the
place—within 15 business days after
the end of the period mentioned in
subsection 341H(3)(b) for the place.

(37) Schedule 1, item 32, page 52 (line 11), omit
“subsection 341G(4)”, substitute “section
341G”.

(38) Schedule 1, item 32, page 52 (line 13), after
“notice”, insert “(if any)”.

(39) Schedule 1, item 32, page 57 (after line 15),
before subparagraph 341R(2)(a)(i), insert:

(ia) publication of the assessment
under section 341H; or

(40) Schedule 1, item 32, page 57 (line 21), omit
“341J(1) or (5)”, substitute “341J(2) or
(5A)”.

This is perhaps the most important part of
this debate. It concerns the way in which
sites are listed, the powers of the minister
and whether or not sites are listed for their
heritage value or for some other purpose.
These amendments set out the procedure for
the inclusion of places and heritage values on
the National and Commonwealth Heritage
lists. In short, the standard process for both
lists under our amendments is as follows.

Anyone can make a nomination. The minis-
ter refers the nomination to the AHC for as-
sessment of whether the place has any na-
tional or Commonwealth heritage values; in
other words, whether it meets any of the list-
ing criteria. The AHC carries out its assess-
ment. In making the assessment the AHC
must seek public comments on the nomina-
tion. The AHC then provides its assessment
to the minister. If the AHC finds that the
place has no national or Commonwealth
heritage values, and the minister agrees with
the assessment, then the minister cannot list
the place.

If the AHC finds that the place has one or
more national or Commonwealth heritage
values, the minister has three options: to in-
clude the place and all its national or Com-
monwealth heritage values, to not include the
place on non-heritage grounds, or to include
the place and only some of its national or
Commonwealth heritage values on non-
heritage grounds. If the council finds that a
place has one or more national or Common-
wealth heritage values, and the minister de-
cides not to include the place or one or more
of its relevant heritage values on the National
or Commonwealth Heritage List—in other
words, makes a decision not to include on
non-heritage grounds—the minister is re-
quired to undertake additional public consul-
tation to give all stakeholders an opportunity
to comment on the non-heritage matters that
purport to justify the exclusion of the place
or heritage values from the list.

In undertaking this additional consulta-
tion, the minister is required to publish a
copy of the AHC’s assessment and the rea-
sons for his or her proposed decision not to
include the place or some of its heritage val-
ues on the National or Commonwealth Heri-
tage List. The minister can undertake addi-
tional public consultation in any of the other
situations and, at the completion of the addi-
tional public consultation process, the minis-
ter must decide whether or not to include the
place and its heritage values on the list. Our
amendments include an equivalent process
for the emergency listing procedure. I will
provide detailed comments on each of our
amendments before completing this part of
the debate.

The minister has, in the earlier part of this
debate, complained about Democrat lack of
willingness to negotiate on this legislation, or
lack of willingness to make our decision or
come to agreement with the government—
whichever way you see this. For us this has
always been one of the most important issues
to get right. From memory, we have put up four different models to the government for how listing might be more accountable—how listing might be truly said to be based more on heritage values and less on political, socioeconomic and other considerations; in other words, to be sure that we have a list that is about heritage values first and foremost. I make no apologies for attempting to do this because, as I said, I regard this as the most important aspect of the bill.

Our first amendment simply amends the outline of the division to note that the minister may undertake additional consultation. It is straightforward. The second amendment requires public consultation during the AHC assessment process. In the present bill the AHC is not required to carry out public consultation when assessing a place; it is only required to notify stakeholders who have a direct interest in the place—that is, owners, occupiers and Indigenous groups. Public consultation is carried out after the AHC has completed its assessment and is only required where the AHC finds that the place has one or more national or Commonwealth heritage values. This amendment requires the council to undertake public consultation when carrying out an assessment, and it must consider the comments received in making the assessment and give a copy of those comments to the minister with that assessment.

Amendments (3) to (8) are also about public consultation. They insert an additional public consultation process where the AHC finds that a place has one or more national heritage values and the minister proposes not to include the place or not to include all of its national heritage values on the list. The minister must then undertake additional consultation, and we think that that is reasonable. The minister must publish reasons for the proposed decision and copies of the AHC assessment. The intention is to ensure that, if the minister proposes not to include a place on the National Heritage List on non-heritage grounds—in other words, the miners do not like or there are socioeconomic reasons against doing it—the reasons are subject to public scrutiny. We think that this is the very least that ought to happen. In other words, we have an assessment which says ‘This has national heritage values’ and we have a recommendation from the council that this site be listed. We think it is important that, if the minister does not want to do so, he or she is required to explain themselves.

Progress reported.

CIVIL AVIATION LEGISLATION AMENDMENT BILL 2003
Second Reading

Debate resumed from 11 August, on motion by Senator Abetz:
That this bill be now read a second time.

Senator O’BRIEN (Tasmania) (12.45 p.m.)—The Civil Aviation Legislation Amendment Bill 2003 before the chamber today amends three separate acts to make various changes to aviation policy. The changes will facilitate the ongoing review of civil aviation regulations and provide for the simplification and the international harmonisation of Australia’s civil aviation regulatory regime. Specifically, the changes will modify the act to amend aircraft maintenance related definitions and terminology. The new definitions of state aircraft and Australian aircraft will align with international law and practice. The bill also makes minor corrections to provisions relating to goods seized as part of an investigation.

The bill amends the Airports Act 1996 to repeal section 192. This change will remove the requirement for, and the application of, ministerial determinations under that act. This goes to airport services that would otherwise be subject to declaration provision
under part IIA of the Trade Practices Act 1974. These determinations are by necessity in general terms and subject to ACCC scrutiny. The Productivity Commission found that this section provides no tangible benefit to stakeholders. There was, therefore, no compelling case to keep the process and it declared all airports subject to the generic access provisions of the Trade Practices Act.

The amendments related to article 83bis agreements are significant. The bill transfers from the Minister for Transport and Regional Services to the Civil Aviation Safety Authority the function to enter into article 83bis agreements with the national airworthiness authorities of other countries. Under the Convention on International Civil Aviation, Chicago 1944, best known as the Chicago Convention, a party state is generally responsible for the safety regulation of aircraft on that state’s register irrespective of where the aircraft is in the world. Some obvious difficulties in administering safety regulations arise when an aircraft registered in one country is operated in another for a substantial period. Article 83bis is a relatively recent addition to the Chicago Convention. It correctly enables the transfer of safety regulatory functions from the state of registration of an aircraft to the state in which the aircraft is to operate. Naturally, this can only occur with the agreement of both states. ICAO considers that such agreements should be made between the relevant national airworthiness authorities as they are administrative instruments of less than treaty status.

Australia ratified article 83bis on 2 December 1994 after amending the Civil Aviation Act by the Transport and Communications Legislation Amendment Bill (No. 2) 1993 to give effect to the convention. This bill ensures that CASA will have the functions to enter into article 83bis agreements on behalf of Australia. Public scrutiny and transparency of the process are ensured because it is a requirement that CASA publish in the Gazette particulars of an article 83bis agreement or an amendment to such an agreement. There will also be detailed administrative and technical provisions concerning the implementation of article 83bis agreements in the regulations.

I want to pick up on a couple of points made in the other place by my colleague the shadow minister Mr Ferguson. Firstly, and in particular, Mr Anderson continues to show more interest in matters other than his portfolio interests and therefore not particularly in the area of his responsibilities. Obviously, he is shortly to leave this parliament but I encourage him in the short time he has left to focus on his day job. He claims to be an expert on Telstra and on water reform but when it comes to his own portfolio you hardly hear from him. You hardly hear any comments from him on aviation but you never hear from him on the shipping industry. You hardly hear any comments from him on his so-called future land transport plan, which, frankly, everyone knows is a shambles. Finally, there are air services amendments from the government to this legislation. My advice from Mr Ferguson is that we will support those amendments to be moved by the government today and we will support the bill as amended.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.50 p.m.)—The Civil Aviation Legislation Amendment Bill 2003 is an omnibus bill which will make amendments to three different acts. It harmonises definitions, terms and concepts used in the acts, it alters the definition of Australian aircraft, it alters the definition of state aircraft and it delegates various functions to the Civil Aviation Safety Authority. It makes minor corrections to provisions, it makes consequential amendments to the Air Navigation Act 1920, it repeals a re-
dundant provision in the Airports Act 1996 and it amends the Air Services Act 1995. There are government amendments which I will speak to in the committee stage of the bill. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.52 p.m.)—I table a supplementary explanatory memorandum and revised supplementary explanatory memorandum relating to the government amendments to be moved to the Civil Aviation Amendment Bill 2003. The memoranda were circulated in the chamber on 25 June 2003. The government amendments will allow Airservices Australia to pursue additional commercial opportunities, both overseas and in Australia, while ensuring that in providing services and facilities Airservices Australia must give priority to air navigation within Australian administered airspace. In doing this, the bill is simply proposing to implement what was always the intention of the Air Services Act 1995. There is no intention or scope in the amendments to change any other aspect of Airservices Australia’s governance or the domestic environment in which it operates. These amendments were foreshadowed in the Main Committee to provide an opportunity for all parties to talk to the issue. They also allow Airservices Australia to provide other services and facilities within Commonwealth constitutional limits. I seek leave to move government amendments (1) and (2) together.

Leave granted.

Senator TROETH—I move:

(1) Clause 2, page 2 (table item 10, column 1), omit “Schedule 3”, substitute “Schedules 3 and 4”.

(2) Page 10 (after line 6), at the end of the bill, add:

Schedule 4—Amendment of the Air Services Act 1995

1 Paragraphs 8(1)(a), (aa) and (b)

Repeal the paragraphs, substitute:

(a) providing services and facilities:

(i) for the purpose of Australia or another country giving effect to the Chicago Convention; or

(ii) for the purpose of Australia or another country giving effect to another international agreement relating to the safety, regularity or efficiency of air navigation; or

(iii) otherwise for purposes relating to the safety, regularity or efficiency of air navigation, whether in or outside Australia;

(b) promoting and fostering civil aviation, whether in or outside Australia;

2 Paragraphs 8(1)(d) and (e)

Repeal the paragraphs, substitute:

(d) carrying out activities to protect the environment from the effects of, and the effects associated with, the operation of:

(i) Commonwealth jurisdiction aircraft, whether in or outside Australia; or

(ii) other aircraft outside Australia;

(e) any functions prescribed by regulations in relation to the effects of, and effects associated with, the operation of:

(i) Commonwealth jurisdiction aircraft, whether in or outside Australia; or

(ii) other aircraft outside Australia;

3 At the end of subsection 8(1)

Add:
(j) providing services and facilities, whether or not related to aviation, for a purpose other than one that is mentioned or implied in any of paragraphs (a) to (i), if doing so:
(i) is within the executive or legislative powers of the Commonwealth; and
(ii) utilises AA’s spare capacity; and
(iii) maintains or improves the technical skills of AA’s employees; and
(iv) does not impede AA’s capacity to perform its other functions.

4 After subsection 8(1)
Insert:

(1A) In paragraphs (1)(a) and (j):
facilities includes equipment.
provide, in relation to facilities, includes build, maintain, operate, license, buy, sell or lease the facilities.
services includes:
(a) air traffic services;
(b) an aeronautical information service;
(c) an aeronautical radio navigation service;
(d) an aeronautical telecommunications service;
(e) rescue and fire fighting services.

5 Subsection 8(3)
After “Subject to”, insert “subsection (5).”.

6 At the end of section 8
Add:
(5) Subject to section 16, in performing its function under paragraph (1)(a), AA must give priority to providing services and facilities in relation to air navigation within Australian-administered airspace.

Senator O’BRIEN (Tasmania) (12.53 p.m.)—I confirm that the opposition will be supporting these amendments on the basis of the explanation that has been given with regard to their intent.

Question agreed to.
Bill, as amended, agreed to.
Bill reported with amendments; report adopted.

Third Reading

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.54 p.m.)—I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

EXPORT CONTROL AMENDMENT BILL 2003

Second Reading
Debate resumed from 11 August, on motion by Senator Abetz:
That this bill be now read a second time.

Senator O’BRIEN (Tasmania) (12.54 p.m.)—The purpose of the Export Control Amendment Bill 2003 is to amend the Export Control Act 1982 to, firstly, redraft part of section 11Q(5) as a consequence of the repeal of section 16 of the act by the Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 and, secondly, amend section 23 to allow certificates issued in relation to goods for export to describe goods that originate from Christmas Island or Cocos Island as goods from those territories.
It is interesting that the Minister for Agriculture, Fisheries and Forestry should introduce a bill that effectively deals with truth in labelling. Australia’s access to international markets is reliant on our reputation as being free from pests and diseases that exist in the rest of the world. Yet under this minister we have seen that reputation eroded.
During the May estimates hearings this year the Australian Quarantine and Inspection Service admitted that drums of Chinese honey have been transiting through Australia for the purpose of relabelling the products as being of Australian origin. They are then reshipped to our markets in the United States. The honey may have been contaminated with chloramphenicol, which AQIS says causes the disease aplastic anaemia in some susceptible individuals. AQIS could not confirm the number of shipments that had transited through Australia. The Senate estimates committee also heard that some international honey has been labelled ‘product of Australia’ and shipped to third countries without even landing on our shores. This honey laundering is occurring on an unknown scale.

According to an AQIS official, agriculture minister Warren Truss had in May this year known about the problem for up to 12 months—that is, in May he had been in possession of information about it for 12 months. The committee heard that, even so, Australia still has no arrangements in place with customers of genuine Australian honey to identify the real product. According to the minister’s department, this is a problem for importing countries. But Labor disagrees. This scam has the potential to do serious damage to the reputation of Australian honey producers.

This honey laundering scam revealed by Labor is not the first such scam. Labor also revealed in July last year that meat from other countries is being sold in the international marketplace under forged Australian health certificates. In response to a question on notice, Mr Truss confirmed that in the 18 months to July 2002 some 233 metric tonnes of meat from unknown sources was sold overseas and passed off as coming from Australia. This illicit trade and the associated risk of disease or chemical contamination to our customers could have cost Australian rural industries billions in lost exports. For example, if a shipment of beef contaminated with mad cow disease were to find its way to the US or Japan under forged documentation, it could cast doubts on the entire system of certifying Australian export meat. That could close those and other markets to Australian products. Thanks to Labor, Mr Truss appears to have addressed the problem of beef export health certificates, but we will of course be keeping an eye on this matter continually. Mr Truss is yet to act on ensuring the integrity of export honey marked ‘product of Australia’, and every day he delays he is damaging the international reputation of not only Australian honey but our entire export certification process for agricultural and food products.

Whilst on the subject of exports and the government’s mismanagement in this area, I must point out the plight of the Tasmanian apple industry. I have had a number of representations from Mr Gary Groombridge talking about the difficulties in making a living as an apple producer and the fact that India has real potential as a market for Tasmanian apples. However, the Indian government places heavy import tariffs on our apples. I wrote to Minister Vaile to ask what he had been doing to have these trade restrictive barriers reduced. To his credit, Mr Vaile in his response advised me that he was aware of the problem and had raised the issue with his Indian counterpart during a trip to India in February this year.

I must say that, like the Howard government’s lacklustre efforts on the Japanese beef ‘snapback’ tariff, Mr Vaile’s efforts have clearly been too little and too late, and India maintains its tariff position on the importation of Tasmanian apples. I think Minister Vaile’s efforts in this regard leave a little to be desired, and I will continue on behalf of Tasmanian apple growers to monitor Mr Vaile’s performance on this issue. As I said earlier, market access for our agricultural and
food produce depends on our relative disease-free status and the fact that, when people overseas buy Australian, they know—or at least they did know—what they are getting. The inability of Mr Truss to manage this key part of his portfolio risks billions in export income—income to farmers and income to workers who work in the sector and also in the processed food sector—and risks the jobs of thousands of Australians. As this amendment seeks to preserve trade benefits that arise from Australia’s unique pest and disease status—something that Labor at least takes seriously—we will support this legislation.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.00 p.m.)—I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

Sitting suspended from 1.02 p.m. to 2.00 p.m.

MINISTERIAL ARRANGEMENTS

Senator HILL (South Australia—Minister for Defence) (2.00 p.m.)—by leave—I inform the Senate that Senator Amanda Vanstone, the Minister for Family and Community Services, will be absent from question time today. Senator Vanstone is opening the Halls Creek Rural and Remote Area Services Centre in Western Australia. During Senator Vanstone’s absence, Senator Patterson will take questions relating to Family and Community Services, the Status of Women, and Children and Youth Affairs.

QUESTIONS WITHOUT NOTICE

Research and Development: Policy

Senator GEORGE CAMPBELL (2.01 p.m.)—My question is to Senator Minchin, representing the Minister for Industry, Tourism and Resources. Is the minister aware of a report in the Financial Review last week about industry fears that the R&D tax concession would be cut as a result of a survey on its effectiveness, conducted by AusIndustry? Can the minister tell us who initiated this survey? Does the government have any plans to either restrict access to the R&D tax concession scheme or close down the scheme altogether? Given that the latest OECD figures place Australia’s business expenditure on R&D 17th out of the 29 nations surveyed, will the minister state categorically that this government will not abolish nor seek to restrict access to the R&D tax concession?

Senator MINCHIN—I thank Senator George Campbell for his very timely question. I draw to the Senate’s attention a survey released last week that showed that R&D expenditure by business in this country is now at a record level. It has gone up 13 per cent, to $5.546 billion. Under this government we are seeing the highest expenditure on R&D in the history of this country. It is now higher than it was when the figures were artificially inflated by the rort of syndication in 1995-96. We have the highest number of companies engaged in the R&D tax concession. We have the highest number of people working in R&D that we have ever had in the history of this country. These tremendous results are a consequence of the focus that this government has put on R&D by virtue of the first ever national innovation summit, which it held in 2001, and the release of the biggest ever support package for innovation in this country. Backing Australia’s Ability—a $3 billion commitment to
innovation that included not only a reaffirmation of the government’s commitment to the 125 per cent tax concession but the introduction for the first time ever of a 175 per cent tax concession for additional R&D and a long-term commitment to the R&D Start program of around $160 million of grants for R&D in this country.

This government has a very proud record in assisting business to engage in the critical activity of investing in R&D. We have now seen the fruits of that effort from the figures that I just quoted from the ABS survey released last week, which show record expenditure. Indeed, if there were any concern that business might have, it would be on the issue of the ALP ever getting into government. The ALP have made it quite clear that they will adopt a very antibusiness strategy in everything that they do and that they will fleece business to pay for their unaffordable promises in education and health. They announced last week that, to pay for their education package, they will attack the mining industry and foreign workers who want to work in Australia. It is clear from statements made by the now shadow Treasurer, Mr Latham, that the R&D tax concession will also be in the firing line. The ALP have made it quite clear that they will adopt a very antibusiness strategy in everything that they do and that they will fleece business to pay for their unaffordable promises in education and health. They announced last week that, to pay for their education package, they will attack the mining industry and foreign workers who want to work in Australia. It is clear from statements made by the now shadow Treasurer, Mr Latham, that the R&D tax concession will also be in the firing line. The ALP have made it quite clear that they will adopt a very antibusiness strategy in everything that they do and that they will fleece business to pay for their unaffordable promises in education and health. They announced last week that, to pay for their education package, they will attack the mining industry and foreign workers who want to work in Australia. It is clear from statements made by the now shadow Treasurer, Mr Latham, that the R&D tax concession will also be in the firing line. The ALP have made it quite clear that they will adopt a very antibusiness strategy in everything that they do and that they will fleece business to pay for their unaffordable promises in education and health. They announced last week that, to pay for their education package, they will attack the mining industry and foreign workers who want to work in Australia.

Senator GEORGE CAMPBELL—Mr President, I ask a supplementary question. Given that the minister did not address the substance of the question, why is this government giving companies less than two weeks to complete very detailed surveys at the business end of the tax year reporting period? Is the government hoping to skew the results to justify abolishing the tax concession scheme, which it has effectively crippled over the past seven years?

Senator MINCHIN—Obviously Senator George Campbell did not listen to anything I just said. Of course the government are evaluating the effectiveness of the tax concession. One thing we do is ensure that taxpayers get value for money. We do evaluate our programs, and we are undertaking right now an evaluation of the effectiveness of the R&D tax concession to make sure that it is delivering for Australian business. The independent Australian Bureau of Statistics has already demonstrated in its survey last week that it is delivering for Australian business, with the highest ever R&D investment by business in this country on the back of this government’s fundamental commitment—unlike the Labor Party’s—to our tax concession.

Housing: Affordability

Senator FERRIS (2.07 p.m.)—My question is to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Will the minister inform the Senate how the Howard government’s responsible economic management has assisted Australians in relation to the very important issue of home ownership. Is the minister aware of any alternative policies?

Senator COONAN—I thank Senator Ferris for that question and her ongoing interest in this important issue. This government has a very strong record of achievement in responsible economic management and our policies have delivered extraordinary growth and wealth creation in this country. In fact, household wealth has increased by $1.6 tri-
lion, or around 90 per cent, since the coalition came to power. As everyone knows, a large element of this growth has flowed from the housing sector. One of the biggest impacts on the demand for housing has been the record low interest rates that Australians have enjoyed under this government. We now have standard variable mortgage rates at 6.55 per cent, down from 10.5 per cent under the Labor government. As of August 2003, the average monthly repayment on a housing loan throughout Australia is $450 lower than it was in the dying days of the previous Labor government. These positive influences have driven the demand for housing, but there are other factors driving the cost of housing.

It is clear beyond argument that the Labor states control the main housing levers, especially in the supply of land and the cost of stamp duty, which is staggering in its magnitude. A recent survey by the Housing Industry Association showed that in Sydney state and local government fees, levies and stamp duty on the average first home contract will total about $85,000, while the GST component will be around $34,000. This reduces to $27,000 once the first home owners grant is added back. In Victoria, state and local government fees and charges are 2.6 times the amount of Commonwealth charges. State government revenue from stamp duties now stands at an extraordinary $8.4 billion. Since 1996, the stamp duty on the average home has hiked from $6,000 to $16,000 in the most populated cities—Sydney and Melbourne—where the first home buyers feel the tax slug most keenly.

I am asked about alternative policies. Typically, the member for Werriwa tends to ramble inanely on these sorts of matters—to simply fill the empty policy void that is Labor’s policy vacuum—and is totally unconvincing in trying to blame the GST for first home unaffordability. This is a real furphy because the GST only applies to new homes, not the massive stock of existing dwellings. The Commonwealth put in place the first home owners grant of $7,000 which is paid to every first home owner, whether they are buying a new or established home. Eighty-five per cent of first home buyers do not buy new homes so they do not even face the GST, yet they still get the grant. While the Labor states control the housing levers, this government has actually instituted an inquiry—the Productivity Commission inquiry. If the Labor Party wants to help in the interim, it should admit where the problem lies—with state Labor governments—and put the pressure on those who can and should be taking steps now to help families and individuals buy their first home.

**Immigration: Sex Industry**

**Senator CROSSIN** (2.11 p.m.)—My question is to Senator Ellison, the Minister for Justice and Customs and the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs. Is the minister aware of a case where information regarding alleged crimes committed against two Thai women in the sex industry was supplied in November 2002 to the Australian Federal Police by DIMIA? Can the minister confirm that the AFP did not pass these statements of serious alleged crimes, including rape, on to the New South Wales Police? Why was the information not conveyed to the state police in this matter, as should have occurred? Can the minister also confirm that the person named in the statement as a people trafficker is still travelling between Bangkok and Sydney? What action have DIMIA and the AFP taken in this case since 2002?

**Senator ELLISON**—I assume that the case Senator Crossin is referring to is a matter concerning two Thai women who I believe are now in Thailand. There has been an
article in relation to this matter. This is the subject of an ongoing investigation by the Australian Federal Police and I am not about to divulge any detail which could prejudice that information. It would be inappropriate for me to do that. There have been extensive operations undertaken by the Australian Federal Police in relation to sex trafficking. We have seen over the last couple of months great progress made in arrests and charges being laid. In this particular instance, the two women returned voluntarily to Thailand. I will check on the matters that Senator Crossin raises and if there is anything I can advise the Senate of without prejudicing the investigation, I will.

Senator CROSSIN—Mr President, I ask a supplementary question. I also asked what action DIMIA had taken in relation to this matter and the minister failed to respond to that section of my question. I would ask him to do so in his answer to my follow-up question. Also, given that the information was supplied by DIMIA to the AFP about these Thai women, what support and protection was provided to them by Australian agencies? Can the minister explain the inaction of the AFP in the case of such complaints and the lack of detail in his question? Are the protocols and practices in place between the state and federal agencies for crimes in the sex industry in complete disarray?

Senator ELLISON—I can confirm that the department of immigration did have knowledge of this matter and brought it to the attention of the AFP who have taken the matter on for investigation. The AFP Bangkok office has sought to contact both women in relation to the giving of evidence. I really do not think I can take it any further than that at this stage; it would be prejudicial to do so. Certainly, these allegations were referred by DIMIA, not by the New South Wales Police, and this matter forms part of an ongoing sensitive investigation.

Australian Labor Party: Centenary House

Senator BRANDIS (2.15 p.m.)—My question is directed to the Special Minister of State, Senator Abetz. Is the minister aware of any press reports detailing a scandalous property deal involving the Australian National Audit Office and the Labor Party? Will the minister confirm whether the report is accurate when it says that Australian taxpayers will pay 177 per cent in excess of market rate in rent this year? Is the minister aware of any corrective action taken by the ANAO to end Labor’s rort of hardworking taxpayers?

Senator ABETZ—I am aware of media reports referring to Labor’s scandalous $36 million rip-off of Australian taxpayers. I can confirm for Senator Brandis that there was a recent segment on Today Tonight and an article in the Daily Telegraph. I happen to have the article with me. Its heading says it all: ‘Property scam’s a nice little earner’. This article is very well researched. So it is with great regret that I confirm to Senator Brandis that taxpayers will be paying the Labor Party 177 per cent above the market rate for Labor’s Centenary House. It is now 10 years since Mr Crean and his Labor colleagues gave us one million unemployed, it is 10 years since they gave us 21 per cent interest rates and it is 10 years since they gave us the Centenary House rort. It is easy to see what was attracting Labor’s attention 10 years ago. Their priority was to set in place this scam, as opposed to dealing with high unemployment and high interest rates. This scam means that taxpayers will pay an extra $3.5 million above market rates this year and a total of $36 million over the life of the lease. As the article rightly states: That $36 million figure is worth remembering the next time you hear a voice from the Labor side squeaking about government costs or misuse of funds.
So when the shadow Treasurer starts talking about fiscal rectitude and Ronnie Biggs, Australians have the right to ask a few questions. For example, if Mr Latham was prepared to break a cabbie’s arm over a few dollars on a taxi fare, is he prepared to break the Labor scam over $36 million on a lease? As the article quite rightly goes on to say:

If that amount had not been committed … to Labor’s coffers, it could have done a lot for health, education and welfare.

But we know that Labor’s social conscience starts and ends with the Labor Party. That is why developing this scam was such a priority for Mr Crean and Labor over assisting the unemployed and those battling with high interest rates. The article goes on to say:

The … special deal guarantees Labor a fixed growth income for a further five years but it should also guarantee—

and I would invite Labor to listen to this—

the party’s leaders ignominy and the contempt of the electorate.

If Labor does not break the lease on Centenary House then I believe that the Australian people will continue to break Labor at the ballot box. Here is an opportunity for Labor, Mr Crean and Mr Latham to show whether they have integrity by committing to an independent valuation of Centenary House and to repay the millions that they have ripped off Australian taxpayers.

**Broadcasting: Terrorist Organisations**

**Senator ROBERT RAY** (2.19 p.m.)—I ask a question of Senator Alston, as Minister for Communications, Information Technology and the Arts. Given that the Australian parliament, with great urgency, has declared Hezbollah a terrorist organisation, why does the government allow Hezbollah’s television station, Al Manar, to broadcast into Australia via subscription provided by TARBS World TV? Is it not a fact that the Al Manar Television network glorifies suicide bombings and constantly demonises the West? What assurances do we have that this network is not recruiting for Hezbollah or, indeed, raising funds? Has the minister received any complaints about the political extremism exhibited by this Hezbollah propaganda machine?

**Senator ALSTON**—I am aware that concerns have been expressed about possible links between Al Manar Television and Radio Broadcasting Services, which is TARBS, and the carriage of Hezbollah. The ABA is currently reviewing the legal implications of the new antiterrorism legislation for matters within its jurisdiction and gathering information on an informal and voluntary basis about the broadcasting. I think Senator Ray’s question suggested that more work would need to be done to ascertain whether it was in the recruitment business and what level of anti-Western propaganda, if that is indeed what it is engaged in, is being propagated. There are, presumably, matters of degree involved in all this.

The government is aware that a number of Arabic language television stations are available on TARBS and on Optus pay television. We are also aware of suggested links between certain stations and Hezbollah. Hezbollah, as Senator Ray pointed out, was recently listed as a terrorist organisation. The government recognises the importance to Australia’s Arabic community of television services that enable them to maintain links to their cultural heritage. There are, for example, 10 Arabic language channels offered by TARBS. The government would, however, be concerned if a service was being used to promote terrorist activities or to incite racial or religious violence. The ABA does have responsibility to ensure that pay TV broadcasters operate within the provisions of the Broadcasting Services Act and the ABA registered industry codes of practice. The codes require that broadcasters will not knowingly broadcast any program which is likely to
incite or perpetuate hatred against, or vilify, any person or group on the basis of ethnicity, nationality, race, gender, sexual preference, age, religion or disability.

The Commonwealth Criminal Code contains antiterrorism offences which may apply to certain proterrorist activities engaged in by broadcasters or programs broadcast. Investigation and prosecution would be a matter for the Australian Federal Police and the Director of Public Prosecutions. So it is a matter of significance. There are sensitivities involved not only in the wider context of enabling people whose primary language might be Arabic but also in general terms of not being overly intrusive. But to the extent that they are engaged in antisocial activities, and ones that might even contravene certain sections of the legislation or the codes of practice, then I am sure the ABA will be taking a very hard look, and we will be awaiting their advice.

Senator ROBERT RAY—Mr President, I ask a supplementary question. Will the ABA, to the minister’s knowledge, be looking at section 102 of the Criminal Code, given that these broadcasts—and I point out that this is the second most popularly subscribed Arabic network in Australia—have on many occasions racially vilified a section of the Australian community or a community around the globe?

Senator ALSTON—Clearly the ABA, the DPP and others should be interested if there is an alleged breach of criminal statute. However, these things are sometimes in the eye of the beholder and it is not a given that, because one person says it is a clear case of racial vilification or incitement to hatred, it would be objectively assessed as being that. You may have followed this closely, I do not know, but at the end of the day hard judgments have to be made. If it is clearly in that category, then we would expect action to be taken.

Indigenous Affairs: Housing

Senator MURRAY (2.24 p.m.)—My question is to Senator Patterson representing Senator Vanstone, the Minister for Family and Community Services. I ask the minister whether she is aware that yesterday, with respect to Indigenous policy, the Prime Minister said:

“We’re forging ahead in partnerships in the areas of health.

Minister, in July I went to Daly River in the Northern Territory with a committee. The clerk of the council at Daly River told us that the average number of occupants per bedroom was 17. Obviously many people are sleeping on the wide verandas as well as in the houses. Can the minister tell the Senate what efforts the government is making to urgently increase housing in Indigenous areas to lessen overcrowding of this sort?

Senator PATTERSON—Housing issues are partly Senator Vanstone’s portfolio and partly Mr Ruddock’s portfolio. As for the part of that portfolio I am representing today, the Commonwealth is providing $91 million annually to states and territories primarily to address Indigenous housing needs in rural and remote areas through the Aboriginal Rental Housing Program, ARHP—a tied program into the Commonwealth-State Housing Agreement. The government is also providing a further $75 million over four years for Indigenous housing and related infrastructure in rural and remote areas, with $40 million for housing administered by FaCS and $35 million for housing related infrastructure administered by ATSIC.

Nine million dollars was allocated over these four years for two projects: the FHBH program, Fixing Houses for Better Health, and the MHBH project, Maintaining Houses for Better Health. There was $0.5 million
allocated in 2001-02, $2.5 million in 2002-03, $3 million in 2003-04 and $3 million in 2004-05. We have all had experience of going out into communities, and you do see different processes in place. Often some of the communities have engaged in developing programs within their communities. I visited one in the Northern Territory where they hired equipment together and they use the equipment to engage in maintaining houses. One other project is where people participate and work with those people who are maintaining the houses and if people do not continue to work in conjunction with them they cease working on a project until people come back. Some of the communities themselves have developed very interesting programs to ensure that there is maintenance of housing. As Minister for Health and Ageing, I am particularly interested in this area because it is very important that we have houses that are maintained as they do have health implications.

The Commonwealth-state housing agreements require states and territories to target Indigenous specific housing funds to rural and remote areas where there are no alternative housing options. A review of the Aboriginal Rental Housing Program is under way to ensure funding allocations reflect the Commonwealth’s policy position regarding targeting of Indigenous specific housing funds to areas of highest need.

Senator MURRAY—Mr President, I ask a supplementary question. In your answer, you did not answer this question: does the minister agree that a statistic of 17 people per bedroom is shocking? Does the minister accept that, to significantly improve the quality of life, educational and health prospects for Indigenous people, a very significant increase in the provision of housing in areas such as Daly River is a prerequisite? According to ATSIC, Minister, there is an estimated $3.5 billion required to meet housing and infrastructure needs. Minister, is Indigenous housing a federal government priority?

Senator PATTERSON—For me to comment on whether 17 people in a house is appropriate is not easy in that people may be choosing to have 17 people living in a house. The issue that we have to address is the provision of as much adequate housing as we possibly can, living within our means. We have a program, as I have outlined, which sees increasing funding for Aboriginal housing. It is also, as I said, a responsibility of Mr Ruddock’s portfolio, and it is also a responsibility of the states and territories. Within the agreements, we have asked them to target Indigenous specific housing funds to rural and remote areas—the sorts of areas you are talking about. Yes, we are doing things and, yes, we are seeing a difference; but it is going to take a long while, as it is in health and all the other areas. I do not know whether Senator Murray is aware of the COAG programs that are running. (Time expired)

Australian Defence Force and Australian Federal Police: Allowances

Senator CHRIS EVANS (2.29 p.m.)—My question is directed to the Minister for Justice and Customs, Senator Ellison. Can the minister confirm that an AFP team member serving in the Solomon Islands receives a total of $166 a day in additional net income to compensate for the hardships and possible dangers they face? Is the minister aware that Defence publicly announced that ADF troops deployed alongside AFP personnel are receiving only an extra $55 net income a day in comparison? Can the minister confirm also that the ATO has issued a class ruling that grants AFP personnel in the Solomons a tax exemption on all income and allowances, yet ADF troops on the same operation have not been granted the same concession? Can the minister explain why AFP personnel are
receiving $166 in net compensation for serving in the Solomons, while ADF troops working alongside them get just $55?

Senator ELLISON—I was aware that Senator Evans’s office had been in touch with mine trying to obtain details in relation to the matter he has raised today. I thought that information had been provided. I will get that to him and also provide it to the Senate.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. In fact, the minister’s office has not been able to provide me with that information. I ask the minister why it was that when I sought a copy of the relevant determination, No. 7 of 2003, I was told to submit a written request to the AFP commissioner citing the reasons why I wanted the document. Why is the government trying to hide the fact that ADF troops are being short-changed by more than $110 a day when compared with the AFP personnel deployed alongside them on the same operation? Why have you not made the AFP determination public? What have you got to hide?

Senator ELLISON—There is nothing to hide whatsoever. It is absolutely normal to ask that requests of this sort be in writing, for obvious reasons—so they can be processed and properly answered. There is nothing wrong with that at all. We have nothing to hide and will provide the detail.

Telecommunications: Services

Senator MURPHY (2.31 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. On 22 February 2002, when announcing the establishment of the Broadband Advisory Group, the minister said:

The time is right for the Government to build on this base to ensure that Australia is a world leader in extracting the greatest economic and social benefits from broadband ...

On 25 June this year the minister announced the advent of the national broadband strategy, with funding of $142.8 million over four years. This funding, according to the statement, is going to not only deliver affordable broadband to Australians but deliver it at a higher bandwidth. Can the minister inform the Senate what the level of this new nationally available bandwidth will be? Can he explain how a meagre $142 million is going to achieve this, when a study for the New South Wales government found that to deliver a broadband network of the type the minister spoke of would cost in the vicinity of $470 million in that state alone?

Senator ALSTON—You have to be careful of the terminology you use. If you are in the Kenneth Davidson school, you take the view that what should be required of Telstra is that it roll the fixed line network out to every household in Australia. He has estimated that to be about $15 billion or $20 billion. I have seen other people—maybe Senator Cherry—say that you should be spending $4 billion or $5 billion on that sort of activity. You do not need to do that at all. In fact, you would be locking yourself into a particular technology that may become obsolete. DSL currently has a capability of one to two megs, but it is generally reduced by sharing—in what is called the retention ratio—and therefore you want to be able to access the most appropriate technology. At the moment, by definition satellite is universally available, it has ubiquitous coverage and usage rates do not vary, because it does not cost anymore to provide it in metropolitan or non-metropolitan areas.

The key difference at the moment is the cost of the equipment. In order to reduce that to reasonable levels and make the cost of satellite subscription roughly equivalent to the cost of similar services in metropolitan areas, our higher bandwidth incentive scheme will provide for one-off subsidies to
carriers on a per capita basis in order to ensure that rural coverage is affordable. At the moment we think with Telstra that about 75 per cent of homes are accessible to DSL. Telstra has just released a new ISDN product, called BigPond ISDN, which will give you 128 kilobits per second, which is double the old ISDN and much higher than your dial-up modem maximum of 56k.

It is a question of what people want. If you happen to have access to a cable network—and there are probably 2½ million homes that do in Melbourne, Sydney and Brisbane—then you will be able to get DSL equivalent rates or higher. Broadband rates will normally be adequate for most people’s purposes. The idea of somehow spending billions of dollars on rolling out a fixed line network is a complete and utter nonsense. Most people may well find that the new ISDN product is sufficient for their purposes, and that would cover 96 per cent of the population. If you get DSL up to 80 per cent of the population, and our bandwidth incentive scheme covers the other 20 per cent, you have basically catered for the entirety of the Australian community. So you do not have to spend those sorts of amounts. I do not know what the New South Wales government’s figure was based on but, as I said, it sounds familiar having looked at the sort of stuff that Davidson peddles.

Senator MURPHY—Mr President, I ask a supplementary question. Can I take it from the minister’s answer that either he believes the existing level of service is adequate, and therefore we are going to waste $142.8 million, or he is just not able to tell me what the government’s proposed bandwidth level for a higher bandwidth is going to be?

Senator ALSTON—We are imposing a licence condition on Telstra to effectively mandate a minimum bit rate of 19.2. That gives you chat, browsing and email. Above and beyond that, it is whatever you want that is appropriate for you in commercial terms. There is no limit, in one sense. If someone comes along with a double cable ratio—

Senator MURPHY—What’s the $142 million for?

Senator ALSTON—I have told you: that is the higher bandwidth incentive scheme. It is part of the Estens product, it is $142 million, and it is designed to provide the remaining 20 per cent who will not have DSL with access—

Opposition senators interjecting—

Senator ALSTON—Perhaps you had better go away and have a good hard look at it. We are happy to explain it in greater detail. It is very much about catering for the remaining 20 per cent who will not have access to DSL who live beyond the cable networks. As a result, you will have the entire population able to access broadband by one platform or another and, primarily, by satellite. That should meet the needs of both business and residential consumers—(Time expired)

Sport: Antidoping

Senator LUNDY (2.37 p.m.)—My question is to Senator Kemp, Minister for the Arts and Sport.

Government senators interjecting—

The PRESIDENT—Order! Senators on my right, come to order!

Senator LUNDY—Does the minister think it appropriate for Shane Warne, who was found to have taken a banned substance, in breach of Cricket Australia’s antidoping policy—and, indeed, the government’s own Tough on Drugs in Sport policy—to now be allowed to participate in testimonial and bona fide charity matches despite being banned from playing cricket until February 2004? Minister, what sort of example is being set for young athletes and, indeed, Australian children if high profile athletes who
have been banned from playing any sport for taking a banned substance are then allowed to participate in sporting events, regardless of their nature? Minister, should Shane Warne be allowed to play during his ban?

Senator KEMP—Thank you, Mr President—and, in particular, thank you to Senator Lundy. It is a rare pleasure to get a question from Senator Lundy. I think this is the second question in one year, which is not a great record for Senator Lundy. Nor does it reflect the importance of the sport portfolio or indeed the arts portfolio—for which Senator Lundy has now become the seventh shadow spokesperson for the Labor Party.

In relation to the Shane Warne issue, let me make a couple of points. The first one is that Australia has led the world, I believe, in its antidoping policy in sport. I believe the record which was established, particularly under Jackie Kelly, the previous minister for sport, and with the assistance of Senator Vanstone, has set the benchmark in world standards in antidoping. In fact, Australian officials have played a very important role in the negotiation and development of the WADA antidoping code.

In relation to the Shane Warne matter, I have asked the Australian Sports Commission and ASDA, as appropriate, to consult with Cricket Australia to ensure that the highest standards in antidoping are maintained. Those consultations are continuing at present, and I would hope that they could be concluded in a comparatively brief period of time. In relation to the standards required of Australian sportsmen and sportswomen, I think the expectations in modern Australia are that sportsmen and sportswomen should set the highest possible standards. They are role models for young Australians, and I think that the expectations of the Australian community are right in this regard. I think that, when we have issues such as those that have been raised recently in the press in relation to doping and other matters, the feelings of the Australian people are that our sports stars should set the highest standards.

Finally, the advice that I have received is that playing in charity games and taking part in practice matches with the national team is contrary to the antidoping code. I would hope that, in a comparatively short period of time, this matter can be resolved in a satisfactory manner and in a manner which maintains the highest standards in antidoping in Australia.

Senator LUNDY—Mr President, I have a supplementary question in light of that pathetic obfuscation by the minister. The Senate and the Australian people are entitled to know whether the sports minister thinks that Shane Warne—or, for that matter, any other athlete in a similar circumstance—should be allowed to play during his ban. Yes or no?

Senator KEMP—one of the problems with Senator Lundy is that she has the supplementary question written down, so she does not listen to the answer. I made it very clear in my statements, Senator Lundy, that I believe that playing in a charity game and taking part in practice with the national team is contrary to the antidoping codes. I believe, Senator Lundy, that those codes should be enforced, and I believe that they will be enforced.

Solomon Islands

Senator BROWN (2.43 p.m.)—My question without notice is to the Minister representing the Minister for Foreign Affairs and is related to the Solomon Islands. In the wake of the arraignment of Harold Keke, I ask the minister two things: first, will the government be moving to protect the interests of the Solomon Islander people from the marauding—in particular, Malaysian—logging companies which have created such economic as well as environmental damage
to that region and the whole of the Solomons? Second, will the government get behind the moves by a wide section of the Solomon Islands community, from the Christian churches to the chamber of commerce and the judiciary, for a truth and reconciliation commission, such as has worked in East Timor and South Africa?

Senator HILL—The purpose of the deployment is primarily to assist the government of the Solomon Islands in restoring law and order. Without that, the Solomon Islands will continue down the path towards being a failed state, with all the consequences that flow from that to the Solomon Islanders. The arrest of Keke so quickly and so effectively is a very significant sign that we and the other Pacific states who are involved in this mission are determined to succeed and determined to assist the Solomon Islanders to achieve that law and order outcome.

It is our view that if serious crimes have been committed then they should be prosecuted. Having said that, as Senator Brown will know, Keke has been arrested on a charge concerning robbery. Obviously, therefore, the Solomon Islands police force believe they have adequate evidence to prosecute that case. But he is also being investigated in relation to a number of alleged serious offences, and whether he gets prosecuted for those no doubt will depend on whether evidence is available that could be brought before a court. Beyond that, whether the Solomon Islanders in relation to less serious offences want some form of truth and reconciliation process I think is really a matter for the Solomon Islanders. We do not seek to dictate to them how to run their country, but we agree with them that, unless major offences are prosecuted, they will not be able to run their country. I think it is really an issue for the future to be worked through by the Solomon Islanders, and if we can constructively assist in that regard we would.

In relation to environmental damage that has been done to the Solomon Islands, that is an unrelated issue except that in some circumstances it has been part of systemic corruption. One of the outcomes we want from this Solomon Islands intervention is to defeat corruption and allow government processes of proper assessment and approval, which would include environmental standards, to take place according to objective standards. So there may well be some incidental benefit in terms of environmental outcomes for the Solomon Islanders that could also flow from the intervention of which we are a part.

Senator BROWN—Mr President, I have a supplementary question. On that latter matter, my understanding is that part of the economic collapse in the Solomons has been the logging industry diverting the economic wellbeing away from the people to the external companies. I ask the minister what is the government’s understanding of the corrupting of the economic outcomes for the Solomon Islanders by the Malaysian companies operating. Secondly, will the minister draw to the Attorney-General’s attention the proposal by the Solomon Islands Christian Association, chaired by the Reverend Archbishop Sir Ellison Pogo, for a truth and reconciliation commission? It is a very well worked document which is the Solomon Islanders’ prescription for a way forward but which the Australian government apparently is not at this stage either understanding or supporting.

Senator HILL—In relation to the second part of the supplementary question, that may well be a view that is being put forward by respected Solomon Islanders and it will therefore become part of a process that will obviously be debated within circles of government within the Solomon Islands and decisions will ultimately be made on it. I think it would be presumptuous of us to tell them whether or not they should have a truth and
reconciliation process. In relation to the economic misdirection, what I have said is that clearly part of this corruption has been contracts where an unfair benefit of the contract has flowed offshore. It is part of the corrupted process that has taken place now for some considerable time. As I said, I hope that out of this rebuilding of institutions in the Solomon Islands that will not occur in the future. *(Time expired)*

**Health Insurance: Mental Illness**

**Senator MARSHALL** *(2.49 p.m.)*—My question is to Senator Patterson, the Minister for Health and Ageing. Is the minister aware that beyondblue, the Mental Health Council of Australia and other mental health expert organisations report that significant numbers of Australians who suffer mental illness have had their applications for private health insurance rejected? Is the minister also aware of reports that Australians who suffer some form of mental illness and have obtained private insurance are having claims for the cost of their treatment denied on the basis that they have a pre-existing condition? What does the minister say to the one in five Australians who suffer mental illness, cannot afford to keep paying rising doctors’ fees and are excluded from private health insurance?

**Senator PATTERSON**—As I indicated before, I will get a full answer to the senator’s question and give it to him as soon as I possibly can.

**Indigenous Affairs: Education**

**Senator RIDGEWAY** *(2.51 p.m.)*—My question is to Senator Alston representing the Minister for Education, Science and Training. Given the government’s policy of practical reconciliation which focuses on improving health, housing and education outcomes, are you aware of the shocking retention rates to year 12 for Indigenous students? Noting the low participation rates of Indigenous students in higher education, is the government prepared to fund the necessary preparatory programs in universities for Indigenous students in years 10 to 12 to address that problem?

**Senator ALSTON**—I am not sure that I can provide Senator Ridgeway with details on that question. I would certainly not be surprised to hear that retention rates for year 12 Indigenous students are lower than the national average and clearly that would be a matter of concern. I will certainly make some inquiries about what practical steps the government is taking or is proposing to take to address those issues and, to the extent that they involve funding of any places, I will obviously make sure that that is covered as well.

**Senator RIDGEWAY**—Mr President, I ask a supplementary question. I thank the minister for his undertaking. Can I also ask the minister to take on board an explanation as to why funding was cut this year to the successful preparatory program for prospec-
tive Indigenous students at the University of New South Wales, which had greatly improved the success, retention and participation rates of Indigenous students in engineering, computer science, medicine, visual and performing arts and so on?

Senator ALSTON—I will certainly take that on board as well. I am not aware of the funding cuts but if what Senator Ridgeway says is right, that there was a targeting of a particular program, then one would have to assume it was taken for good reason. I will certainly make sure that those reasons are explored and discussed with Senator Ridgeway, and if there are any other ways of addressing the problem that are attractive to the government then obviously we would be happy to talk further about them.

Social Welfare: Carer Allowance

Senator DENMAN (2.53 p.m.)—My question is to Senator Patterson, the Minister for Health and Ageing. Is the minister aware that the 70,000 families receiving carer allowance payments, whose payments are currently being reviewed, have also been forced to schedule appointments with their treating doctors to have reports completed? Is the minister aware that the chairman of the North West Tasmania Division of General Practice, Dr Djakic, has given evidence to the Medicare inquiry describing the process as ‘a misuse of manpower, cost-shifting by Centrelink and a rape of Medicare’? Can the minister explain why families and doctors should have to spend considerable time and money participating in a review that is expressly designed to remove family carer allowances?

Senator PATTERSON—These questions more appropriately fall to Senator Vanstone, but since I am representing her today I will answer both of them. Carer allowance obviously is designed to assist those parents who have children who are disabled. When I was on the other side, we had a debate with Senator Richardson about some of these issues—very difficult issues—about assessing eligibility for an allowance, particularly people with a disability. It is very difficult to assess a person: just to call a person by a disease name does not indicate the level of their ability to perform activities of daily living or how they compare with someone who is not disabled.

There are some disorders or medical conditions where it is very clear and very obvious that a person will require ongoing care on a regular basis. There are others where, with age, a child can improve, can develop skills and can learn to cope—as Senator Vanstone said yesterday—with diseases like diabetes. When they are below five or six, it is obvious that they need a carer, but as they get older and can deal with self-injecting, for example, when they have diabetes, they may not necessarily need a carer. It is appropriate to have reviews.

The review was undertaken and—I do not remember the exact figure, I think it was about 40,000—before we were operating on the basis of information from experts: people who assess people in terms of their disability. It was fairly obvious to Senator Vanstone as they went through those reviews, about 40,000 of them, that there were certain conditions for which they were getting a very high rate of acceptance—that is, that people would continue on those benefits. Rather than wait until the whole lot had been reviewed, I think it was very appropriate that Senator Vanstone responded and added those six additional disabilities—phenylketonuria, Down syndrome, et cetera. I cannot remember all six of the conditions. That will actually reduce some of the load which that doctor was talking about.

Honourable senators interjecting—
The PRESIDENT—Order! Shouting across the chamber is disorderly.

Senator Patterson—It is very difficult, often, when you are in a general practice, to understand what else might be happening out there and why the government may be doing something. I will give you an example from when I was out with Senator Newman, when she was Minister for Family and Community Services. We went into what is now, but was not then, a Centrelink office. She said, ‘What are some of the issues that concern you?’ and the people behind the counter said to the minister, ‘We have people coming in here, who are getting a carer allowance, with asthmatic children, basically to get a health care card.’ Some of those people would have been on a carers allowance—with children who were asthmatic—and some of them have self-selected not to continue with a carers allowance. It is about 30 per cent, but I have forgotten the figures. Some people have said, ‘Yes, it is obvious I do not need a carers allowance.’ They have self-selected off the program. Others needed to be reviewed. The doctor, most probably, seeing people coming in, did not necessarily understand the whole overview of the program. I believe Senator Vanstone did the right thing: when we got sufficient data to show that, for some conditions, the majority of people were being assessed as requiring the carer allowance, then we put those items on.

Senator Chris Evans—You mean between Monday and Wednesday?

Senator Patterson—It was an issue she had been addressing. You do not get those sorts of changes overnight; it was an issue she had been addressing as she was looking at that data coming in and, as she said, there is a current review going on of the other items that are not on the automatic list.

Senator Denman—Mr President, I ask a supplementary question. Thank you, Minister. Can you provide figures of how many families, struggling to meet the additional costs of raising children with medical conditions, have failed to return carer allowance treating doctor reports and subsequently lost their payments because of their inability to afford the up-front cost of the government’s imposed process?

Senator Patterson—I do not have those figures on me. I will ask Senator Vanstone to get them to Senator Denman.

Fisheries: Illegal Operators

Senator Colbeck—My question is to Senator Ian Macdonald, the Minister for Fisheries, Forestry and Conservation. Will the minister outline to the Senate the steps that the government has taken to ensure the protection of Australia’s marine resources, environment and sovereignty in the Southern Ocean? Is the minister aware of any alternative policy approaches?

Senator Ian Macdonald—I thank Senator Colbeck for the question as it allows me to report to the Senate the efforts of the Australian Customs and Fisheries patrol boat Southern Supporter, which came across a vessel that was thought to be illegally fishing in the Australian exclusive economic zone around the Australian territories of Heard and McDonald islands. The Southern Supporter came across a vessel, which reportedly identified itself as the Viarsa, a Uruguayan flagged vessel, last Thursday, 7 August. Since then the Southern Supporter has been in hot pursuit of the vessel. The vessel is now some 1,000 kilometres west of the Australian territories in the Southern Ocean, travelling west. The efforts of the Australian Customs officers, the Australian Fisheries officers and the Australian seamen have been absolutely magnificent.

Honourable senators—Hear, hear!
Senator IAN MACDONALD—The chase has gone on through seas that have been as high as sea state 9, which is practically impossible weather for any maritime activity. Currently they are pursuing the vessel through seas of sea state 6 level. The Australian government have called in the Uruguayan ambassador, who has control over the Uruguayan flagged vessel, and have requested the assistance of the Uruguayan government. We have also made representations in Montevideo to the Uruguayan government. That government has been cooperative to a degree, but has refused to ask the vessel to return to an Australian port, as it has been requested to do by the Australian patrol vessel. We have reported this matter to the members of CCAMLR, the Commission for the Conservation of Antarctic Marine Living Resources. All 26 member nations are now aware of the hot pursuit by Australia of this vessel.

Senator Colbeck is a Tasmanian senator, and I know he has a very keen interest in the fisheries management of Australia. He will be pleased to know that the Howard government is committed to stamping out illegal, unregulated and unreported fishing. You will recall that in the budget an amount of $14 million of new money was provided to Customs and Fisheries to enforce Australia’s sovereignty of our territories, to enforce our fisheries management laws and to protect the very special environment of the Southern Ocean. It is in the pursuance of those goals that the Australian vessel has come across this allegedly illegal fishing vessel.

We are determined to leave no stone unturned. Internationally, Australia has a very good reputation for its fight against illegal, unreported and unregulated fishing. We intend to do everything in our power, in conjunction with our allies, to stamp out this illegal trade—a trade that not only affects the Australian legal fishers but also can have an impact on that very special environment. The chase has now gone on for seven days. We will continue, as far as we are able, to bring the chase to a successful conclusion. It will not be easy. There are very difficult circumstances—and I have mentioned the sea states. I again congratulate those involved on the Australian ship. (Time expired)

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Solomon Islands

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.03 p.m.)—Senator Evans asked me a question in relation to determination No. 7 by the Australian Federal Police and the conditions of service of the Australian Federal Police in the Solomon Islands. I table determination No. 7 of 2003 and the document ‘Class Ruling: Income tax: Assessability of income: Australian Federal Police (AFP) and Australian Protective Service (APS) employees deployed to the Solomon Islands’. I have copies for Senator Evans.

ANSWERS TO QUESTIONS ON NOTICE

(Question Nos 1584 and 1585)

Senator CARR (Victoria) (3.04 p.m.)—Pursuant to standing order 74(5), I ask the Minister representing the Minister for Education, Science and Training for an explanation as to why answers have not been provided to questions on notice No. 1584 and No. 1585, which were asked on 26 June 2003.

The PRESIDENT—As the minister is not here, we might have to defer that until Monday.

Senator CARR—I will do that, but I ask the minister to take note of the questions I
have asked. I want answers to those questions.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator LUNDY (Australian Capital Territory) (3.05 p.m.)—I move:

That the Senate take note of all the answers given by ministers to questions without notice asked by opposition senators today.

I would like to turn my attention to the response by the minister for sport in relation to a question I asked about Shane Warne. It took a supplementary question to get the minister to say that he thought that the advice on the Shane Warne circumstance would be that he would not be able to play. But that was not without a major qualification either—that is, taking advice and possibly a review of Cricket Australia’s antidoping policy. This is nothing more than a farcical squib on behalf of the minister because we know that Cricket Australia’s drugs policy is modelled on the Australian Sports Commission’s policy. Given that Cricket Australia thought that their policy covered all matches, by default the minister is saying that the Australian Sports Commission policy somehow needs review. It is quite a debacle when the minister cannot be definitive about his government’s own drugs policy. The answer of course was no, but the minister could not quite bring himself to say that in his response to my question.

It is worth going back through these circumstances to understand what the facts are. In February this year, Shane Warne was given a 12-month ban from playing cricket for testing positive to taking a banned substance. Cricket Australia should be commended for having banned Shane Warne from playing in all cricket matches until February 2004. They believed that this action was in accordance with their antidoping policy. However, following a challenge by the Australian Cricketers Association, it was found that Cricket Australia does not have the ability under its current antidoping policy to ban cricketers from playing in charity matches and testimonials.

This ruling was detrimental to Australia’s credibility in the fight against drugs in sport. Athletes must know that, if they are found to be in breach of antidoping policies, they will attract a ban that is enforceable. This also serves to vindicate naturally talented athletes who excel in their sports without the aid of drugs. However, it has become very obvious that the Howard government is not serious—or, indeed, consistent—in its application of its own Tough on Drugs in Sport policy. If this government were serious, it would act now to ensure that all national sporting organisations are beginning to implement the world antidoping code, to which this government is a signatory—and I do acknowledge the work that has taken place on that code.

The fact is that this government has proven that it is not willing to enforce even its own policy at this most basic level. This has never been demonstrated more clearly than when it was revealed that the sport of cycling had failed to comply with antidoping requirements within the specified time frame, and the Australian Sports Commission and the minister failed to apply any sanction to the sport of cycling. In fact, despite the government rhetoric, it was only at the recent estimates last May that the government and the Australian Sports Commission required national sporting organisations to conform to an antidoping assessment process at all. Prior to that, it did not happen. Even once they had got around to making sports accountable for fighting drugs in sport, those requirements were not enforced. Instead, in the case of cycling, they effectively fulfilled their requirements at their
leisure, and certainly not within the specified time frames.

I think that this government must better support the independent work of the Australian Sports Drug Agency, who are constantly undermined by Sports Commission board member Alan Jones. Because he is the deputy chair of the Sports Commission, it makes it particularly pertinent that the government allows that to occur without providing the reprimand that is so obviously necessary. I do not think that the Howard government is doing enough to support national sporting organisations who are doing the right thing in their implementation and their working towards the World Anti-Doping Association code. I think that the implementation of the code would ensure that athletes in breach of the antidoping policy receive consistent and equitable treatment and that, when they are appropriately banned from participating in any sporting event, that sticks regardless of its nature. As signatories to the WADA code, the coalition must enforce its adoption by all national sporting organisations, to ensure compliance by Athens 2004. I call on the Howard government once again to abide by its Tough on Drugs in Sport policy. It is a policy that Labor, obviously, began with the establishment of ASDA, and it should support those—(Time expired.)

Senator KEMP (Victoria—Minister for the Arts and Sport) (3.10 p.m.)—I rise to respond to some of the points that Senator Lundy made. Senator Lundy has a chronic problem in not listening to answers. I think that that is effectively demonstrated not only by her responses today but also, I must say, by her performance at Senate estimates and elsewhere. Senator Lundy has a peculiar capacity to not actually listen to what people say. In relation to the Shane Warne issue I think that the facts are well known. I am on record—and I continue to go on record—as saying that I believe Australia should main-

tain the highest standards in antidoping policy. I strongly support the work of ASDA and the ASC to ensure that this occurs.

Australia took a lead role in the negotiation of the WADA code. The expertise of Australians was often called on. Senator Lundy, that code will now be implemented. Work is being done to ensure that. There is no government keener than this government to ensure that there is a level playing field throughout the sporting world in relation to the antidoping code. I can assure Senator Lundy and the Senate that the Australian government is pursuing the implementation of this code with vigour, and I believe that we will again show the rest of the world what can be achieved in this country. But, Senator Lundy, it is not adopted overnight; there is a lot of work to be done. That work is in train and will continue. That is the point that I make.

For you to get up, Senator Lundy, and attempt to grandstand on this is a bit of a pity. We would have wanted you to play a more constructive role in sport. I think that Senator Lundy is famed for her sporting policy over the last 12 months. When we asked what Labor’s sporting policy was it seemed that it was, essentially, to drive a four-lane highway through the front yard of the Australian Institute of Sport. Senator Lundy supported that crazy policy of the ACT government, which would have had a very detrimental effect on the Australian Institute of Sport. I criticised her at the time for that. At the end of the day, it was clear that the position that this government adopted was the one that won out, and it protected one of the great jewels in Canberra. One of the things that Senator Lundy must always wear when she is in the sport portfolio is that, when she was needed to support a sensible policy to persuade the ACT government, she was leading the charge supporting a policy which, I believe,
would have had a very serious effect on the Australian Institute of Sport.

Getting back to the case of Shane Warne and the issues in relation to the charity match and the training, as Senator Lundy pointed out, Cricket Australia was very concerned about the charity match and in fact took action. There was a case with an arbitrator and, at that stage of the game, the fact of the matter is that the policy of Cricket Australia was not upheld by the arbitrator. We will see how this develops in the future. But I think it is true that, when you look at what Australians expect, you see that they expect the highest standards in this area. They expect the highest standards, and this government expects the highest standards. That is why, Senator Lundy, a great deal of my work and my time in the portfolio has been to ensure that we work with international organisations to ensure the adoption of a world antidoping code. This government should take great pride in that and, particularly, in the work of the Australians who are involved.

Senator Lundy, the fact is that now we are going to implement the code. That is what the policy is. It is no good for you to stand up and pontificate about this. Your government talked a lot in so many areas but it did not take the required action. This government has taken a real lead, and I pay tribute to Jackie Kelly and Senator Amanda Vanstone for the work that they did before the 2000 Olympic Games and I pay tribute to the people in ASDA and people in the Sports Commission.

**Senator Lundy**—Just make sure they are doing their jobs.

**Senator KEMP**—They take their jobs very seriously, I can assure you. *(Time expired)*

**Senator DENMAN** *(Tasmania)* *(3.15 p.m.)*—I wish to take note of the answer given by the Minister for Health and Ageing today relating to mental illness. One in five Australians suffering from a mental illness cannot afford to keep paying rising doctors fees but are excluded from private health insurance. How is a person suffering from mental illness expected to improve their condition when this government, through its changes to Medicare announced in the budget, will make visiting a doctor more expensive? As the number of doctors who are bulk-billing has continued to drop it becomes even more expensive. Doctors have admitted that, as a result of the government’s Medicare initiatives, they will need to raise their fees to cover their costs.

People with mental illnesses already face barriers to seeking treatment. They often do not want others to know they are psychologically unwell. Also, they fear that the treatments may be worse than their illness and that Medicare systems may not respond appropriately. We also know that men and older people are particularly unlikely to take themselves to a doctor for psychological help. Now they face another barrier—an unnecessary barrier, a mean barrier—and that is the cost of treatment. If you cannot afford to see your doctor it is simple: you just do not go. You do not have a choice. For people needing to have their medication supervised and their condition monitored this can have disastrous and costly effects both for the person, for our health care system and, I also add, for the people caring for them.

A doctor giving evidence to the Senate poverty inquiry in Brisbane said:

The ability of those with mental illness to access a bulk-billing doctor is critical to their long-term wellbeing. Without such access they miss their treatments and become even more marginalised in society.

This is an illness that can be managed yet if it goes without treatment it is likely the person will end up in the acute care section of our public system or killing themselves—as
the statisticians tell us, in 2001, 2,454 people killed themselves and this included 339 young persons between the ages of 15 and 24. The most common mental health problem that leads to suicide is depression. Without access to health care and bulk-billing these numbers will possibly increase.

Being a member of the Senate Community Affairs References Committee inquiring into poverty, I have heard numerous times of the links between mental illness and poverty. In Western Australia we heard how a lady was forced to live for 2½ years on negative $12 a week before food. This was because she paid for her own private health insurance and had to pay for other counselling services on top of that. She said that her private health insurer fought tooth and nail not to provide many of the services she needed because of her condition. In describing how she felt she said there was nobody there for her. To get by she resorted to shoplifting from the supermarkets and baking cakes to sell door to door.

This government has pushed private health insurance. People with mental illnesses who have taken up private insurance despite their ominous financial situation are finding that the very service they are paying for is failing them. Many of the health services they need, such as counselling, their private health insurer will not cover. As the Senate poverty inquiry heard, a severely disturbed individual is very rarely admitted to a private hospital because of the Mental Health Act and the issues of restraint and control. Therefore, for people with a significant mental illness, private health insurance will not guarantee quicker or more suitable health care. The Mental Health Council of Australia and beyondblue, the national depression initiative, have called for an immediate resolution of the discriminatory insurance practices. They have been informed of insurance companies declining insurance policies to people—(Time expired)

Senator SANDY MACDONALD (New South Wales) (3.20 p.m.)—I wish to take note of the answer given by the Minister for Justice and Customs today relating to conditions of service of ADF and AFP personnel in the Solomon Islands. Our personnel are part of the cooperative intervention in the Solomon Islands, which at this time is going very well—let us hope it continues to do that—along with troops from Fiji, Tonga, New Zealand and the PNG. This operational allowance is based on an assessment of the security environment. That applies whether our troops are involved in East Timor, Afghanistan, the war against terror, the build up to the war in Iraq, the multinational interception force, the Iraq war itself or now, of course, the Solomons. In my experience the allowance ranges from $200 per day to what has been assessed as appropriate in this particular ADF exercise, which is $55 per day. It is based on an assessment of the security environment in the Solomons and the tasks and mission that the ADF personnel deployed in the operation will expect to meet. Despite a level of risk, it is a non-warlike declaration of service and that is appropriate for this operation. As a consequence, the conditions of service provided to ADF members for this operation include: the tax-free deployment allowance of $55.50 per day inside the specified area; comprehensive coverage for injury under the Veterans' Entitlements Act and the Safety, Rehabilitation and Compensation Act; and additional recreation leave at a rate of 10 days per annum on a pro rata basis.

I am advised that there is a possibility that their earnings will be tax-free as well, which applies under a general provision of the Income Tax Assessment Act which exempts certain foreign earnings where a member has engaged in foreign employment for a con-
tinuous period of not less than 91 days. There is a fair expectation that some of our ADF people will serve for longer than 91 days. I make the point to the Senate that this provision is not an ADF condition of service. It is something that is very appropriate for those who are risking their lives on our behalf, and it is an additional benefit that they have. In addition, members will continue to receive their normal salary and environmental allowances.

ADF members deployed for six months or more are eligible for the additional following benefits: embarkation and disembarkation leave and travel; removal of dependants to extended family support—and I remember, Mr Deputy President, that when you and I were on the inquiry into conditions of service it came up that it was important for people who are left at home with a young family to have family support, and the ADF extends that to military families and so they should—removal of personal effects to store; and relief for out of country assistance to travel back to Australia.

We take our responsibility to our personnel overseas very seriously. I do not think there is anybody who does not believe that they should be looked after in their absence, that their families should be looked after in their absence and if something untoward might happen to them. The government are going through the review process to improve the range of benefits that might be available to our ADF personnel overseas. We take that very seriously. I think there is bipartisan support for anything that we do for our ADF personnel. It is important because they are on an important mission. All missions are important, but this mission is particularly important.

We have 1,500 ADF personnel in the Solomons. We have a show of force that has been very effective. I think, in bringing the war lords and dissident groups to the table, and certainly in making them cooperative. I am delighted that Harold Keke has seen the light and decided to hand himself in. When I was in the Solomons a short period ago—about six weeks ago—they were very worried about the murderous activities of Harold Keke down on the Weather Coast. It is pleasing to see that he has seen the light and decided to hand himself in. I suspect he would not have done so if it had not been for the show of force of the ADF, along with our allies—Fiji, Tonga, New Zealand and Papua New Guinea have also sent troops to support us. (Time expired)

Senator CROSSIN (Northern Territory) (3.25 p.m.)—I wish to take note of the answer given by the Minister for Justice and Customs today, relating to trafficking in the sex industry. Trafficking in the sex industry is a growing global trade. There have been significant increases in the trafficking of sexual labour, particularly the use of women for the commercial sex industry. At some stage in this country we will realise that crimes against women need to be taken seriously and treated harshly. There has to come a time in this country when we are as tough on the criminal use of women’s sexuality as we are on drugs. If we had a policy that addressed the use of women in the sex industry, particularly in trafficking for the sex industry, which was as tough as our stance on drugs then perhaps some of these women would not find themselves in the situation they are currently in. Until we take it seriously and until we start to deal with these crimes harshly, we still will have a major problem before us.

In my question to Senator Ellison I asked about the trafficking of two Thai women for the sex industry back in November. Apart from him failing to tell us what DIMIA were doing about this or what the Australian Federal Police were doing about this in coopera-
tion with the New South Wales Police, he mentioned that these women had left the country voluntarily. I do not believe for one instant that voluntary departure or willingness to even come to this country in the first place is a reason for not doing something about it. The consent of these women to come to this country—when they do not realise what they are coming to and how their bodies are going to be used—is not a defence of your system or a reason to do nothing about it. The fact that they may well have left their country voluntarily and come here voluntarily does not mean that you simply step back and decide that your current system needs to be defended. It is a system that does very little to catch people involved in trafficking and to protect women who are being used in this way.

There is a conflict between the way the government has failed to deal with trafficking in the sex industry and its current immigration laws. This government has its priorities in immigration laws. We know it is going through this whole juxtaposition of allowing these women who are here illegally to be detained and retained in this country and afforded the protection they need while they are used to give evidence against any traffickers that may or may not have been caught. In this country there has not been one prosecution for this crime. In this day and age, current laws and policies are completely out of step with the internationally agreed standards; in fact, they are well behind and are seriously inadequate to deal with this growing global industry and crime.

We do not have a comprehensive national approach to this. We do not look at a policy that is designed to punish the traffickers and at the same time protect the victims. We have a government that does very little to look after the physical, psychological or social recovery of these women because, pitted against their current immigration policy—which is to remove illegal people from this country as quickly as possible, deport them as quickly as possible—there is a conflict in sending those people back home as this government has done. (Time expired)

Question agreed to.

**COMMITTEES**

Treaties Committee

Report: Government Response

**Senator HILL** (South Australia—Minister for Defence) (3.31 p.m.)—I present the government’s response to the 49th report of the Joint Standing Committee on Treaties, and I seek leave to incorporate the document in *Hansard*.

Leave granted.

*The document read as follows—*

**Government Response to the 49th Report of the Joint Standing Committee on Treaties**

The Government thanks the Committee for the careful consideration given to the Timor Sea Treaty in the hearings and in the Report. In relation to the Committee’s three specific recommendations the Government responds as follows:

(paragraph 4.61) *The Committee supports the Timor Sea Treaty and recommends that binding treaty action be taken.*

The Treaty was brought into force in accordance with Article 25 by an exchange of Notes in Dili on 2 April 2003.

(paragraph 4.62) *The Committee recommends that the Government of Australia use its best endeavours in accordance with the Memorandum of Understanding signed in Dili on 20 May 2002 to conclude the International Unitisation Agreement for the Greater Sunrise fields on or before the date on which the Timor Sea Treaty is ratified and in any event before 31 December 2002 as this would best serve the best interests of both nations.*

The Agreement between the Government of Australia and the Government of the Democratic Republic of Timor-Leste relating to the Unitisation of the Sunrise and Troubadour Fields was signed in Dili on 6 March 2003. Although both Govern-
ments endeavoured to conclude the Agreement by 31 December 2002, they did not succeed in doing so. The National Interest Analysis for the Agreement was tabled on 14 May 2003.

(p. 5.41) The Committee urges the Government of Australia to use its presence on the administrative agencies of the Joint Petroleum Development Area to ensure that occupational health and safety and environmental standards that prevail in the JPDA are equivalent or superior to those applying in Australian jurisdiction.

Australia’s offshore petroleum industry operates under occupational health and safety and environmental regulatory regimes that are among the world’s strictest. It is the Government’s intention that petroleum industry operations in the JPDA should meet those high standards, and it will seek to achieve this through its presence on the administrative agencies within the JPDA.

Senator STOTT DESPOJA (South Australia) (3.31 p.m.)—by leave—I move:

That the Senate take note of the document.

The tabling of this report has occurred quite a long time after the passage of the Timor Sea Treaty legislation. The delay in this response is quite indicative of the way the government has conducted itself throughout the Timor Sea Treaty negotiations. Throughout this process, the Australian Democrats have voiced our concerns regarding the fairness of the treaty and the way in which it was negotiated. It was on the basis of these concerns that we were unable to support the majority report of the Joint Standing Committee on Treaties. Our minority report made several recommendations, one of which was that the treaty be renegotiated in order to address the very serious issues raised by a number of people in their submissions to the committee. But the government in its response that has just been tabled has not even bothered to respond to our recommendations which, we would remind the government, are an official part of the committee’s report. I hope the government will, if need be, table a supplementary response in order to deal with those recommendations. I acknowledge, though, that it may be far too late.

The Democrats believe that it is in Australia’s national interest for East Timor—our newest neighbour—to develop into a strong, prosperous and democratic nation with proper regard for the rule of law. At a time when Australia has just made a very substantial contribution and commitment to assist the Solomon Islands in order to prevent it from becoming a permanently failed state, it is important that we take into account the warnings to the inquiry by the East Timor Institute for Reconstruction Monitoring and Analysis, which said that without economic security and without the ability to rely on the rule of law both within East Timor and internationally, East Timor also faces the serious risk of becoming a ‘failed state’.

It is neither in the interests of East Timor nor Australia for East Timor to maintain its financial dependence on other countries and regress to a situation similar to what we have seen occur in the Solomon Islands. Members of the government have spoken a lot in recent weeks about the importance of Australia providing leadership in our region, which is something the Australian Democrats agree with. In his ministerial statement to the Senate earlier this week, the Minister for Defence said:

If Australia wants security, we need to do all that we can to ensure that our region, our neighbourhood, is stable—that governance is strong and the rule of law is just.

The Democrats could not agree more with that statement by Minister Hill, but the government’s conduct in this instance has not demonstrated leadership and has given us many reasons to doubt the sincerity of its rhetoric. Providing leadership means that Australia must support the structures and principles of the international legal justice
and legal systems, which have been established to promote collective security, the just resolution of disputes and international peace. All of these things are important. In practical terms, this means submitting to the rule of law even where this is contrary to our more immediate or financial interests. For this reason, the Democrats strongly oppose the government’s decision to withdraw from the jurisdiction of the International Court of Justice with respect to the determination of seabed boundaries. This sets a very poor example for East Timor and its people. As one submission put it:

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

Significantly, East Timor was given no prior notification of Australia’s decision to withdraw from the jurisdiction of that court. The national interest analysis expressly stated that this was to prevent any action being commenced against Australia that could not be initiated after the declaration had been made.

Another of the Democrats’ concerns relating to the Timor Sea Treaty is the ongoing uncertainty as to the exact seabed boundary between Australia and East Timor. People remember this as part of the debate on the legislation. While the Democrats do believe that a 90:10 split in favour of East Timor represents a fair allocation of the resources within the joint petroleum development area, the problem is that the boundaries of that area remain in contention. A series of legal opinions have given rise to conflicting interpretations of international law as it applies to the determination of the boundary between Australia and East Timor. These divergent and often equally persuasive opinions illustrate the complexity of the legal principles that apply to the delimitation of seabed boundaries and the unique factual circumstances of this particular case. For these reasons, it may well be necessary for this dispute to be determined by an independent body.

The Democrats’ view is that the seabed boundaries must be determined in accordance with the provisions of the United Nations Convention on the Law of the Sea and any applicable customary law. If Australia and East Timor are unable to reach a fair and just agreement, they should submit to the jurisdiction of the International Court of Justice. By ratifying the treaty and finalising the unitisation agreement before the determination of seabed boundaries, not only is Australia accessing resources that potentially belong to East Timor but also East Timor’s ultimate claim to those disputed areas may be prejudiced.

What we are now left with is a situation in which Australia has no incentive or legal obligation to negotiate with East Timor in an attempt to conclusively determine those seabed boundaries. That was one of the reasons why the East Timorese wanted the ratification of the treaty to proceed independently of the unitisation agreement. While the unitisation agreement provides that almost 80 per cent of the Greater Sunrise oil belongs to Australia, the Timorese argue that under the principles of international law most if not all of Greater Sunrise rightfully belongs to East Timor.

By insisting that the unitisation agreement be finalised prior to the ratification of the treaty, the government forced East Timor to compromise its long-term interests in order
to meet its short-term needs. No-one denies that there were—and still are—very pressing short-term needs. It is hypocritical for the government to, on the one hand, provide aid to East Timor but, on the other, prevent it from accessing resources which arguably belong to it and which would enable it to progress more rapidly towards a situation of financial independence.

As Dr Alkatiri indicated earlier this year, the best way to alleviate poverty in East Timor is to give it an equitable share of the revenues from Timor Sea petroleum developments. The government acted like a bully throughout its negotiations with East Timor and I was embarrassed and ashamed of the way in which our country dealt with this issue, as I know many Australians were. And yet it was not that long ago that I felt proud of the leadership Australia showed when it demonstrated its commitment to human rights and its role in preventing human rights abuses against the East Timorese and assisted East Timor during its transition to independence. Unfortunately, we risk undoing or undermining that good work that we have done in the past.

The Democrats once again urge the government to proceed with negotiations with East Timor for the final delimitation of the seabed boundaries. We urge the government to do so in good faith and in accordance with the relevant principles of international law. And we certainly urge the government to resubmit Australia to the jurisdiction of the International Court of Justice and allow it, if required, to determine the disputes regarding maritime boundaries. We must show leadership with this new neighbour and we must act responsibly in our dealings with it. I acknowledge this belated response from the government to the committee’s report. I do ask the government to respond to the Democrat recommendations as part of its report, although I do acknowledge that it is too late given that the treaty legislation has passed the parliament. But it is not too late for us to ensure that we submit to the ICJ—something we are a part of—and for us to recommit to acting in good faith and acting responsibly with our newest neighbour.

Question agreed to.

DOCUMENTS
Department of the Senate: Travelling Allowances

The DEPUTY PRESIDENT—On behalf of the President, I table documents providing details of travelling allowance payments made by the Department of the Senate to senators and members during the period of 1 January 2003 to 30 June 2003, and travel expenditure for the Department of the Senate during the period of 1 July 2002 to 30 June 2003.

COMMITTEES
Foreign Affairs, Defence and Trade References Committee

Membership

The DEPUTY PRESIDENT—The President has received a letter from a party leader seeking to vary the membership of a committee

Senator PATTERSON (Victoria— Minister for Health and Ageing) (3.42 p.m.)—by leave—I move:

That Senator Hutchins be appointed as a participating member of the Foreign Affairs, Defence and Trade References Committee.

Question agreed to.
WORKPLACE RELATIONS AMENDMENT (COMPLIANCE WITH COURT AND TRIBUNAL ORDERS) BILL 2003
NATIONAL TRANSPORT COMMISSION BILL 2003
NATIONAL TRANSPORT COMMISSION (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 2003

First Reading

Bills received from the House of Representatives.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (3.43 p.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have one of the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator PATTERSON (Victoria—Minister for Health and Ageing) (3.43 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—

WORKPLACE RELATIONS AMENDMENT (COMPLIANCE WITH COURT AND TRIBUNAL ORDERS) BILL 2003

It is necessary for the functioning of the federal workplace relations system that officers and employees of registered organisations abide by the rulings of the system’s institutions. Unfortunately, there have been some instances of blatant disregard for orders of the Australian Industrial Relations Commission and the Federal Court.

Violations of Court and Commission rulings include instances where the Commission has ordered that industrial action cease or not occur and instances where the Federal Court has issued injunctions to enforce orders to stop industrial action. In a number of cases, those disobeying the orders have gone entirely unpunished for their failure to comply.

Failure to punish law breakers encourages law breaking. If such behaviour goes unpunished then it is likely to be repeated.

The Government believes that further enhancements to the legislative framework are required to ensure that the integrity of the system is not undermined by failure to comply with Court and Commission rulings.

The Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill will amend the principal Act to provide more effective sanctions against those who flout the authority of the Australian Industrial Relations Commission and the Federal Court. Whilst non-compliance is concentrated amongst unions and their representatives, the provisions of the bill will also apply to employer organisations and their officials and employees.

The bill will establish duties on officers and employees of registered organisations to comply with orders and directions of the Australian Industrial Relations Commission and the Federal Court. Where those duties are breached, the Minister can seek orders from the Federal Court that financial penalties be imposed. Where Court orders are breached, these new powers do not affect the existing powers of the Court to deal with contraventions of its orders and directions.

Officers and employees of registered organisations who are fined by the Court for failing to comply with Court and Commission orders would generally be disqualified from holding office in registered organisations, under provisions contained in the bill. Registered organisations and their representatives have significant rights and privileges conferred upon them by the Workplace Relations Act, but with those rights come respon-
sibility. Those who neglect their responsibilities by wilfully or recklessly disregarding the authority of the Commission or the Court should not, in most circumstances, retain the privilege of being able to exercise authority as an officer of a registered organisation.

The bill provides flexibility in the application of sanctions. Office holders and prospective office holders found to be in breach of their compliance duties will be able to apply to the Federal Court for leave to hold office. For the purposes of exercising this power the Court would have to consider a number of matters, including the circumstances of the contravention and the nature of the person’s involvement in the contravention. The bill would also safeguard an organisation from financial damage suffered as a result of an officer or employee of that organisation contravening their duties, where the Court is satisfied that the organisation took reasonable steps to prevent the contravention.

The Commonwealth has a duty to the community and the national interest to ensure that its laws are respected and upheld, particularly where this may prevent unlawful industrial action which threatens business performance, international competitiveness, and jobs.

On 19 December 2002, I announced that the Commonwealth would take a much more active role in taking legal action and pursuing penalties against people and organisations that fail to comply with Federal Court or Commission orders in workplace relations matters. The Government will make full use of existing laws to seek penalties where there is compelling evidence that a person or organisation has defied orders and it is in the public interest to take the legal action. The Government will take contempt of court action where Federal Court orders, and in particular orders against industrial action, are defied. The Government will use existing law plus the measures in this bill to seek penalties against parties who fail to comply with return to work orders of the Commission or other orders designed to ensure the effective operation of the workplace relations system.

In appropriate cases, the Government will refer cases of failure to comply with return to work orders of the Commission to the Director of Public Prosecutions for prosecution for ‘contempt of the Commission’. To that end, I foreshadow that I will be introducing legislation to codify section 299 of the Workplace Relations Act so that all conduct that amounts to ‘contempt of the Commission’ is expressly identified. These amendments will also bring the maximum penalties into line with Commonwealth policy for offences of this kind. Complete codification of the offence will provide enhanced certainty and will complement the provisions contained in this bill.

The Government believes that registered organisations and their representatives should act in a responsible manner and respect the rule of law.

The proposed measures will increase confidence in the system. They should also reduce the harm to business, jobs and the economy associated with defiance of the workplace relations law and its guardians.

NATIONAL TRANSPORT COMMISSION BILL 2003

I take pleasure in introducing the National Transport Commission Bill 2003. This bill provides for the establishment of the National Transport Commission.

The establishment of the Commission will be an important step for Australian governments and the transport industry. For the first time, there will be a body with a focus on reforming not just road transport, but also the rail and intermodal transport regulatory environment where a national approach to regulation is warranted. This reform process has the potential to deliver improved efficiency, productivity, safety and environmental performance in the transport industry.

The National Road Transport Commission has played a vital and increasingly successful role in progressing national action on road transport reform over the past decade. The National Road Transport Commission Act 1991 is due to cease in January 2004.

A recent Review of the Act recommended to the Australian Transport Council (which comprises Commonwealth State and Territory Transport Ministers), that a new body with a broader regulatory reform focus should be established. This new body would be able to respond to the needs of an
increasingly integrated freight transport industry. All Heads of Government subsequently agreed to this recommendation.

The new Commission will build on the success of the National Road Transport Commission. The Commission will maintain the momentum of road transport reform, while bringing a much-needed national approach to a number of rail issues, particularly in the safety arena, and to issues involving more that one mode of transport.

A key objective of the reform process, that has been agreed by Transport Ministers, is to create a more cost effective and nationally consistent approach to rail safety regulation, including a more effective application of mutual recognition arrangements and procedures to manage risk factors such as fatigue.

There will also be an increased emphasis on reform maintenance, to ensure that the benefits of reforms are not eroded over time.

Like its predecessor, the Commission will develop national reforms in consultation with the Commonwealth, States and Territories and industry and other stakeholders.

This bill sets out a framework for the operation of the Commission, including its accountability to the Australian Transport Council. An inter-governamental agreement, to be signed by the relevant Commonwealth, State and Territory ministers, is currently being negotiated. The Agreement will spell out the roles and responsibilities of the Commission, the Australian Transport Council and the jurisdictions and, in particular, sets out the framework for approving and implementing reform proposals developed by the Commission. It will also aid in strengthening the cooperative nature of the national transport reform process.

The bill also provides a new legislative mechanism for achieving a uniform or consistent regularity environment across Australia. Under this approach, model transport legislation will be set out in regulations to the proposed National Transport Commission Act. This will enable the States and Territories, and if appropriate the Commonwealth, to either reference or enact the substance of the model legislation in their own laws.

This approach addresses concerns expressed by the States and Territories over the ‘template’ approach which was envisaged under the NRTC process. It also addresses the need for nationally agreed model legislation to be developed so that it can more appropriately mesh with jurisdictional law.


This bill is an adjunct (a cognate bill) to the National Transport Commission Bill 2003.

The National Transport Commission (Consequential Amendments and Transitional Provisions) Bill 2003 has two main objectives.

Firstly, the bill provides for consequential amendments to other Commonwealth acts as a result of the repeal of the National Road Transport Commission Act 1991 and the commencement of the National Transport Commission Act 2003.

Secondly, it puts in place arrangements for a smooth transition from the National Road Transport Commission to the National Transport Commission. These arrangements cover assets and liabilities, and annual reporting requirements.

This bill, together with the National Transport Commission Bill 2003, provides for the establishment of the National Transport Commission—a body to replace the existing National Road Transport Commission. The new statutory body will build on the success of the former Commission by continuing to progress road transport regulatory reforms with an increased emphasis on reform maintenance.

In addition, in response to the needs of an industry operating within an increasingly integrated transport environment, the work of the Commission will also include regulatory reform of rail and intermodal operations. The new Commission, like its predecessor, will facilitate development of national reforms in close consultation with the Commonwealth, States and Territories, industry and other stakeholders.

Debate (on motion by Senator Mackay) adjourned.
Ordered that the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 be listed on the Notice Paper as a separate order of the day.

WORKPLACE RELATIONS AMENDMENT (FAIR TERMINATION) BILL 2002

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Workplace Relations Amendment (Fair Termination) Bill 2002, acquainting the Senate that the House has disagreed to the amendments made by the Senate and requesting the reconsideration of the amendments.

Ordered that consideration of the message in Committee of the Whole be made an order of the day for the next day of sitting.

PARLIAMENTARY DEPARTMENTS: PROPOSED DEPARTMENT OF PARLIAMENTARY SERVICES

The DEPUTY PRESIDENT—A message has been received from the House of Representatives forwarding a resolution agreed to by that House relating to the proposed amalgamation of parliamentary departments. Copies of the resolution have been circulated to senators in the chamber.

MANILDRA GROUP OF COMPANIES

Senator O’BRIEN (Tasmania) (3.46 p.m.)—I move:

That the Senate condemns the Prime Minister (Mr Howard) for his ongoing pattern of deceit in relation to his dealings with the chair of the Manildra Group, Mr Dick Honan, prior to a Cabinet decision that delivers direct financial benefits to that company.

The Prime Minister has a well deserved reputation for dexterity with the truth. Sadly, the ethanol scandal is just the latest in a growing catalogue of incidents in which the Prime Minister has failed to tell the parlia-

ment and the Australian people the whole truth about his conduct. Once again, he has been caught red-handed and once again he has failed to take responsibility for his behaviour. It is the sort of thing that would not become a child, but it is the behaviour we have come to expect from the current Prime Minister.

A number of matters relevant to the Senate’s consideration of this matter are beyond dispute. The first is that on 17, 18 and 19 September last year the Prime Minister told the other place that he did not meet with the Chairman of Manildra, Mr Dick Honan, prior to the government’s announcement of its Manildra-friendly ethanol package on 12 September. We know, through the release of a meeting record obtained under freedom of information, that Mr Howard and Mr Honan did meet on 1 August last year. That was a meeting that obviously Mr Howard wanted to keep secret. It was only revealed when I obtained a small number of heavily censored documents from the Prime Minister’s department under freedom of information.

The record of the meeting shows us that these two men—the Prime Minister and one of the coalition’s biggest donors, Mr Honan—discussed just two matters. One topic of discussion was so sensitive that the Prime Minister’s department has refused to disclose its nature. The second matter was the ethanol industry. What did that discussion include? According to the meeting record, the Prime Minister and Mr Honan discussed:

… the payment of a producer credit to ethanol producers to enable Australian ethanol producers to compete with the cheaper Brazilian product.

A production subsidy and industry protection are exactly what the Prime Minister delivered to Mr Honan and Manildra six weeks after that meeting took place. Over recent days the Prime Minister has run the argument that a reference to competition from
cheaper Brazilian product did not mean they talked about Brazilian imports. We have heard some outrageous distortions of the truth from Mr Howard in the course of his prime ministership, but the suggestion that a reference to competition from Brazilian ethanol did not mean that the two of them talked about ethanol imports defies belief. How does cheaper Brazilian product become a competitive item if it is not imported into this country? One wonders where the Prime Minister’s thinking was. The Prime Minister expects the Australian people to believe that he had a discussion with Mr Honan where, his own minute-taker records, they talked about competition from cheaper Brazilian product but somehow, he suggests, that does not imply the product had to be imported. It defies belief.

We also know that a week before Mr Honan met the Prime Minister his company told two of its customers, Trafigura and Neumann Petroleum, that Manildra could not supply them with ethanol. Mr Honan knew that if Trafigura and Neumann wanted to stay in the fuel ethanol business and could not get a supply from his near monopoly company they would have to go to CSR—which, as I understand it, also had no ethanol available for sale, CSR being the only other local producer of any note—or they would be forced to import ethanol from overseas. Obviously, ethanol from overseas was the only real alternative option. It was this knowledge that Mr Honan carried to his meeting with the Prime Minister and it was this knowledge that they both had when they discussed—and I will quote from the record of the meeting:

… the payment of a producer credit to ethanol producers to enable Australian ethanol producers to compete with the cheaper Brazilian product.

The second matter of relevance to this debate is the failure of the Prime Minister and other senior ministers to disclose full details of their involvement in this ethanol scandal.

The first failure was the Prime Minister’s failure to disclose his meeting with Mr Honan—the meeting that occurred six weeks before the government announced its Manildra-friendly ethanol policy. The second failure is the continuing failure of the Howard government to comply with a Senate order for the production of documents related to ethanol policy, that order falling due on 21 October last year. On 21 October the Manager of Government Business in the Senate, Senator Ian Campbell, told the Senate that the government would comply. He said:

I can indicate that the government intends to comply with the order as soon as possible and fully expects to be in a position to do so shortly. That did not happen. On 12 December last year Senator Ian Campbell gave another commitment to the Senate. He said:

While consideration of the documents is close to conclusion, the government has not been able to provide its final response by the close of business for this, the final sitting day—which is something that I had certainly hoped to achieve since I had given an undertaking to the Senate. I have spoken to the minister tonight about it, and I have actually also spoken to Senator Kerry O’Brien and have given him an undertaking on behalf of the Minister for Industry, Tourism and Resources ...

He went on to say:

The minister is happy for me to commit to tabling those documents out of session by Tuesday. I am confident, dare I say—the Hansard might be quoted back to me next year!—that we will achieve that, and I have said that to Senator O’Brien privately and now on the record.

He was right. On 5 February this year, Senator Ian Campbell told the Senate:

Over the summer recess, the documents have been thoroughly gone through in regard to the normal protocols that apply to tabled documents responding to a Senate return to order.

Later, he went on to say:
The government is seeking to conclude its consideration of these documents and its compliance—albeit very late—to the order of the Senate. My latest advice is that the government will respond as soon as possible. The government has not complied with the return of order. It has not complied with it many months after those statements by the Manager of Government Business in the Senate. He must be sorely embarrassed by it. But why has the government not complied? It is pretty clear—because it has plenty to hide. That is what we have been finding out by pursuing, through the freedom of information process, material which has now become public.

The third matter of relevance to this debate is the failure of the Howard government to release all documents pursuant to my freedom of information application lodged in January this year. Clearly, I was far from convinced that the government had an intention of complying with the orders of the Senate, notwithstanding the assurances of Senator Ian Campbell, he having been put in the position by ministers from the other place that he was promising compliance but being left with egg on his face when they failed to give him the documentation to allow him to do so. The Senate is familiar with the censored record of the meeting recording the details of the Prime Minister’s discussion with Mr Honan on 1 August last year. I have received other documents relating to my request and most of the documents have a common characteristic—lots of blank paper.

The third key failure is the refusal to answer a series of questions that remain on the Notice Paper in relation to ethanol, including questions about the government’s knowledge of the aborted importation of Brazilian ethanol by Manildra’s competitors. If the Prime Minister and other members of the government had any interest in clearing up this matter, they would have done three things. Firstly, they would have released in full the meeting record of 1 August without censorship. Secondly, the government would have complied with the Senate order for the production of documents in full. Thirdly, the government would have answered my questions on notice about the actions of the Prime Minister and other senior ministers in preventing the importation of ethanol by two companies unable to get it any other way.

The final failure of the Prime Minister is his refusal to apologise to the parliament and the Australian people and to correct the misleading answers he gave to the parliament last year about this matter. Labor was unable to hold the Prime Minister to account in the other place because of the government’s refusal to allow the Prime Minister’s behaviour to be referred to the Privileges Committee. In my view, it was an abuse of the executive’s power over the legislature—just one of a series of abuses of the parliament for which this Prime Minister and his government have been responsible. The pattern of deceit noted in the question before the Senate does matter. It matters because the government has taken a policy decision that has delivered to Manildra millions of dollars and will deliver to that company many millions of dollars more.

Manildra exercises a near monopoly position in the Australian fuel ethanol industry. In less than 10 months last year, the government gave Manildra $20,857,998 to do exactly the same thing it did the year before without the subsidy. The only other company to receive a subsidy was CSR. It received $845,182. With more than 96 per cent of the subsidy total paid to Manildra, it is indisputable that the company got a very good deal from the Prime Minister and his government. There are not too many other companies that would knock back import protection with production subsidies of more than $2 million per month.
It seems, however, that Mr Honan is not happy with the deal he has. In June he was threatening to close his Nowra plant because the 1 July regulation regime for ethanol blending was imminent and the government did not propose to agree to mandating ethanol in petrol. Regrettably, it seems that threat has come to pass—at least in respect to part of his operations. On 7 August a letter sent to Manildra staff at the Altona site in Victoria, under the heading ‘Partial closure of the Altona site’, said this:

The Manildra Group has decided to partially close the Altona site. Legislative restrictions have recently been introduced limiting the amount of ethanol which is permitted in domestic fuel. This has had an adverse impact on our ability to sell ethanol, and as a result we are forced to reduce our ethanol production.

It is a matter of profound regret to me and to the Labor Party that, despite the protection regime that the government has put in place and despite the payment of tens of millions of dollars to Manildra, Mr Honan has decided to sack up to 50 members of his workforce. If Mr Honan and the government had agreed to the imposition of a cap many months ago, the impact of the 1 July change to blending would not have had the impact it clearly has. It is very clear, of course, that the regime that has been imposed—that is, a limit of 10 per cent on the blending of ethanol—has been imposed at the behest of the motor vehicle industry, their representative organisations and the ACCC, which suggested that lack of a limit of ethanol in fuel may have amounted to a deception of purchasers of petrol.

I want to turn to another matter, and that is the matter of political donations. The return of $50,000 to Manildra by the ALP, consistent with the party’s donations code of conduct—

Senator O’BRIEN—I understand that Senator Brandis would marvel at the idea of a political party having a code of conduct, as his obviously has none. The donations code of conduct has excited considerable interest. Much less interest has been paid to the Howard government’s record as a recipient of donations from Manildra. According to AEC returns, the Liberal Party has received hundreds of thousands of dollars from Manildra over recent years—hundreds of thousands of dollars. Those donations include a single donation of $10,000 to the Prime Minister’s re-election campaign in Bennelong and $10,000 to Tony Abbott’s campaign in Warringah. I suppose he is smarting after being left dangling by the misrepresentation of the facts with regard to the sackings that he trotted out in question time yesterday, only to be knocked back into his place by the following question from Nicola Roxon.

We have heard from the government a claim that political donations do not buy access. I understand that, since Mr Howard has been Prime Minister, Mr Honan has had almost unfettered access to him, including at least four meetings in Canberra and another three in Sydney. That is the sort of access probably even denied to Mr Sinodinos, his chief of staff. Mr Ross Cameron, the Member for Parramatta, has received a $20,000 donation from Manildra, despite the risk to motorists in Western Sydney from unregulated ethanol blends in petrol. The May budget reveals an extension of the ethanol regime. Since then the acting industry minister, Mr Hockey, has announced tens of millions of dollars more in capital grants. Manildra has also been granted the services of an exclusive facilitator to help it through tough commercial negotiations.

All of this, which I would categorise as bad policy, has sprung from a bad policy-making process—a process shrouded in secrecy that gets more murky as more details
of the Prime Minister’s pattern of deceit are revealed. I think honesty matters in Australian politics, and I regret that the Prime Minister does not agree with that. I regret that those opposite do not seem to care a jot either, especially when small companies like Trafigura and Neumann Petroleum are affected.

The parliament and the people have been let down. Mr Howard met Mr Honan on 1 August last year. An industry assistance scheme, including production credits and import protection, was discussed at that meeting. Mr Howard denied the meeting occurred when answering three questions in parliament over three days in September last year, and he has avoided responsibility for those answers when challenged in the parliament this week. This is a pattern of deceit—a pattern that includes and follows the ‘children overboard’ outrage and the provision of false information to the parliament about Iraq’s alleged uranium imports from Africa.

Mr Howard usually tries to hide behind his staff and his bureaucracy, but in this case he does not have that opportunity. He can hide no more. The Australian people, if one can interpret the commentaries appearing regularly in the media this week, are no longer going to be satisfied with his excuses. It is clear that he has been flushed out. It is clear that there is an acceptance he has not told the truth to the Australian people in this circumstance. This is the pattern of deceit of this Prime Minister that has been revealed and which he will now carry to the next election. In relation to that, this chamber and this parliament should not be satisfied with anything less than compliance with a transparent process, which means this government must provide the documentation that the Senate has asked it to provide by resolution. The resolution of the Senate yesterday to defer the ethanol legislation until that is provided is one example of the insistence of this chamber—

Senator Coonan—It is an absolute disgrace!

Senator O’BRIEN—to get this government to account for an outrageous policy framework that it has put in place, where policy is being set for its mates and not for the Australian people. That is the outrage, Senator Coonan. It is outrageous that you would ask this Senate to carry legislation when you are not prepared to present to the Australian people the detail of the bargaining—(Time expired)

Senator BRANDIS (Queensland) (4.05 p.m.)—When we embark on political careers, one of the things for which we have to prepare ourselves is that we will see things and we will hear things that will astonish us. We will see things and hear things we never expected to see or hear in our lives. But I must say that, of all the astonishing things one hears in the course of a political career, there is nothing more implausible or risible than the sight of the Australian Labor Party in full moralising mode. For the Labor Party to be giving the Howard government, which has set new benchmarks for integrity in Australian public policy, lectures on political honesty is a bizarre sight indeed. To hear Mr Latham, the member for Werriwa, lecturing, as he did in the House of Representatives yesterday, about proper parliamentary standards is remarkable and astonishing.

What we saw from Mr Latham in the House of Representatives yesterday and what we have just heard from Senator O’Brien in the Senate today is the standard Labor Party approach: long on rhetoric, free to make allegations, full of innuendo but short on the facts—because when you pare back to the facts they tell a different story from what is represented by the Australian Labor Party. I am not going to engage in the dishonest
rhetoric we have heard from Senator O’Brien; I am going to confine myself strictly to the facts. The facts are these: on 1 August 2002 there was a meeting between the Prime Minister and Mr Honan, the Managing Director of Manildra. The fact of that meeting has never been denied. The entire case built by the Labor Party is built on sand, because it is based upon an interpretation of answers given by the Prime Minister to three questions in the House of Representatives in September last year, none of which constituted a denial of the meeting on 1 August 2002. I will come back to that.

The picture the Labor Party would like to conjure for you, Mr Acting Deputy President, and for the public in the hope that they might grab a tabloid headline—or even a headline in the Sydney Morning Herald—and create a false impression among readers who do not have time to get to the nitty-gritty of the facts is this: they say there was a secret meeting between the Prime Minister and a big Liberal Party donor in the form of the company Manildra, as a result of which Manildra got a tremendous benefit that was concealed from the Australian public. We virtually heard Senator O’Brien say before—and each of those propositions is wrong.

First of all, there was no secret meeting. The meeting that took place on 1 August was a meeting attended by no fewer than six officers of the Department of the Prime Minister and Cabinet, including an official notetaker. A note was made of the meeting, it was put on the Department of the Prime Minister and Cabinet’s files, and it was that very note which formed the FOI request from the Leader of the Opposition, upon the basis of which this case was sought to be made. So to the allegation that there was a secret meeting: demonstrably wrong.

Secondly, the Labor Party seeks to say that the Prime Minister lied to the House of Representatives in denying there was such a meeting. He never denied that there was such a meeting. He was never asked a question about such a meeting. What he was asked was a series of three questions about what discussions he may have had with Mr Honan from Manildra concerning a shipment of ethanol from Brazil by a rival company of Manildra’s, Trafigura. These are the facts, Mr Acting Deputy President, that Senator O’Brien did not tell you about. The Prime Minister told the House of Representatives that representations had been made at all levels of government on behalf of Manildra—as it was entitled to do—in relation to its interests in ethanol policy. I am quoting from what Mr Howard said in answer to one of those questions:

I would be very surprised, in relation to a matter like this—

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Forshaw and Senator Mackay, you have been talking incessantly since this speaker has been on his feet and I will ask you to desist. I can hear him better when you are quiet. Please proceed, Senator Brandis.

Senator BRANDIS—Thank you, Mr Acting Deputy President. I will start again. The Prime Minister said this in answer to questions from the opposition in September last year—and remember it is the answers to these questions that are the entire case sought to be made against the Prime Minister:

I would be very surprised, in relation to a matter like this, if representations had not been made by all of the interested parties to various levels of the government—in fact, I would be quite amazed.

The questions that the Prime Minister was being asked were questions about a shipment from Brazil ‘Did you,’ went the question, ‘have discussions with Mr Honan about im-
portations by Trafigura from Brazil? And do you know what, Mr Acting Deputy President? The truthful answer to that question was no—because the first the Australian government knew of any shipment by Trafigura, the Manildra competitor, of ethanol from Brazil was at the earliest on 21 August and perhaps as late as 23 August 2002.

So how can it be that at a meeting on 1 August, three or more weeks earlier than the first knowledge by the Australian government of the Trafigura shipment, that could have been discussed between Mr Honan and the Prime Minister? It was not, as the notes taken by the notetakers from PM&C reveal. Yet that is what the Prime Minister was asked in effect. He was asked, ‘Did you have discussions with Mr Honan about this shipment?’ and he said, ‘I had no such discussions.’ And that was true. As the notes taken by PM&C reveal, his denial was true, and it could not have been otherwise, because the meeting took place three weeks before—and this is not a controversial fact—there was any knowledge by any Australian official of the imminence of the Trafigura shipment. So the case sought to be made against the Prime Minister fails at the threshold: no secret meeting, no deception, and the matter that it was alleged was covered up not even known of at the time of the meeting.

Thirdly—this is the next limb of the allegations that are made—Mr Latham in the House of Representatives earlier in the week used the expression ‘crony capitalism’. ‘This is crony capitalism,’ so Mr Latham said. ‘We have the Prime Minister’s mate, on behalf of a Liberal Party donor, meeting secretly with the Prime Minister’—that was wrong—‘to secure a benefit for his company.’

I pause to say that of course there is absolutely nothing wrong with any Australian company or any Australian citizen seeking to influence government policy, seeking to persuade government to a point of view which will be to its financial interest. That is the way our democracy works. There is no shame in that. But what was it that Mr Honan was in fact seeking to achieve? Mr Honan, as Senator O’Brien has correctly pointed out, runs what is far and away the largest Australian ethanol producer. I think its market share is something approaching 96 per cent. So Mr Honan’s company, Manildra, had a very distinct interest in securing a set of policies, as a result of which ethanol admixture to petrol was mandated. It was against Manildra’s interest that ethanol admixture to petrol should be capped.

So what is the outcome of the meeting? On 1 August Mr Honan meets the Prime Minister and then on 12 September the Prime Minister announces the Australian government’s ethanol policy. The first thing Mr Honan wanted—the Prime Minister has said this in the House of Representatives and has not been contradicted by Mr Honan in public debate—was for legislation to mandate an admixture of ethanol to all petroleum. That proposal was rejected. Secondly, what Mr Honan wanted—and this is probably the No. 1 item on his wish list—was that the government not impose a 10 per cent cap or a 10 per cent maximum additive level on ethanol mixed with petroleum. What was the government’s policy response? The government’s policy response was to do the very thing that Mr Honan had beseeched the government not to do—that is, to impose a 10 per cent cap. So, first of all, no compulsory or mandated admixture of ethanol with petroleum, which is what Mr Honan wanted. Secondly, the very thing Mr Honan beseeched the government not to do, that is, impose a 10 per cent cap.

The third thing Mr Honan asked the government to do was to keep ethanol excise free. You could understand why his company, as the near monopolist in the ethanol production industry, would prefer that. But what Mr Honan actually got was a very different sort of outcome.
market in this country, would want to keep ethanol excise free. In the entire history of the Australian Federation since the Commonwealth first started imposing excise duties a century ago there has never been excise chargeable upon ethanol. What was the result of Mr Honan’s representations to government? As a matter of fact, as the Treasurer, Mr Costello, announced in the May budget, the government decided that excise would be introduced on ethanol, to be phased in over a five-year period. So Mr Honan did not have a very good day on 1 August 2002. He had gone in there to lobby for a compulsory or mandated level ofadmixture of ethanol, and the government refused to go along. He had gone in there to beseech the government not to impose a maximum cap on the admixture of ethanol, and the government, when it announced its policy, did the very thing he had beseeched it not to do. Thirdly, for the first time in a century, the government adopted a policy to impose an excise on his product. Not a very good day at the office for poor old Mr Honan.

Fourthly, the Labor Party says, ‘Well, Mr Honan did pretty well nevertheless because he got a production credit which will make his company rich.’ That policy, the policy of fostering a domestic ethanol industry through production credits—

Senator Coonan—it was in the election.

Senator BRANDIS—I know. The policy of fostering a domestic ethanol production industry through production credits and other grants was announced in the Liberal Party’s policy speech for the 2001 election—what lawyers might call ‘past consideration’, Senator Coonan. So the one thing that Mr Honan might have got out of the meeting on 1 August he was going to get anyway, because the one thing all business people in Australia know about the Howard government is that it keeps its promises. He had asked for there to be no cap and he got a cap. He had asked that there be mandated admixture and he was told to get lost. He had asked that there be no excise imposed and for the first time in a century excise was imposed. All he got in the end was something that the government was committed to doing already. The Labor Party never told you any of that, Mr Acting Deputy President, did they? You never let the facts stand in the way of a good story, particularly if you are Mr Latham or if you are Senator O’Brien. Never let the facts stand in the way of a good story. But those are the facts the Labor Party did not tell you about.

So, far from this rather operatic picture of secret, shady meetings as a result of which a major Liberal Party donor comes away with a huge benefit, you have a meeting in the presence of six PM&C note-takers, regularly minuted, as a result of which a lobbyist gets nothing of what he asked for and in fact, not in consequence of but subsequent thereto, the very things that he asked the government not to do the government, for sound policy reasons, decides to do. It doesn’t look very much, does it, Mr Acting Deputy President, like a case of undue influence.

Finally, and this is the last aspect of the story that the Labor Party seeks to conjure for us, is the suggestion of donations to the Liberal Party. Any company in Australia is free to donate, subject to the requirements of the Electoral Act, to a political party, and it has never been in dispute, it has never been a secret, that Manildra is a Liberal Party donor. What was not a matter of public awareness until yesterday was the fact that Manildra is also a Labor Party donor. How embarrassing. Mr Latham and Mr Crean entertained the House of Representatives on two of the four days of the first sitting week back from the recess trying to parlay this story of secret financial influence of Manildra on the Liberal Party; and, lo and behold, they must
have choked on their Weefies this morning when they opened the *Financial Review* and saw a very good story by Jason Koutsoukis, Tony Walker and Laura Tingle under the headline ‘Labor caught in ethanol cash row’. We never heard that in the chronicle of righteous indignation from Mr Crean or Mr Latham in the House of Representatives, though there was a bit of retrospective tidying up in anticipation of what I was going to say by Senator O’Brien a few minutes ago.

What is the story? This is the story, as Jason Koutsoukis and his colleagues reported in this morning’s *Financial Review*. Labor’s national secretary, Geoff Walsh—who I interpolate to say has all of a sudden announced his decision to leave the Labor Party national secretaryship—confirmed to the *Australian Financial Review* last night that he had authorised the return of money from Manildra after what he described as a heated conversation with Manildra chairman Dick Honan last Wednesday. The money was returned by the Australian Labor Party to Manildra—and did I say that the cheque was for $50,000? A tidy sum. The cheque was returned under cover of a letter of 6 August. If the Labor Party was so concerned about taking money from Manildra, why did it take seven weeks from the time the money was received by the Labor Party on 30 June, and banked?

Senator McGauran—And used!

Senator BRANDIS—And used, as Senator McGauran points out, until the Labor Party then decided, ‘We can’t touch Manildra’s money.’ Could it possibly be that, in the meantime, the FOI request for the note of the 1 August 2002 meeting taken by the Department of the Prime Minister and Cabinet, the Honan-Howard meeting, had been returned, so that by 6 August the Labor Party knew that what Mr Crean would do in the first week of the session was have a full-dress parliamentary debate about what a shameful thing it was that the Liberal Party should have financial dealings with Manildra and that the Liberal Party and the Prime Minister himself, as Leader of the Liberal Party, should meet with the chairman of Manildra? What we saw from the Labor Party was an exercise in retrospective outrage.

On 30 June, before the Labor Party thought that it had an issue about Manildra, Mr Walsh wrote this to Mr Honan:

Dear Dick—

all very chummy—

We have received a letter from your company enclosing a donation of $50,000 to the Australian Labor Party.

Your support is appreciated, as it has been in the past.

I interpolate to say that one of the other things that Jason Koutsoukis and Tony Walker reveal in their *Financial Review* article this morning is that this is not the first $50,000 donation the Labor Party has taken from Manildra. Prior to the 2001 federal election, another $50,000 hit the tin. ‘Your support’, the letter goes on, ‘is appreciated, as it has been in the past.’ The Labor Party’s fund raising code is then set out in what is apparently a form letter, but there is no suggestion that the Labor Party has any concern about taking the money. As I said, the money is banked and used.

All of a sudden—out of the blue—on 6 August, when the Labor Party knows that it is going to try to embarrass the Prime Minister on this issue, another letter to Mr Honan:

Dear Dick,

I am writing to return the recent donation from the Manildra Group to the ALP National Secretariat.

... ... ...

While I understand you are a vigorous advocate of your company’s interests, I am sure you also appreciate the Federal Parliamentary Labor Party...
will always pursue issues on the basis of ALP policies and its judgement of the public interest. In all of the circumstances, I believe it would be the best course to return your donation.

It was in the public interest on 30 June to take the money. They were perfectly happy to pocket the money on 30 June, but once they see a cheap political stunt in the offing, once they see that they might have a chance to embarrass the Prime Minister, all of a sudden they get a case of retrospective self-righteousness. Don’t believe them, Mr Acting Deputy President; they are hypocrites.

Senator McLUCAS (Queensland) (4.26 p.m.)—I also rise to condemn the Prime Minister for his favourable treatment of the Manildra Group whilst federal government inaction and policy failure has seen the Queensland sugar industry in continuing crisis. Senator Brandis has made much in his commentary this afternoon of the meeting—I do not know which meeting he is referring to—apparently on 1 August 2002. Senator Brandis has said on a number of occasions in his commentary this afternoon that there were six people at that meeting. The FOI documents that Senator O'Brien has painstakingly retrieved from the department do not show that at all. They show that there were in fact three people at that meeting. I ask Senator Brandis: which meeting are you referring to? Was there another meeting that we have not asked questions about? Which meeting are you referring to? Has the senator in fact been misled by the Prime Minister? Is there another meeting that Mr Honan attended with the Prime Minister that had apparently six people in attendance? Certainly the one that we have some evidence of had only three.

The lobbying efforts of the Manildra Group have done a lot of damage, as we have heard, to the ethanol industry as a whole. Manildra, as we know, had a commercial need to put 20 per cent—and in fact more—of ethanol into fuels and used all possible means to maintain that level in fuel through aggressive lobbying for a no 10 per cent cap for as long as possible. Senator Brandis made much this afternoon of the government agreeing to a 10 per cent cap. But how long did that take? It took ages. And what happened in between was the decimation of the potential ethanol industry, especially in my home state.

The rest of the industry views the close relationship and the secret meetings between Mr Honan and the Prime Minister as having been detrimental to achieving sustainable, long-term policy outcomes. It is clear that the views of Mr Honan and the rest of the ethanol industry are divergent. The ethanol industry would be a lot further along the track had it not been for his influence on the Prime Minister and his government. This has been to the absolute detriment of other major market participants like BP, Caltex and CSR and has put at risk a number of investment proposals, such as the Mossman Mill Multiplex consortium proposal, the CSR Burdekin and Sarina projects and the John Holland proposal to convert the Nambour sugar mill. This government’s policy has failed both the sugar and the ethanol industries.

This afternoon Senator Brandis spoke at length about the policy announcement in the context of the Liberal Party’s election platform in 2001. He was accusing the Labor Party of not letting the facts get in the way of a good story. Let me remind Senator Brandis that that announcement was made in the context of support for the sugar industry and I have got to say it has delivered absolutely nothing to the sugar industry in Queensland, the industry which I take great pride in representing.

The failure is no more evident for the sugar and the ethanol industries than in the
coordination comments considered in cabinet on 10 September 2002, which said that the Treasury was ‘strongly opposed to linking development of the ethanol industry with assistance for the sugar industry’. Treasury said that ‘such development will do nothing to assist sugar farmers and will only raise false hopes’. I am so sad that this government has duped my industry for so long. This is because the problems in the sugar industry are not to do with market access. The cabinet comments went on to confirm what I have long feared: creating an alternative market, they said, for sugar products through interventions in the fuel market ‘will not increase income to sugar farmers’.

Even if ethanol producers were in a position to make major capital investments, which they are now not willing to do given the government’s current policy framework, there is no likelihood that they would pay more than the world price for sugar in buying sugar by-product as ethanol feedstock. There are also lower cost feedstocks for ethanol production including wheat starch and sorghum. It is therefore clear that increasing domestic demand for ethanol will do nothing to alter the world price of sugar and therefore the sugar farmers and the communities that depend on them will be no better off. In fact, even Treasury notes that sugar farmers are already earning a higher price for sugar than what the ethanol industry is willing to pay for sugar.

Finance’s comments in relation to the inclusion of measures relating to ethanol production in the sugar package are scathing. Finance considers that the measures raised for ministers’ consideration will do nothing for the sugar industry. They will duplicate the objectives of the Energy Grants Credit Scheme due in 2003 and offer no quantifiable benefits. They appear poorly targeted, impose significant costs on other Australian industries, especially rural and regional industries, and will potentially result in significant costs to the budget. It is clear even from the outset—September 2002, almost a year ago—that the government received clear and unequivocal advice from the most respected government agencies that this flawed package was doomed to failure.

Yet, subsequent to the Prime Minister’s meetings with Mr Honan, the government has pushed ahead regardless of the fact that the sugar industry needs a comprehensive policy framework within which it can move forward. This package is clearly not it. The package only demonstrates the extent to which the Liberal and National parties are prepared to hold out false hope to the cane farmers of Queensland and their families. Immediately subsequent to the government’s decision regarding the sugar industry package, Canegrowers, the peak body representing some 6,000 Queensland cane growers, expressed serious reservations that the sugar industry assistance package would deliver the outcomes sought by government and industry. The general manager of Canegrowers, Mr Ian Ballantyne, said at the time:

The board expresses extreme disappointment … Grower representatives are gravely concerned … The industry’s immediate future will remain under threat … The viability of entire mills and communities is in jeopardy … Funding in the package is grossly inadequate.

Since then, though, we have seen the future viability of the entire Sunshine Coast industry threatened by the announcement of the closure of the Nambour sugar mill. I cannot emphasise how absolutely devastating the impact of this will be on the region. There was some hope of a John Holland backed project to convert the mill into ethanol production but, given the government’s mishandling in this area, the willingness of the financial markets to invest in ethanol production is understandably highly questionable. The future of this project is in grave doubt
and with it the future of cane farming in that whole mill area.

Cane growing communities all over Queensland are under threat. Their situation, if anything, has worsened considerably in the last 12 months since the cabinet decided to ignore the advice provided by its own key agencies. Cane growers in my home state need leadership and they need it now. Sadly, I have said that sentence in this place for nearly 12 months. They do not need the government’s failure to articulate effective policy on sugar and biofuels and the Prime Minister’s arrogant refusal to admit that he has misled the House, the industry and the people of Australia.

Where has Minister Truss been during all of this? Since September 2002 there has been a lot of dragging of feet in relation to the implementation of elements of the sugar industry reform package. One could be forgiven for thinking that he is buckling under pressure from elements of the Queensland National Party—and let me say there is no unity in the coalition in Queensland over what should be occurring in the sugar industry. Since 1998 the industry has been battling poor seasons, flood, drought, and major pest infestations including orange rust and cane grubs. More than $700 million has been wiped from the industry since 1998. Four bad seasons and unprecedented low world prices have seen cane farmers struggling and many of their associated communities facing economic chaos. The sugar industry is not asking for a handout but they do need a hand-up, and they need it soon. They are asking the federal government for support, recognising that they do need to continuously improve industry performance.

The sugar industry reform package announced almost a year ago contained immediate assistance measures for growers and their families. They included income support measures and interest rate subsidies for replanting. The package also committed government to the establishment of long-term measures which, the government maintained, would assist cane growing districts to deliver on industry restructuring. These included an industry assistance group, regional guidance groups and regional projects assistance.

But we must remember that this package is being funded through a levy on domestic sugar sales—that is, it is being paid for by Australian taxpayers. So it is fair and right that Australian taxpayers should ask the obvious question: what has been delivered to the cane fields of Queensland? What has been delivered to rural towns like Mossman, Innisfail, Ingham, Home Hill and Ayr, in the Burdekin? What industry assistance and long-term support have been delivered to the communities in the Burnett?

I am sorry to report that this whole exercise has only added to the despair of cane growers and cane towns, who are still waiting for their promised support. Prior to the introduction of the package, all of Queensland’s sugar growing regions had already established some sort of strategic industry organisation, board or structure to look at the future of the local districts. Millers and growers in almost every region were already working together to develop more efficient, effective and sustainable ways to grow, harvest, transport and crush cane within their mill areas. In many respects the minister has not announced anything new, and certainly nothing has had any impact to this point in time in the cane fields of Queensland.

Given that those structures were already in place, over which the minister’s package simply added another expensive layer, the implementation process and unlocking of funding that it should have committed at the local community level should have been relatively simple. An interdepartmental
committee was established which included Mr Max Moore-Wilton, who was then at Prime Minister and Cabinet. However, since Mr Moore-Wilton has moved on, the process of reform has languished in the offices of Minister Truss and AFFA. In fact, the framework that was to have been in place and the assessment of the proposals should have been up and running on 1 July. To date, not one cent has been allocated. I have to say that that is an absolute disgrace. This money has been taken from Australian consumers of sugar and is not being delivered for the purposes agreed to.

This package was negotiated with the Queensland government, and a memorandum of understanding was in place nearly 12 months ago. Minister Truss has failed to implement the package, because all of the assistance was conditional upon reform. When political pressure was put on the minister from some members of the National Party in Queensland, he was found wanting in courage. We are seeing levels of spectacular intransigence and incompetence. We are also, in effect, seeing a policy backflip, from a position where reform was demanded to a new, go-slow approach. No wonder cane farmers and the industry in general are confused and cynical. We have a minister and a government which reached a difficult agreement with the Queensland government on reform; yet, because of the lack of will to place the industry on the path towards sustainability, millions of dollars are now not flowing in to the cane growing regions of Queensland. Our industry cannot afford this delay. It is five minutes to midnight for our sugar industry and the towns that are reliant on it for economic activity. On the one hand we see a minister who is stuck in the political mire when it comes to sugar reform; on the other hand we see a Prime Minister delivering what effectively amounts to money for mates at the discount end of the ethanol industry, with nothing for the sugar industry, for which it was touted to be such a saviour.

Labor, by contrast, is taking the crisis facing the sugar industry seriously. Labor’s plan commits immediate support for the industry. It recognises that the sugar industry is vital to Australia and that it is especially important to regional communities in Queensland. Labor will work with industry to secure a long-term sustainable future for farmers and communities in North Queensland. Labor recognises that a commitment is needed from farmers to restructure, to gain further business skills and to deliver better environmental outcomes. But sugar farmers and sugar communities cannot be left to do it all on their own. The industry and Labor expect the Howard government to ensure that sugar has a place in any free trade agreement developed with the United States and in any international or World Trade Organisation negotiations.

I wish to go now to what has happened to the industry in its attempts to develop ethanol in Queensland. The government has a policy to reach 350 megalitres of renewable fuels, which could be ethanol or biodiesel, in the Australian fuel mix by 2010. This would represent two per cent of fuel consumption. CSR produces 60 megalitres of ethanol per annum from molasses at Sarina. Very little of this, as we know, is used in fuel. It is mainly used domestically—it is a very high-quality ethanol—for pharmaceuticals, food additives and industrial applications. Quite a lot of this ethanol is exported to Japan for addition to sake, which I find interesting.

The strategy of developing renewable fuels was progressing reasonably well until November-December of last year, when the rash of publicity, mainly based in Sydney, occurred. This impacted disastrously on consumer confidence with respect to ethanol blends in vehicles. It mainly related to New
South Wales but has had an ongoing effect around Australia. At the same time, BP was undertaking molasses based ethanol blends sourced from CSR at Sarina at a number of its outlets in Queensland. At that time, it was progressing with quite a lot of research and activity but, when consumer confidence dropped as it did, the negative publicity was devastating and BP’s sales dropped off so dramatically that they were forced to suspend the trial.

The results of the trial were initially very positive. They received no complaints, there were no issues and the fuel performed as it should have. From a technical perspective, the trial demonstrated that the fuel additive was good and that it was well received in the community. At the same time, surveys conducted by major fuel companies showed that over 70 per cent of consumers in Sydney and 30 per cent of consumers in Brisbane said they would not use ethanol because of the negative publicity. Caltex are currently running a trial in Cairns and, I understand, BP are as well. They are using the same base sources as BP for their trial, and there has been quite a good level of consumer confidence in the trial. In fact, I am a happy purchaser of E10 in my town. But, given the lack of confidence that has been allowed to develop due to this government’s inability to react to the need for a cap on ethanol, it is hard to say to people—(Time expired)

Senator McGAURAN (Victoria) (4.46 p.m.)—I join in this debate on the government side, rejecting the opposition’s motion moved by Senator O’Brien. It is probably worth repeating his motion to show the opposition’s utter cynicism and how it is devoid of policy. It has only one single approach and that is slur and slander. The motion reads:

That the Senate condemns the Prime Minister (Mr Howard) for his ongoing pattern of deceit in relation to his dealings with the chair of the Manildra Group, Mr Dick Honan, prior to a Cabi-
net decision that delivers direct financial benefits to that company.

The government rejects that hopeless motion that is before the Senate. The measure of the Leader of the Opposition’s utter desperation to register some sort of public notice or dint the credibility of his prime ministerial competitor is for him to dub this ‘ethanolgate’—this overused political tag really sums up the Leader of the Opposition’s and the Labor Party’s desperation to get politically noticed.

Their attack is baseless, exaggerated and opportunistic. It is an opportunistic attack on the Prime Minister’s credibility. They see this now as their only way into government. Forget the policy—we have not heard any. Your only way now, as your tacticians see it, is to make a dint in the Prime Minister’s popularity in the hope Mr Crean’s popularity will lift accordingly. That is how you have summed up the way you are going to get into government. Let us just say the ‘leaders’ of the Labor Party have worked out that is the way they are getting into government. I see a few over on the opposition side of the chamber at the moment, like Senator Forshaw, who know only too well that that is not the way. We realise that he has worked to not make that the way, but he has been overruled. The smarter political tacticians, like Senator Forshaw and perhaps Senator Stephens—ironically, from the New South Wales Right—have worked out that this type of tactic, led by Mr Crean and Mr Latham in the other chamber and in this House by Senator Ray and Senator Faulkner, is not the way to get into government. You have been led down a path that will see Mr Crean’s popularity sink even lower, because the public can see through your ranting and raving, your scorn, your slander and your slur. They will continue to reject you as a credible alternative government until at very least you can lace some of your slander and slur with some credible public policy.
There was, actually, a feeble attempt by Senator McLucas in her address to lace the slander and slur that is bound in this motion with some sort of policy debate. But the mover of this motion, Senator O’Brien, in his address, said nothing to that effect—yet he is a shadow minister, a frontbencher and a leader of the tactics of the opposition. Regrettably, Senators McLucas, Stephens, Forrest and Buckland do not have control of the reins, because I am sure that this would not be their primary tactic at all.

You would have thought that, after a six-week winter break, a leadership challenge within that period and the complete flatlining in the polls not only of your party but of your leader, the strategists in the Labor bunker would have reassessed the whole approach. But you have opened up the first week of the parliament with the same old approach. You have not come in here with some sort of credible plan to rebuild your credibility block by block. It gets harder the longer you are in opposition. Take it from us: we were in opposition for 13 years, and the sooner you start that block-by-block rebuilding of your credibility, the better—well, the sooner you do not start it, the longer you will be in opposition. I do not know why I am offering this sort of advice to you.

If you want some serious advice—and I do not suspect you will take it—there is, perhaps, someone you should take it from in this week’s Bulletin. Laurie Oakes, known to you all, writes a very interesting article which I recommend you all read if you are trying to find a direction for your party. He intelligently compares leadership styles and what sort of style you really do need as an opposition to get into government. I recommend that article to the opposition. Instead, you open this new parliamentary session with personal attacks, personal innuendo and scornful politics. As I say, the public see through it. It is really no surprise that this is your modus operandi, given your leadership and your tacticians in the other House, where you have Mr Crean and Mr Latham, and in this house, where you have Senator Faulkner and Senator Ray. They are simply not goal kickers. Sure, to use an Essendon analogy, every team needs their Solomons.

Senator Coonan—They kick a few own goals, though.

Senator McGauran—Let us just stick to the AFL analogy. Every team needs their Solomons, but they will never win the game for you. You need your Hirds and your Lloyds—you need goal kickers—and you are utterly devoid of goal kickers. If you think Senator O’Brien in his scornful address to the Senate is going to kick a goal for you, you are going to be more than 13 years in opposition—and I can tell you, 13 years can be very cold, because that is how long we spent in opposition.

It is not as though the opposition do not have a policy; they do have a policy. The one policy they have announced is their higher education policy. Why haven’t you made that policy the subject of a general business notice of motion in the Senate? It is not a very good policy and it is not a credible policy, but it is a policy they have announced which shows some differentiation with the policies of the government. Why don’t you bring that into the chamber so we can debate that? Why don’t you put that down as a general business notice of motion? At least you would then have some credibility. We are now going into an election year and the sooner you start to wrestle your tactics away from those who hold the reins at the moment—the scorners—the sooner you will look like a credible alternative government.

I now address more definitely the issue before us. The government have always been open about their policy regarding support for the ethanol industry. Our policy goes back to
the 2001 election, where we announced our comprehensive support—a bit of Keynesianism—for the ethanol industry. That policy document reads:

The Coalition will set an objective that fuel ethanol and biodiesel produced in Australia from renewable sources will contribute at least 350 million litres to the total fuel supply by 2010. Progress towards the objective will be reviewed in 2006 ...

It continues:

To implement the 350 million litre objective, the Coalition will provide, through a grant process from 2002/03, a capital subsidy for new or expanded domestic production infrastructure of $0.16 per litre of biofuel, until total new domestic production capacity reaches 310 million litres or by end-2006/07, whichever is sooner ...

That is a clear statement of support for the industry: a direct government injection of capital and production grants—and that is exactly what we have delivered. Our motivation for the industry package was quite obvious, even to the Labor Party. Firstly, our motivation was environmental—the environmental benefits from producing a green, clean fuel in competition to oil. Secondly, by producing an industry support package, we would support regional development—and this industry rests mostly in regional areas. Consequently, there would be an underlining of the employment already in regional areas through this industry and increased employment. As I say, given that most ethanol plants are situated within rural and regional areas, the National Party fully supported this policy going into the last election. And such support extends not just to the workers at the processing plants but also to the sugar farmers and the wheat farmers. It goes right down to supporting the farm gate and the farm gate prices and the demand for their raw material. By supporting and growing a new industry, you provide greater demand for your farm products. Thirdly, by supporting the ethanol industry as an alternative to petrol based fuel not only do we reduce our dependence on the oil industry but also the 10 per cent mix of ethanol in petrol at the pump produces cheaper prices for the consumer.

So the whole motivation for the government’s policy is quite simple: we were injecting competition into the market and supporting the market in the short term for long-term benefit—simple economics with a touch of Keynesianism, which I would have thought those on the other side may have been attracted to. But no, you do not look at the policy analysis or the motivations; you just look at the slur and slander against the Prime Minister. Not one Labor speaker to date has addressed—but we hold out hope that perhaps Senator Buckland will—the merit and justification of this very sound policy or has perhaps put on the table an alternative policy. We await Senator Buckland’s address to the Senate.

To support this vital industry the government has pumped hundreds of millions of dollars into it, and we are proud of that support. First of all, on 25 July this year the government announced its decision to allocate $37 million to fund one-off capital subsidies for projects that provide new or expanded biofuels capacity. Secondly, the subsidy will provide 16c per litre to new or expanded projects producing a minimum of five million litres of biofuel, with a maximum grant of $10 million per project. Thirdly, this is in addition to an existing production subsidy for biofuels equivalent to 38c per litre. That will be available to the industry until 30 June 2008, when it will then be reduced in five equal annual steps. Fourthly, the government has also decided to commission a report on the 350-million-litre biofuels objective in light of the latest evidence on the environmental and other benefits of replacing fossil fuels with biofuels.
On 22 July there was a very comprehensive policy announcement by the government: the government announced its decision to provide short-term assistance to all existing fuel ethanol producers to assist in the transition to the recently introduced E10 standard, which will allow the current production subsidy to be paid in advance of the payment of excise. This measure will provide a short-term cash flow injection to offset the impact on revenue of lower ethanol sales and will be in place until 31 December 2003 or until the $10 million financial cap is reached. In April the government announced its decision to set a 10 per cent limit for ethanol blends in petrol, to develop a standard for fuel ethanol and to legislate to require labelling of ethanol content in petrol. These steps will ensure a high quality for ethanol fuel and it will ensure that consumers have sufficient information about what is in the fuel that they are purchasing. The government’s policy has been welcomed by the ethanol industry and by the sugar industry. It has been welcomed with open arms by the sugar industry. I could not quite see how Senator McLucas came to her conclusion that this was a policy rejected by the sugar industry.

But let us look at Labor’s claims regarding this comprehensive policy, keeping in mind that they have no alternative policy. The main thrust of Labor’s attack is that this policy was specifically designed to benefit one player: the Manildra Group. This threadbare claim is based on nothing more than the fact that the Manildra Group is a major player in the industry and that therefore we have designed it so that the Manildra Group will get the bulk of the grants and subsidies that the government puts on offer. They say that we have done that for the simple reason that the chairman, Mr Honan, is a friend of the Prime Minister. And that is the beginning and end of their claim. I will refer to yesterday’s Hansard and allow the Prime Minister to reject that spurious claim. He said:

I do not deny that I know him. But to suggest that he is one of my closest friends, to suggest that I play golf with him, to suggest that we are talking to each other every day and he is one of the closest mates I have in corporate Australia is absolutely absurd. The reality is that Mr Honan has been a very generous supporter of both sides of politics.

He was a donor to the Labor Party. You only have to see the headlines of today’s Australian Financial Review to see what embarrassment has come upon the Labor Party with regard to accepting donations from the Manildra Group. The Prime Minister went on to say:

I think I have said to this House before that the very first time I met Mr Honan he told me how much he admired my predecessor, Mr Keating, and he told me how very clever Mr Keating was and how very hard it would be for me to defeat Mr Keating.

Mr Honan got that wrong. He praised the former Prime Minister, Mr Keating. He seemed to be more of a friend of Mr Keating than he ever was of Mr Howard. We reject the spurious claim that we have designed this policy because this man is a friend of the Prime Minister. In fact, the government rejected the two main lobbying points that the chairman, Mr Honan, put to the government.

Why shouldn’t Mr Honan lobby in these corridors? These corridors are full of lobbyists. Both sides of the parliament know that. There are paid professional lobbyists stalking the corridors. Mr Honan has every right, just as they have, to put a point of view in regard to an industry which he has heavily invested in. The chair of the Manildra Group, Mr Honan, wanted two special things from the government and he did not get them. Most of all he wanted the government to mandate a level of ethanol in petrol—to legislate that petrol companies put a certain amount of ethanol in
their petrol. We rejected this. In his submission, the second thing that Mr Honan asked of the Prime Minister and the government was that we did not introduce a 10 per cent cap on ethanol. He wanted more, but we did introduce a 10 per cent cap on ethanol.

These two points have been made by a previous speaker, and the other side knows it very well. Those two things form the smoking gun. The smoking gun is that Mr Honan did not get the two main things that he wanted from the government. Our package is not specifically for Manildra; it is an industry package which will allow new entrants into the industry. It will allow another major player, the sugar company CSR, to expand into the ethanol industry. At the moment they have a small interest. This package is as much designed for them as it is designed for Manildra. It is designed for new entrants. It is designed to increase employment and it is designed to allow the sugar industry to expand. (Time expired)

Senator STEPHENS (New South Wales) (5.06 p.m.)—I found Senator McGauran’s contribution to the debate quite entertaining. He said that no-one has managed to get to the public policy issues of this debate, and that is certainly something I would like to move towards today. I will begin, in speaking in support of this motion, by saying that I want to get to the implications of this whole Manildra ethanol subsidy issue and the effect that it is having on rural and regional Australia and the industries about which Senator McGauran was so defensive.

I will start with the Red Meat Advisory Council. On 8 August—very recently—Mr Bill Whitehead, the Chairman of the Red Meat Advisory Council, a consultative body that was set up by the government, wrote to the Prime Minister telling him that all six members of the council strongly opposed any further subsidisation of ethanol production using feed grains. Mr Whitehead also wrote to the Minister for Agriculture, Fisheries and Forestry, Warren Truss, strongly advising him against the government’s planned introduction of the subsidy for grain based ethanol plants. Such a subsidy, Mr Whitehead wrote, would work only to further distort the operations of the domestic feed grain market to the detriment of all livestock industries, including those industries using grain to sustain their breeding stock during the current drought. Mr Whitehead continued in his correspondence:

RMAC fully supports the objective of fostering regional development, but only on the basis that it is unsubsidised and government intervention does not discriminate between businesses competing for common inputs.

The concession would accentuate the unfair advantage that grain based ethanol plants have over grain dependent livestock industries in the purchasing of feed grains. The Labor Party also supports the development of the alternative fuels industry and regional development but not at the expense of other well-established agricultural industries that provide jobs and contribute significantly to the economies and the viability of communities throughout rural, regional and remote parts of Australia.

Senator O’Brien’s remarks at the beginning of this debate go to the issue of the Prime Minister’s failure to disclose his meeting with the chief executive of Manildra, Mr Honan, six weeks before he delivered his Manildra package. We all agree that that was an outrageous misleading of the parliament. So too is the government’s blatant game of political favouritism in delivering additional subsidies to what is the near monopoly ethanol producer.

The Labor Party were so disgusted by the scandal involving Mr Honan and his Manildra Group, and its secret meetings with the Prime Minister, that we returned the dona-
tion of money—the $50,000 mentioned by Senator McGauran—that was made to the ALP by that company. That donation, as the ALP Secretary, Mr Geoff Walsh, said and is quoted in this morning’s press as saying, ‘came out of the blue in June’—something that Senator Brandis and Senator McGauran chose to ignore. Given developments since that time, it is hard not to be cynical about what the motivation for that donation might have been. Holding secret meetings, telling lies and unjustly promoting the interests of friends over the legitimate interests of other decent, hardworking people in the community is not the way the Labor Party operate.

Mr Walsh had certainly done the right thing in returning the Manildra money and in telling Mr Honan that the federal parliamentary Labor Party is not in the business of taking donations when there is debate about public policy issues that might affect the donor’s interests. On the other hand, it is clear that Mr Howard in his obsession to help the Manildra Group has ignored the implications of his action for other major grain users in Australia’s rural economy.

I would like to address my remarks to those issues now. Manildra’s ethanol production is based on grain, but so are the feedlot, chicken and pork industries. To subsidise Manildra is to impose prohibitive costs on those other industries. As great as the public concern about Mr Howard’s deception to the parliament and to the Australian people is the level of concern within the agricultural sector about the potential impact of this additional subsidy for the ethanol industry. The Executive Director of the Australian Lot Feeders Association, Mr Rob Sewell, wrote a letter to ALFA members very recently. In that correspondence he said:

No doubt news of the John Anderson driven biofuels incentives scheme has reached your business—or perhaps it was termed the Howard Government’s Feedlot Industry Disintegration Program.

He continued:

Australian agriculture has accepted the ‘level’ playing field but it is hardly fair when one team has their legs cut off. You have to wonder who has their hands in whose pocket, with this kind of rationale.

Those statements are fair enough, given the circumstances. The Labor Party agrees with ALFA in its belief that the Howard government’s proposal to develop the grain based ethanol industry will compete directly, and potentially in a disastrous way, with the intensive livestock farming sector. The Australian feedlot industry has been articulating its legitimate concerns about the supply of domestic grain for some time—to the apparent deaf ear of this government.

Where has the minister been in this debate? Despite the importance of these industries as generators of both income and jobs in regional Australia, there has not been one word from the minister responsible, Mr Truss. The continued drought throughout Australia’s broadacre farming regions—the toughest and longest drought in living memory—has caused severe grain shortages. In distinct contrast to the Minister for Agriculture, Fisheries and Forestry, Mr Truss, my colleague Senator O’Brien has been listening intently to the intensive livestock farming industries about their concerns over both the grain shortage and the growing subsidisation of the ethanol industry, and their fears are well supported.

ALFA commissioned independent research that is contained in the report entitled Development of regional fuel ethanol industries based on grain feedstock and possible effects on the lot feeding and pork industries. The report says that, currently in Australia, 63 million litres of ethanol are produced from C-grade molasses feedstock and 50 million litres from starch feed stock. Further,
it says there is an additional planned increase of 58 million litres per annum in ethanol production, with eight million litres proposed to come from sugarcane feedstock and 50 million litres from starch waste feedstock.

So it takes one tonne of grain or molasses to produce approximately 400 litres or 250 litres of ethanol respectively. That means that, at the current rate of production, some 1,818 gigalitres of ethanol would be required for the manufacture of petrol with an ethanol blend of 10 per cent, which is the level of blend that the Howard government is proposing. Full use of low cost feedstock, such as C-grade molasses and wheat derived waste starch, will only produce 350 million litres of fuel ethanol. That is just two per cent of the petrol market. A 10 per cent blend, that is 1.8 gigalitres of fuel ethanol, would require significant additional quantities of grain or other feedstock to produce a five-fold increase in the quantity of fuel based ethanol required, or 15 times the current ethanol production.

To put this increase in feedstock demand into perspective, Australia produces approximately nine million tonnes of feed grains per annum, while the mean annual molasses production between 1996 and 2000 was 1.09 million tonnes. In other words, half the feed grains, and about 70 per cent of all the molasses produced annually, would go to ethanol production. So where is that grain going to come from? Has the government given any serious thought to the repercussions for the intensive livestock industries of the shift to the ethanol industry of one of their primary inputs? It certainly does not look like it. The ethanol industry had been seeking—of course, as we now know, because of the association between Mr Howard and Mr Honan—and has been granted a subsidy excise rate of approximately 38c per litre. According to ALFA, that rate of excise equates to an indirect subsidy on grain and molasses inputs of $152 per tonne of sorghum and $98 per tonne of molasses. In total, the subsidy to the ethanol industry amounts to some $245 million.

The lot feeding pork, dairy and poultry industries are valuable regional primary industries. They have grown steadily in Australia over the last 10 years and in most cases are projecting future growth of 10 per cent per year. Most of that projected growth in the lot feed and pork industries will occur in northern New South Wales and in southern Queensland because of the proximity of those regions to grain supply, livestock supply, meat processing capacity and export ports. Total feed grain usage by the intensive livestock industries has grown almost 100 per cent since 1992-93—just in that decade—to 10.92 million tonnes in 2001-02. The pig industry’s usage of grain has increased from 1.57 million tonnes to 2.13 million tonnes over the same period. Recently, some modelling work done by ABARE showed that demand for feed grain is expected to rise significantly over the next five years, with total feed grain supply increasing only slightly.

The pork industry is currently valued at close to $1 billion and it employs more than 33,000 people across Australia, with exports in the order of $270 million a year. The industry group Australian Pork Ltd says that distortions in the feed grain market due to the ethanol assistance package will reduce Australia’s capacity to expand its export levels and to continue to build the critical mass needed for continued industry expansion. The Australian Meat and Livestock Corporation, in its report called The impact of feedlot investment, shows the significant impact on the national economy of that industry, which has a capital investment, to date, in excess of $1 billion. Livestock purchases are also nearly $2 billion with spending on feed greater than $650 million and spending on
transport of $195 million. About $55 million is spent on wages and salaries with direct employment of more than 1,600 people. Sales in the industry have accounted for a turnover of nearly $3 billion.

Let us look at the poultry industry. Egg production is also heavily dependent on purchased feeds and it is an industry worth well over $300 million annually and directly employing about 3,300 people. That does not include poultry meat production. I do not have the figures on the number of people employed in the poultry meat industry but it is an area of agriculture worth more than $2 billion in production, with some $24 million in export earnings. Let us look at the dairy industry. The dairy industry also relies on the supply of grains and it employs some 35,000 people across Australia. It represents a very significant part of Australia’s total agricultural economy, with a gross production value of some $3 billion and exports of $2.2 billion.

The long-term viability of all Australia’s intensive livestock industries is of course dependent on access to an adequate supply of grain and other feed at competitive prices. Feed grains approximate 60 to 80 per cent of the cost of production in those industries. Australia has had highly variable grain production. A recent analysis by the Grains Research and Development Corporation showed that in the northern grain region, which is the area where most feedlots are concentrated, there is the likelihood of a grain shortage in three out of every 10 years.

On average Australia produces 28 million tonnes of grain, of which nine million tonnes is used as livestock feed. Other feed includes molasses, of which Australia produces one million tonnes per year, with domestic demand being approximately half a million tonnes for stockfeed and other uses. Molasses is a key ingredient in feedlot rations as well as for the pastoral cattle supplementary feeding programs. The subsidy given to grain based ethanol producers, of which Manildra is the biggest, is not going to do anything to alleviate the situation for hard-pressed sugar farmers. This is despite the fact that the Howard government has for years been touting ethanol as the salvation of cane growers.

In relation to the grain shortage, ALFA says that the situation is only likely to get worse because demand will continue to outstrip supply, especially in northern New South Wales and Queensland, where the industry is concentrated. The problem will be further exacerbated by other factors, including a projected decrease in arable area sown to grains, the forecast significant growth of Australia’s lot feeding and pork industries to satisfy both domestic and export demands, and competition from the export markets for feed grains as overseas livestock industries continue to adopt intensive feeding practices.

Then we have the probability of a severe El Nino drought, which occurs once every 10 years. The current drought has highlighted the precarious position of livestock feed supply and demand, with Australia importing almost a quarter of a million tonnes of feed grains. Grain imports were also necessary in the 1994-95 drought, of course, so this is not a one-off situation. Feed costs for the intensive livestock industries have already increased significantly as a result of the drought. The dairy industry, especially in New South Wales and Queensland, is still adjusting to the effect of farm gate deregulation and certainly is in no position to absorb major cost increases. Dairy is also heavily dependent on export markets and in no position to pass any increased costs on to its consumers.
I am sure the government will seek to dismiss my concerns as just politics. Such a view would be seriously misplaced. The government trumpets its efforts in whole-of-government planning; yet, in its coordination comments to the cabinet submission relating to the government’s now stalled sugar reform package considered last September, the Department of Finance and Administration said that the ethanol package would:

... impose considerable costs on other Australian industries, especially rural and regional industries, and will potentially result in significant costs to the budget.

So the cabinet was told by a central agency that there would be a problem for other major grain users if grain based ethanol production were heavily subsidised, but it chose to ignore that advice. This point was picked up by the Australian newspaper in its editorial of 12 August, which said:

... as with all forms of industry feather-bedding, the protection of ethanol blights industries that do not enjoy the same patronage. For example, by distorting the market for grain, the ethanol subsidy harms the feedlot industry, and drives up the costs of beef and pork producers.

So, when the Deputy Prime Minister talks about building new ethanol plants all around his own electorate to generate jobs, he really means that he plans to drive jobs out of intensive industries in the interests of Manildra. Given the contribution these industries make to economic growth, and given their forecast growth over the next few years, one would expect the government to be going out of its way to encourage them, not deliberately working to place them at a commercial disadvantage. Yet again, as in so many other areas of public policy, we have the Howard government pitting one group against another—and regional Australia will pay the price.

Senator Ian Macdonald—Who introduced that? That was Mr Crean, wasn’t it?

Senator ALLISON—It is my understanding that getting rid of the bounty was one of the gifts of your government very early in its first term of office—I think the Bounty (Fuel Ethanol) Act was introduced in 1994. Let us look at what that did. It was set up to provide for the payment of a bounty on the production in Australia of certain fuel ethanol to assist the development of a competitive, robust and ecologically sustainable fuel ethanol industry. That is what we are attempting to talk about today.

It is also the case—and this certainly did not happen before 1996, Senator Macdonald; I was in this place and I remember it—that this government got rid of the Energy Research and Development Corporation. As the name suggests, that was a research and development body. I think it got $3.94 million a year in funding. Looking at its task, I am struck again by the irony of this debate and the situation we find ourselves in. It was set up to establish standards and test protocols for ethanol fuel blends. Isn’t that amazing?

We have had the most extraordinary situation over the last 12 months or so where this government has refused to make a decision about limiting the amount of ethanol in petrol. We have seen a huge drop in confidence in ethanol-petrol blend products. The government dillydallied around with that whole matter and of course in the meantime Labor took great political advantage of that, not caring what consumers thought about ethanol in petrol and not worrying about confidence
in the industry. Both parties were clearly not interested in a cleaner fuel—not interested in the development of this important alternative to fossil fuels.

The Energy Research and Development Corporation was also set up to do trials of fuel blends. It was to provide technical improvements to the blending process. That, of course, is what this whole debate—this whole mess—has been about, with some areas having petrol with higher levels of ethanol. That is what started this whole mess, which has had such devastating consequences for the industry.

Essentially, this debate is about accountability. It is about whether money has bought influence and whether the Prime Minister misled the parliament when he said that he did not meet a man who gave the Liberal Party substantial donations and who benefited from the decision the Prime Minister made shortly after the meeting to effectively stop ethanol imports. As I said, there are lots of ironies, and I am struck by that through this entire debate. The legislation that came into the Senate this week would have put into effect part of the agreement the Prime Minister is said to have negotiated in the meeting with Mr Honan. That bill had cross-party support.

We all supposedly want to have an ethanol industry in this country which will prosper and which will be competitive, robust and ecologically sustainable—all those things the bounty set up in the first place—so there was general agreement to support this bill. But, of course, we adjourned that debate at second reading, something the Democrats agreed with. Why was that? It was for accountability reasons. This government refused to provide the documents that had been ordered by the Senate and, until the government does that, that bill will sit there and not be dealt with, I hope. I hope the Labor Party does not change its mind on this issue because it is important to make a stand and to insist that the government provides the documents that this chamber decides it ought.

One of the reasons for the legislation—that is, the legislation which applies an excise on ethanol for the first time and then takes it away again by providing a production subsidy—is that the industry would not survive the competition from Brazil. Brazil produces something like 18 billion litres of ethanol a year, and it does that from sugar. It produces huge quantities of sugar, so much that it can afford to use low-grade sugar and presumably molasses—although I do not know this—to produce ethanol. In so doing, it controls not only the sugar market but also the global market in ethanol, or it could do. Of course, many cars run on 100 per cent ethanol in Brazil, and I understand it dominates there in the same way that petrol dominates elsewhere. But that is another matter.

As I said, this government did not appear to be at all interested in supporting the local ethanol industry back in 1996, and it is extraordinary now to hear people like Senator McGauran saying how critically important this industry is to their constituents. I would have thought it was important to their constituents all along, but this is a new found passion for ethanol that the people on the other side of this chamber have come across only in recent times. As I understand it, we are not talking here about a magnanimous handout to ethanol producers; it is effectively tariff protection by another name. Whilst the Democrats have no problem with that, I would have thought that the government, with all their discussion about free trade arrangements and dropping tariffs on everything else, would find that a bit uncomfortable, but they do not so that is okay.

You could argue that Mr Honan, if he did pay for influence, did not in fact get a lot for
his money. He faces another crisis in 2008 because, between 2008 and 2012, the government proposes to take away that production subsidy and to make ethanol compete with overseas competition from Brazil, as we know, and with competition from petrol.

Ethanol, like CNG, LPG and all those other alternative fuels, is a fledgling industry. We have seen LPG penetrate the taxi sector very successfully, and I am glad that it has, but CNG is still struggling to find a foothold. We are in a situation where auto manufacturers are on the brink of making decisions about proceeding to roll off vehicles from the production line that are ready to run on CNG or on biodiesel, but the so-called certainty the government has introduced from 2008 to 2012 will effectively see that industry go down the gurgler. As I said, I do not think Mr Honan got really good value for money, because by 2012 his industry is not going to be very much. The price, of course, will go up for consumers. Even if it were available to them, consumers are going to be less likely to buy it, particularly since there has been such a great campaign to denigrate ethanol. I think this is reflected in some of those other alternative fuels, as well. I think that confidence has slipped right away from the alternative fuel market.

It is interesting that the National Party backbenchers and others are now suggesting that the country should mandate levels of ethanol in petrol. I am grateful to Senator Stephens for pointing out some of the figures that I was going to point out as well. We had a look at this question of mandating ethanol, and I think it is something we should aim for. However, there are vast problems with doing so. I do not think we could mandate the sorts of levels of ethanol in petrol that would make it worthwhile because we simply do not produce enough. Even the ethanol which is produced from molasses, from sugar cane—and it has been going on in this country for a very long time—is mostly exported. A lot of it goes to Japan and becomes hair products, sake, gin and all sorts of spirits. A lot of Australian ethanol goes overseas to make those products, so it has a very high value. We are not going to see the ethanol that is currently produced suddenly being available to be put into petrol; there just are not the quantities. Senator Stephens pointed out the difficulties of producing enormous quantities of ethanol with grain.

The other problem is that if you say, ‘To make it reasonable, 10 per cent is the appropriate level to mandate. We think you could do that by 2020,’ that is 1.8 billion litres that would need to be generated. In the meantime, what do you do? If you say, ‘Let’s go for two per cent,’ you are talking about mandating two per cent of ethanol in petrol across the country. That would mean getting that two per cent right out to Western Australia from New South Wales. It would mean that, across the board, you would have to transport ethanol an awfully long way. Until we have ethanol being produced locally right across the country, this is just totally impossible. I think it is a bit of catch-up on the part of the National Party to say the problems will be solved by mandating levels of ethanol. Of course they have a lot of work to do on consumers who currently believe that ethanol is bad for your car and bad for the environment. As I said earlier this week, I get distressed going into service stations and seeing these guarantees that there is no ethanol in their petrol. The ALP has a case to answer for doing that—

Senator Ian Macdonald—Hear hear!

Senator ALLISON—but so has the government, Senator Macdonald. You do not get off scot-free, because you sat back and allowed this to happen.

Senator Ian Macdonald—You were missing in action when we needed you.
Senator ALLISON—I think the real issue we should be debating here—even though we have a very important accountability issue to address, and I hope the Prime Minister responds appropriately to this accountability question—the really serious problem we face, is the lunacy of the government’s proposal to apply excise to these alternative fuels before they have even got off the ground. It just makes absolutely no sense at all. Of course, we are powerless to do anything about this because, by the time 2008 comes, by which time we need the legislation to do this, we will not have an industry in CNG, in LPG or in biodiesel.

But, as I said, we are focused today on whether the Prime Minister told the truth and what money can buy by way of influence. The Democrats say that it is time for this parliament to deal with the problem of political donations that have or could be seen to have strings attached. That is what we are here debating today. Until we do this, I think the perceptions of dishonesty and illegality are going to keep coming up time and time again. My own preference is for a complete ban on donations to politicians and to political parties. But we are not going to get that, because it does take money to run political organisations. There is fierce competition between political parties—the stakes are very high—both between and at election times, and that demands that more and more money is spent on improving our chances of getting the message across to voters. So that is the reality. Of course we can look to the American system. I think that is the worst example of this. Much of what we see the Bush administration doing can be traced back to influential money. I seriously hope Australia does not go any further in that direction, because it is antidemocratic and I think it sends a really seriously wrong message about the integrity of our political system and our parliamentary system.

The Democrats say that the perceptions of undue influence are seen by the public well and truly as corruption. They make no distinction between illegal corrupt practices and the perception that moneys have been received and favours have been provided in return for those moneys. They need to be dealt with so that the public can have faith in the integrity of our political system, and that needs to happen urgently. I am reminded of the early days of this government. Senator Macdonald, when so many heads rolled because of the public’s lack of confidence in politicians. We seem to have moved on from there, and the standards have dropped enormously in responding to those crises in public confidence.

Senator Ian Macdonald—But there haven’t been any since then.

Senator ALLISON—This is one good example, Senator Macdonald, and I am sure we can point to lots of others.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Senator Allison, could you address your remarks through the chair, please.

Senator ALLISON—Yes, Mr Acting Deputy President, I do apologise. What we need is a comprehensive regulatory system that legally requires the publication of explicit details of the true sources of donations to political parties and the destinations of their expenditure. The parliament and the government simply have to redouble their efforts in building confidence again. We cannot have our Prime Minister misleading the parliament. We cannot have lies being told, whether they are to do with children being thrown overboard, weapons of mass destruction being the basis for an attack on Iraq or refusing to release documents that are required in the debate or documents that might be embarrassing. It is time to clean up our act. The future of this place depends on it.
think this is a crisis. It is not just a crisis for the Prime Minister; it is a crisis for the parliament. It worries me enormously that we have to have this kind of debate today. As I said, there are other really important issues that fold into this whole debate. They also need to be explored, but of crucial importance is that whole question of confidence. We must deal with this matter of political donations and we must clean up our act.

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (5.43 p.m.)—I join the debate at this late stage in my capacity representing the Minister for Agriculture, Fisheries and Forestry in the Senate and also in my capacity representing regional Australia in the Senate. I am actually a senator who lives in the sugar areas of Queensland, areas that could well benefit from some advances in ethanol use in Australia. I also live in an area where there are four CSR mills. Of course CSR is a very important part of this whole ethanol debate. There are many people in the sugar areas who would desperately like to help with the progress of the ethanol industry and the science behind it, but unfortunately they keep getting held up by the intransigence of the Labor government in Queensland in failing to come to any appropriate resolution of some of the crises confronting the sugar industry at the present time.

Unfortunately, I come to this debate late because, as a minister, I have actually had to spend the afternoon doing some real work, Senator O’Brien, not participating in political point scoring in a debate that has brought nothing new forward. Unfortunately I did not hear your speech, Senator O’Brien, but my staff have been listening for me and they tell me that not one new piece of information has come out of the waste of two hours of the Senate’s time this afternoon. I do want to thank Senator Brandis and Senator McGau- ran for their comments. Again, I did not hear them but I know from the quality of those speakers that they would put the case fairly and accurately and would have quite clearly demonstrated that there is no substance in the motion before the Senate.

Senator O’Brien, I am told, spent his entire time doing what passes in the Labor Party these days for policy debate—that is, a personal vilification of individual ministers, including in this case the Prime Minister. Senator O’Brien talked about a pattern of deceit. Obviously, coming out of that preselection row a week or so ago, Senator O’Brien, you know all about patterns of deceit. I am not suggesting that you were part of that but certainly your opponent, Mr Price, was involved in a pattern of deceit for many, many months or even years, deceitfully pretending to be the state secretary of the Labor Party and all the time in there trying to knock you off, Senator O’Brien. We know that Senator O’Brien would not call this deceitful but one might wonder when you look at Senator O’Brien’s position on livestock export.

Senator O’Brien was originally totally opposed to live cattle exports. He wanted it all banned and who was supporting him in that? It was the meat workers union. Remember that? They wanted it banned, so he wanted it banned. They are the union guys who run the Labor Party. But suddenly Senator O’Brien changed his mind and that seems innocent enough but you might have a look at which of the unions left the Left faction with Senator O’Brien when he switched over to the Right faction to guarantee his preselection. I will give you one guess which union went with him: it was the Maritime Union of Australia. Isn’t it surprising that Senator O’Brien’s change of policy position hap-
pened to go with his strength in the preselection battle.

I have to say, Senator O’Brien, I am particularly grateful that you were preselected. I think you do not do a bad job at times, only you should stick to the policy and forget the personal vilification of Mr Howard and Mr Truss, which regrettably you get a bit too much involved in. If you stayed on the policy issues you could contribute to Australia, so I am glad that you got there as No. 1 on the ticket. I hope that you get defeated at the election, but if we have to have Labor senators from Tasmania then you are as good as I guess we can get, if you stick to the policy questions.

I think the two speakers before me on my side of the house have clearly elaborated what the government’s biofuels policy is aimed at. It is aimed at developing ethanol and biodiesel industries in Australia. We want to maintain an effective excise-free status for ethanol and biodiesel until 2008 by a production subsidy that equals the excise. From 2008 the subsidy will be wound back so that from 2012 ethanol and biodiesel will be subject to the full rate of excise. The second aspect, of course, is to provide assistance for construction of new ethanol and biodiesel plants, and the cost of this assistance will total something in the order of $37 million. This policy sets some pretty tough hurdles for ethanol and the biofuels industry, and many of the proponents think these hurdles are too high. Existing ethanol producers, CSR and Manildra, think they are a bit tough.

I must comment on Senator Allison’s contribution to this debate. Some of her contribution was, at times, perceptive but she answered her own question on the substance of the debate about the deceit. Senator Allison said—and I emphasise that these are her words:

... Mr Honan, if he did pay for influence, did not in fact get a lot for his money.

Senator Allison has answered her own question. Of course, there is nothing in this scurrilous accusation by the Labor Party. Senator Allison rightly identified that by 2008, and certainly by 2012, ethanol will have to stand on its own two feet and, to quote Senator Allison, ‘by 2012 his industry is not going to be worth very much’. If there were anything at all in this allegation, you would only have to refer to Senator Allison. She answers her own question and she obviously quite clearly agrees with the government that this so-called pattern of deceit is simply a figment of the imagination of the Labor Party, which has nothing better to do with its time and has no contribution to make to the policy debate in Australia.

I have to say to Senator Allison that on the government side we do not give up as the Democrats have apparently done. We think ethanol can be a significant industry in Australia and we want to help cane growers and others to move forward on that, and we have some money waiting for the sugar industry so that they can fully investigate things like this. But, unfortunately, the Labor government in Queensland cannot come to a conclusion that will allow us to go ahead with the regional guidance groups that I know can do so much for the sugar industry.

Senator Allison spoke about a complete ban on donations to political parties. It is a nice thought, but I can guarantee you something, Senator Allison: the Labor Party will never countenance that so long as they can call upon the unions for these huge donations at every election campaign. So long as they can count on the rort at Centenary House to prop up their bank accounts every election time, they are never going to agree with that. The Labor Party, as well as having two sources of income, from the unions and from that Centenary House rort, also embark upon
the bullying tactic with business in this country. They do as they do in this chamber so very often: vilify individual businesses until those businesses feel that they cannot donate to anyone or that they have to make equal contributions to the Labor Party and the Liberal Party. I do not particularly worry about that, but can you imagine what would happen if we asked the union movement for some fairness and for an equal contribution from them? If the Labor Party were serious about those things they would give away the rort that is Centenary House.

But I digress from the issue of our policy on biodiesel and ethanol. I want to go back to it and have a look at the Labor Party’s track record on ethanol and biodiesel. Again Senator Allison hit the nail on the head—inaudently, I think—because she was saying that there was an 18c a litre subsidy for ethanol and there was no excise at all, and she thought it was bad that that situation had finished. I go back to my interjection to Senator Allison: who actually introduced that policy? Who gave the ethanol industry those very substantial subsidies for which the coalition is now being accused of not even repeating but going about halfway there? The person who introduced those subsidies to the ethanol industry was none other than Mr Crean in his role as the then minister for primary industries. I cannot understand where the Labor Party are coming from. Their hypocrisy on this particular issue knows no bounds.

This debate has been laced with accusations of political donations, and the Labor Party have been fairly big to point out some donations that have been made by the Manildra Group to the National Party and the Liberal Party. But until recently they completely forgot about the donations that the Manildra Group had made to the ALP: $50,000 in this financial year, $50,000 to the national secretariat of the ALP in Victoria in 2001-02. Manildra Flour Mills, an associated group, gave $11,000 to the ALP national secretariat in April 2001 and $15,000 to the national secretariat in September 1998. I assume, from what I hear around the traps, they paid $10,000 in November 2001—just before the election, interestingly—to have a discussion with Mr Beazley. I understand that they could not speak to Mr Beazley so they got the second prize, or perhaps the dunce’s prize: they got to speak to Mr Crean for that amount. Then of course they followed that up with a donation of $45,455 in October of the same year. Obviously these facts never came out until the Labor Party were forced to admit this and then to make a token repayment. If the Labor Party are so pure about those repayments we would like to see the rest of the $191,455 returned. And if they are going to be that pure about it they should also stop the rort that is Centenary House and cancel that lease agreement with the Australian National Audit Office.

The Prime Minister has, on so many occasions, so very clearly explained his position it does not need me to repeat it or to re-explain the actual situation. Any fair and independent observer would accept the Prime Minister’s responses, and that is that his comments at the time referred to Brazilian imports. I think the whole tenor of the record clearly shows that, so we do not need to go into that. Regrettably I am not going to have the same amount of time as other speakers; I had quite a bit more that I wanted to say. But the thing that really does concern me about wasting the Senate’s time on this debate when we could all have been doing some legislation, some more productive things, is that nothing new has come out of the debate in the last 2½ hours. One would think that if the Senate were going to embark upon this talkfest it would only do it if there was a new allegation to be made, something that had to
be revealed that would take the debate forward. But all we have got from the Labor Party is a rehash of the vilification and personal abuse that now so often passes for Labor Party policy in this place.

We as a government want to do sensibly what we can to help regional Australia, to help agricultural industries, and to do that in one instance—and we do it in a lot of ways—by trying to help the ethanol industry. I know that Mr Truss, the agriculture minister, is very keen, as I am, to see if there is a way that we can push the ethanol industry forward and to get it to a stage where it can stand on its own two feet commercially so that it will be sustainable into the future. I would call upon people such as Senator Allisson, who I think has the genuine interests of ethanol and biofuels or alternative fuels at heart, to join with the government in promoting some of these issues and to join with me in expressing that the Senate is appalled at the way the Labor Party have deliberately set out to destroy the ethanol industry. They pay no attention whatsoever to the jobs that have been lost and will continue to be lost. They have no interest whatsoever in the jobs that have been lost and will continue to be lost. They have no interest whatsoever in the lack of development in regional areas, of the businesses in regional Australia that will go to the wall because of their campaign against ethanol. All they are interested in is trying to seize upon any opportunity that they can use to pinprick and to try to score a political point against the new Commonwealth-State Housing Agreement because the issue of housing has always been a critical one but in recent times it is finally starting to get some of the political, media and public attention that it deserves. That attention is focused of course around the issue of housing affordability—or, slightly more accurately, the lack of housing affordability and the absence of affordable and accessible housing particularly in areas where jobs and services happen to be.

The McClure report—the report the government commissioned into welfare reform done by Patrick McClure from Mission Australia—highlighted that housing is fundamental to opportunities in all other aspects of life whether employment opportunities, educational opportunities or social opportunities. If people are not able to access affordable and affordable housing where they need it then even in that first step there is often a fundamental barrier to people’s ability to grasp some of the opportunities that we seek to ensure all Australians have access to.

It is particularly critical at the moment as the new Commonwealth-State Housing Agreement has just been gazetted and tabled in this place. There are aspects of that that the Democrats are certainly concerned about, not least what we believe to be the inadequate overall funding amount. Public housing is something that has not got a lot of at-
attention in the recent debate about housing affordability, but it really should. The Productivity Commission has been commissioned to do an inquiry into aspects of housing affordability, but only for first home buyers. I think that is far too narrow an aspect. It quite clearly needs to look at affordability for people trying to buy a second home or a third home when moving from one home to another as they get a larger family or change jobs perhaps and move interstate. So it is not just the first home buyers that are having problems with affordability.

Similarly, the private rental market is a major problem in relation to affordable and accessible private rental. The vacancy rates in some parts of the country, not least in my home town of Brisbane, are very severe, and accessing reasonable rental housing is getting extremely difficult. Even in other parts of the country where the vacancy rate is a bit higher, a lot of that vacancy is in the high end of the rental market, particularly in some of the inner-city units and apartments that have flourished of late. That is where the vacancies are and that is not much use if you are on a small income and simply trying to find a place to live.

The Productivity Commission, or its forerunner, the Industry Commission, did examine public housing in a report some time back, in the early 1990s. It highlighted—and I think it is an important finding, particularly for a body that is often seen as a strong advocate of economic rationalism—the efficiency of money being spent on public housing in terms of dollar-for-dollar value in delivering affordable housing for people that need it. I think the move away from public housing that has occurred throughout the country—and this an issue too for state governments—is a real problem and is a contributing factor to the problem we are facing now.

There are many contributing factors. A lot of people are trying to suggest that it is only one thing. The government likes to suggest that it is all the stamp duty that the state governments are charging. Others might suggest that it is all due to negative gearing at federal level. Certain issues are important; they are all factors, but there is no single solution. Stepping away from public housing is making that problem more difficult.

This week we have seen the Treasurer a couple of times in question time gloating quite loudly about the immense amount of money that has been provided through the first home buyers scheme. I would have to say that, whilst that is welcome, it is not targeted at all. It is not even properly scrutinised to make sure that it is being applied legitimately. There was more money spent on the first home buyers scheme last year than was provided for public housing throughout Australia and I think that is a misdirected priority. I am not saying the first home owners scheme should be scrapped, but I am saying that we need to look at value for money in getting outcomes for people in terms of affordable housing, and that is not being delivered at the moment. We have to look to some of the drivers at national level that are making the market so full of investors that they are driving up the price. Housing has to be about providing people with a place to live, well before being a chance for people to make money. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Education: Higher Education**

Debate resumed from 19 June, on motion by Senator Bartlett:

That the Senate take note of the document.

**Senator CROSSIN** (Northern Territory) (6.06 p.m.)—I rise tonight to take note of the Higher education report for the 2003 to 2005 triennium.
Senator Jacinta Collins—With the extra bits or not?

Senator CROSSIN—No, Senator Collins, what I want to talk about is not the impact of HECS on students and the deletion in another report that perhaps the department and the minister were engaged in this week. There are many areas in this 2003-05 report that I could choose to focus on, but I want to focus on the decline in the numbers of Indigenous people who have entered higher education. This report is further testimony to those numbers and proves that the government is doing very little to arrest that decline.

I think I might have mentioned in estimates this year that I was somewhat disappointed that the government’s objectives in relation to policies for higher education did not include one dot point at all that went anywhere near ensuring equity and access to higher education. I notice that, of the five dot points in the introduction on page 1 of this report, the word ‘equity’ is still not there; although there is a heading dotted throughout the report that somehow would seek to have it included. It is unfortunate that one of the overarching objectives of this government does not include access, equity and participation by equity groups, or ensuring that there is equity in that participation.

It is interesting to note that, unlike the reports in other years, on page 20 of this report there is a graph that shows the number of students from equity groups in higher education. Some may well remember that, in previous years, this did not include Indigenous students. This year those students are again not represented in this graph, but they do have their own particular graph on page 24. If you look at that graph, it confirms what we have known for a long time—that is, from 1999 onwards, there has been a decline in the number of Indigenous students entering higher education, with very little recovery in those numbers. We know that decline coincides with the major changes to Abstudy that occurred around that time. The figures prove to us that the changes had a major impact in the number of students who undertook, and chose to take up, higher education. I wonder if this group of students was in the higher education report that was to be released in the last week and whether they are another group of students whose figures were blotted from the copybook because we should not know about them. The government’s own report says:

It was noted in the Higher Education Report for the 2002 to 2004 Triennium—which is the report preceding this one—that in 2000 there was a 15 per cent fall in the number of Indigenous students—so the government is actually admitting that is the case—commencing higher education, and an 8 per cent fall in the total number of Indigenous students. The situation stabilised between 2000 and 2001 and has now recovered to some extent.

I am not entirely sure what the words ‘to some extent’ mean. Certainly they have not recovered because of any proactive policies of this government. There are some initiatives in the latest higher education package, but they go nowhere near addressing the problem. The Indigenous support funding program is outlined on page 72, and I notice there are only about nine universities that get an increase under that program, which is based on the numbers of Indigenous students in higher education. So if the overall number of students is declining, of course the amount of money in the Indigenous support funding program will decline.

On many occasions I have called on this government to change the way in which that program is funded, because as long as you have declining student numbers you will have a decline in the money going into the
program. It is almost a downward spiral; you will never increase the numbers of students in higher education or support those students in completing the program—which is predominantly what we actually want to do—if there is a limited amount of funds in the bucket. *(Time expired)* I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Treaties**

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (6.11 p.m.)—I move:

That the Senate take note of the document.

This document is a list of the multilateral treaty actions that are presently under negotiation or consideration by the Australian government. This document is tabled from time to time and I think it should get a bit more attention than it often does, because it lists an enormous number of treaties that are under negotiation at the moment. For example, there is a section that has the list of any treaty or treaty action that is under negotiation or where negotiations are expected in the next 12 months. There are nearly 40 treaties there alone, and they cover a whole range of areas. There is another list of all the treaties, amendments and protocols, the texts of which are finalised, including treaties that Australia has signed but not yet ratified. There is yet another section on treaties to which Australia is a party but for which further action is under consideration. That is a fairly short list of only four, but there are certainly well over 50 in the second list and, as I said, nearly 40 in the first list.

I would like to draw specific attention to a couple of treaties. As senators would know, the parliament now has a Joint Standing Committee on Treaties, which examines treaties, usually after they have been tabled and agreed to by the government. We have 15 days to examine those. As I have said repeatedly, that was a welcome development and a good initiative of this government when it came into office, but it could improve further, particularly in those areas where there is pending treaty action, or action happening but not finalised. The committee could get more involved in examining those issues while they are still under negotiation rather than after the fact.

There is a particularly important one listed here, which I think does need attention drawn to it, in amongst the treaties that are under negotiation at the moment. Most of them, on the surface, appear to be quite positive ones. Negotiations are expected to conclude in January 2005 on the General Agreement on Trade in Services, which is about ‘progressive liberalisation and market access’, to use the terminology here. Negotiations to review GATS are currently under way. That is happening through the states and territories consultative group on GATS, which I presume is a government-to-government forum. That is one area where it would be appropriate to have a proper examination of the consequences well before negotiations conclude.

It is for that reason the Australian Democrats successfully moved to have the issue of GATS and indeed the US-Australia free trade agreement considered by a Senate committee, and that committee is currently undertaking an examination of these issues. But it should be, I believe, more automatic for significant treaty actions to be able to be flagged and investigated by the treaties committee some time in advance. We saw recently with the Singapore-Australia free trade agreement some problems in the committee due to the fact that it had pretty much been agreed to before we saw it and there was actually enacting legislation going through this place before the committee had finished its inquiry. That is not preferable and, with something as important as GATS,
about which I imagine all senators would
know there is widespread community con-
cern—a lot of it, I believe, quite justified—
we need to try to make sure that there is
proper public examination of the issues well
in advance rather than simply seeing what
the end product is after the government has
agreed to it, when it is obviously much more
difficult to get changes made.

Question agreed to.

Consideration

The following order of the day relating to
government documents was considered:

Independent Soccer Review Committee—
Report into the structure, governance and
management of soccer in Australia, April
2003. Motion of Senator Bartlett to take note
of document agreed to.

General business orders of the day nos 4 and 5
relating to government documents were called on
but no motion was moved.

The ACTING DEPUTY PRESIDENT
(Senator Ferguson)—Order! The time for
the consideration of government documents has expired.

COMMITTEES

Foreign Affairs, Defence and Trade Refer-
ences Committee

Report

Debate resumed from 12 August, on mo-
tion by Senator Cook:

That the Senate take note of the report.

Senator BARTLETT (Queensland—
Leader of the Australian Democrats) (6.16
p.m.)—A Pacific engaged: Australia’s rela-
tions with Papua New Guinea and the island
states of the south-west Pacific was tabled
earlier this week by the Foreign Affairs, De-
fence and Trade References Committee. It is
quite a comprehensive report into Australia’s
relations with Papua New Guinea and the
island states of the South Pacific. There are a
lot of aspects to the report and a lot of inter-
esting and important recommendations in
there, and I congratulate the committee on its
work. I was not a member of that committee,
but the relations we have with Pacific island
nations is certainly an interest I have.

I noted that Senator Sandy Macdonald in
speaking to this report the other day thought
he would have a shot at my colleague Sena-
tor Ridgeway about his alleged lack of in-
volvement. Without chewing up a lot of time
here, I think it was a very cheap shot, given
the enormous committee and portfolio
responsibilities that all Democrats senators
have, not just Senator Ridgeway. I think it
was a most unfair and inappropriate reflec-
tion on him and the work he puts into many
committees, not least of which is the rural
affairs committee that he chairs.

I particularly want to draw attention to
chapter 6, which talks about Australia’s po-
litical relations with Papua New Guinea and
the Pacific. I have had the good fortune to
attend a few forums on Pacific island issues
and have met people there from various Pa-
cific island countries, and that has helped me
become a little more aware of some of the
very significant and varied issues and chal-
lenges that those nations in the Pacific region
are facing. The only one country that I have
actually been to is the island country of
Nauru, which I visited for a couple of days a
week or two ago.

I note the recommendation in here that the
Presiding Officers of the parliament look at
developing some modified travel guidelines
to facilitate the involvement of Australian
parliamentarians in bona fide training and
exchange programs with parliaments of Pa-
cific island countries. I would like to
strongly support that recommendation. I
guess it would be easy for someone to take a
cheap shot at that and say that we are just
trying to find another way to get ourselves
funded overseas travel. But I am sure it could
be done in a way that works within existing budgets and guidelines and simply redirects some of that money towards these types of visits. I do believe that nothing really beats being able to directly meet with people to see the situation for yourself. In my visit to Nauru, although it was focused predominantly on the refugee facility on the island and trying to meet with people who were detained there, I did have the opportunity to meet with the acting president of Nauru, who was the finance minister at the time, and some other government officials and NGO people from the Nauruan community. Being able to hear directly from them about the very significant and severe problems that that nation is facing was very valuable and certainly gave me a much better appreciation of the situation they are in.

Senators may know that—and this was nothing to do with my visit—the government of Nauru changed about a week or so after I was there, and just this week a different president and different government are now in place. I think the minister I met with is now no longer a minister. These things happen from time to time and they seem to have happened quite regularly this year in Nauru, which is probably not helpful in terms of them dealing with all their problems—but that is obviously an issue for them as an independent nation.

Equally significant—in fact, far more so—was the section in this chapter on what is now called the Pacific strategy. At least, that is what the government now calls it; it used to be called the ‘Pacific solution’. I presume it was changed because the government now acknowledges that it is not a solution to anything very much, unless you count making hundreds of people suffer enormously at great expense to Australia as being a solution. That has now been changed to be called the Pacific strategy. It is nearly two years since that was established. The processing centre in Nauru was established on 10 September 2001, and there have been many people—well over 1,000 asylum seekers—who have gone through those two centres on Nauru. I was able to visit one of those when I was there, the Top Side Camp, and have a look at the facilities. They are certainly not up to the standard of facilities in Australia, which is probably not surprising, given that Nauru itself as a nation is in significant economic difficulty and the facilities for the islanders themselves and the conditions are not ideal, particularly in terms of water shortages, irregular power supply and some fairly dilapidated infrastructure. So in that context the fact that the camp itself is not particularly flash is probably no surprise. That is not a reflection, from my point of view, on the management of the camp, the IOM—International Organisation for Migration. I found them exceedingly helpful when I was there and very much focused on trying to do what they can to ensure the wellbeing of the detainees on Nauru, recognising, of course, that they as an organisation have no power or ability to determine what happens to these people—where they get sent or where they are allowed to go. They are really only able to focus on trying to make people’s lives a little less difficult.

Certainly the lives of the people on Nauru are extremely difficult. The staff at the facility, the health workers there, made clear that 80 to 90 per cent of their work is with mental illness issues—with depression, anxiety and despair. It is very difficult for them to deal with that because the situation that the people are in is what is generating that mental illness, and that cannot be changed.

The worst scenario amongst all the people there that I encountered was of nine women, who between them have 14 children, whose husbands are in Australia on refugee visas. Not being permitted to reunite with their husbands in Australia, these women are be-
ing pressured to return to the very country and the very location from which their husbands fled, having fled—and been found to have fled—serious persecution. I think that scenario, whatever else people might think about the government’s policies in relation to refugees, is simply unacceptable. To have those women and their children, most of whom are very young and who have not seen their father for three or four years—in a few cases ever—knowing where their husbands and fathers are in Australia but not being able to be with them and instead being told they have to go back alone to a country that was found to be persecuting their husbands and fathers I find simply extraordinary. The despair of those people—not just those in the camp but equally the husbands here in Australia, a couple of whom I have met—is simply enormous. The psychological trauma they are suffering just cannot be calculated. I really urge the government, even if they do nothing else, to at least look at the situation of those women and children and reunite them with their husbands and fathers here in Australia. I just cannot see any possible justification for causing such torment to people.

The committee examines the Pacific solution or the Pacific strategy in a little detail and looks at some of the expenses and costs. It is budgeted to cost another $430 million over the next four years and it has certainly cost well over $100 million already. But I was surprised—and pleasantly surprised—by a recommendation and finding contained in the report. I have double-checked it and it is a unanimous recommendation, which unanimity included the committee’s government senators. Senator Sandy Macdonald and Senator Johnston I think were the two government members on that committee and they supported recommendation 29, which reads:

The Committee recommends that the Australian Government consider modifying the operation of its Pacific Strategy which would allow for the removal of Nauru and Manus Province in Papua New Guinea as refugee processing destinations.

That is a very significant recommendation and I welcome the fact that it is unanimous. I would prefer it to have just recommended that the government immediately move to close down the facilities on Nauru and bring people to Australia, but to get a unanimous recommendation, including from government senators, that the government consider removing Nauru as a refugee processing destination is a very significant advance, and I would like to congratulate the committee on that. I ask the government again to acknowledge the concerns of the committee and many others in Australia and act upon that recommendation.

The committee said it was ‘concerned that not only did the policy accentuate the perception that Australia tends to take advantage of Pacific island countries but that also it fuelled distrust amongst the Pacific island countries over Australia’s mixed signals in relation to the duration of the policy in the Pacific’. The committee considers this policy in relation to Nauru to have been ‘detrimental to Australia’s relations in the region in not adequately taking into account the potential for adverse effects in Nauru’. It is a significant finding; it is a significant recommendation as part of what is quite a comprehensive report. I believe there is no excuse any longer for leaving these people suffering in isolation, without any significant contact with friends and families, on the middle of the equator thousands of kilometres from anywhere. They should be removed from there and brought to Australia. Ideally they should be set free, particularly those women and children who have their spouses and fathers here in Australia.

Question agreed to.
Consideration

The following orders of the day relating to committee reports and government responses were considered:

Corporations and Financial Services—Joint Statutory Committee—Report—Inquiry into the disclosure of commissions on risk products. Motion of the chair of the committee (Senator Chapman) to take note of report agreed to.

Finance and Public Administration References Committee—Report—A funding matter under the Dairy Regional Assistance Program. Motion of the chair of the committee (Senator Forshaw) to take note of report called on. On the motion of Senator Stephens debate was adjourned till the next day of sitting.

Foreign Affairs, Defence and Trade References Committee—Report—Materiel acquisition and management in Defence. Motion of the chair of the committee (Senator Cook) to take note of report agreed to.

Rural and Regional Affairs and Transport Legislation Committee—Interim report: Proposed importation of fresh apple fruit from New Zealand—Government response. Motion of Senator O’Brien to take note of document called on. On the motion of Senator Stephens debate was adjourned till the next day of sitting.


DOCUMENTS

Auditor-General’s Reports

Report No. 38 of 2002-03

Debate resumed from 19 June, on motion by Senator Bartlett:

That the Senate take note of the document.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (6.27 p.m.)—Report No. 38 of last financial year is a performance audit on referrals, assessments and approvals under the Environment Protection and Biodiversity Conservation Act. The objective of the report was to examine and report on the quality and timeliness of the referral, assessment and approval processes under the act as well as on Environment Australia’s activities to ensure compliance with the act. I do not say this very often about Audit Office reports, but I have to say with this one that I think it has failed in significant ways to perform this objective. As a report, it really does not identify what I believe are quite clearly inappropriate practices that are happening in relation to the assessment and approvals process under the EPBC Act.

The EPBC Act was passed through this place in 1999 after hundreds of amendments from the Democrats to significantly strengthen it. Whilst the act can still be improved further—there is no doubt about that—it was a major advance in national environmental law and in the ability of the Commonwealth government to ensure environmental protection; hence the title of the act. Unfortunately, despite it being a significantly improved act, the problem lies in the implementation of it and the lack of political will from the government to actually use its powers to ensure environmental protection. There are numerous examples of this, but particularly I would like to focus on the approval process. I really believe that the Auditor-General needs to go and have another look at this, and I am giving consideration to moving a motion next week to recommend that the Auditor-General reconsider the report with a view to correcting some of the errors that I believe it contains and to look at identifying some of the more obvious flaws in Environment Australia’s administration of the act.

There are clearly failings in the way the act is being administered and these should be identified. As the National Land and Water
Resources Audit and State of the Environment Report have highlighted, there are serious environmental problems in Australia that require urgent attention—including biodiversity loss and the degradation of land and water resources. The EPBC Act’s referral, assessment and approvals process is intended to be one of the central pillars of the federal government’s response to these challenges. It is intended that the act provide a regulatory safety net for the protection and conservation of matters of national environmental significance. However, this has not been provided by this government. The audit report should have provided this parliament with details of these failings, the great majority of which would be quite obvious to people who work with some of the various proposals that get referred, assessed and approved under the EPBC.

My concerns include the department’s having regard to beneficial impacts in controlled action decisions. This is where the minister or the department makes a decision that an action is a controlled action and has to be examined by the environment department because it relates to matters of national environmental significance. In making an assessment of whether or not the project should be approved it is against the act—that is, it is against the law—to take into account beneficial impacts of the action. The audit report makes reference to the fact that the minister is not permitted to have regard to beneficial impact. The report concludes that there is no evidence to suggest that beneficial impacts were considered at the referral stage, which would have been contrary to the act.

I find that finding truly astounding. There are numerous instances where it is quite clear that the minister has had regard to the beneficial impacts of an action when making controlled action decisions. These include a significant proportion of those instances where the minister has decided that an action does not require approval if it is carried out in particular manner. I could give the Senate a whole range of reference numbers of decisions but in the interests of time I will not do that. The extent of the practice, and the fact that it so obviously involves a contravention of the statutory requirements, makes a mockery of the Auditor-General’s conclusion that in the overwhelming majority of the cases examined the reasons for decisions by the minister or delegate were consistent with the Prime Minister’s guide on key elements of ministerial responsibility and the principles of administrative law.

A simple example is applications to clear trees and vegetation from endangered ecosystems or habitat of threatened species. For example, the bull oak tree habitat is a key nesting site for the red-tailed black cockatoo. There are frequent applications to clear areas of bull oak. Repeatedly and without exception, as a side effect and part of the approval of this action, the minister requires some new trees to be planted. Presumably the bird just flies around in the air for 30 years until the trees grow big enough and become appropriate for nesting or food. Leaving aside that absurdity, the planting of trees to cover the area that has been cleared is a beneficial impact. To say that the action is approved as long as it is done in the manner specified—the planting of these trees—is clearly to give regard to beneficial impact and is a breach of the law. That is not an isolated example; it happens with infuriating regularity.

Conditions imposed on approvals must possess reasonable certainty of meaning and application. That is a basic principle of administrative law and I believe that the terms of the particular manner decisions are also an area of concern. Although particular manner decisions differ from approvals, the same principles apply. The particular manner specified by the minister must possess reasonable certainty of meaning and applica-
tion. I believe the Auditor-General neglected to analyse the particular manner decisions to determine the adequacy of the manner specified by the minister. In doing so it overlooked one of the most obvious flaws in the way in which the referral, assessment and approval process is currently being administered.

Another related issue is that the particular manner decisions often refer to information that is not publicly available. This also occurs in relation to the conditions imposed on approvals. By framing decisions in this manner Environment Australia prevents members of the public from being able to monitor compliance with the act. As the audit report recognised, third parties can and do play an important role in helping to enforce compliance with the provisions of the act. Another reason that the act is a significant improvement on previous environment laws is that it provides a mechanism for third parties to monitor and help enforce compliance. But, again, if you have a government that is not interested in facilitating that, it becomes much more difficult to use effectively. If third parties are expected to perform this role then Environment Australia must ensure that third parties can monitor the terms of its particular manner decisions.

The fourth issue that the audit report fails to analyse appropriately concerns staged referrals, which involve circumstances where a person divides a single action into a number of stages and then refers each stage to the minister as a separate action. In the act this is an obvious loophole that can be, and has been, exploited by people taking actions to avoid the assessment and approval requirements. The loophole could be easily closed—not simply by amendment but even by a minister refusing to allow people to refer projects in that way. The parliament was certainly aware of this issue when the act was passed and to ensure it did not occur the term ‘action’ was defined very broadly by the Democrats. Again, unfortunately, the minister and the department seem to be happy to interpret this much more narrowly and that should be examined by the Auditor-General as well. There are issues in terms of the provision of false and misleading information in referrals, and in terms of enforcing the act, that have not been properly examined. In conclusion, I have some significant concerns and I think it is appropriate to see if this can be re-examined by the Audit Office. I will pursue that separately but at this stage I simply seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 41 of 2002-03—Performance audit—Annual reporting on ecologically sustainable development. Motion of Senator Bartlett to take note of document called on. Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

Auditor-General—Audit report no. 62 of 2002-03—Performance audit—Management of selected aspects of the Family Migration Program: Department of Immigration and Multicultural and Indigenous Affairs. Motion to take note of document moved by Senator Bartlett. Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

Auditor-General—Audit report no. 1 of 2003-04—Performance audit—Administration of three key components of the Agriculture—Advancing Australia (AAA) package: Department of Agriculture, Fisheries and Forestry—Australia; Centrelink; Australian Taxation Office. Motion to take note of document moved by Senator Stephens. Debate adjourned till the next day of sitting, Senator Stephens in continuation.
Orders of the day nos 3 to 13, 15 and 17 relating to reports of the Auditor-General were called on but no motion was moved.

**ADJOURNMENT**

The **ACTING DEPUTY PRESIDENT**

(Senator Ferguson)—Order! There being no further consideration of committee reports, government responses and Auditor-General’s reports, I propose the question:

That the Senate do now adjourn.

**Grain Growers Association**

**Senator McGauran** (Victoria) (6.39 p.m.)—I wish to bring to the attention of the Senate, and probably more particularly of wheat farmers, the veiled activities of the Grain Growers Association. The vision statement in their 2002 annual report reads:

To increase the downstream involvement and influence of grain producers in the marketplace thereby assisting producers to maximise their productivity and profitability.

It is certainly a well-financed organisation, with net assets for 2002 showing at $344 million and cash at the end of the financial year at over $44 million. Yet, with this background, the Grain Growers Association at every forum they turn up to attempt to pass themselves off as a wheat farmers lobby group, cynically representing the best interests of the wheat growers. Some farmers lobby group they are, with $344 million worth of assets and $44 million in cash in the bank! I would ask: where does such a farmers group get that sort of money?

The truth about the Grain Growers Association is that it is the parent company of the bulk handler GrainCorp. GrainCorp has joint ventures with the internationally recognised grain merchant Cargill, the largest multinational grain trader in the world. The chairman of the Grain Growers Association is also the chairman of GrainCorp. Grain Growers directors are also GrainCorp directors. The reason I outlined this information is to show what a powerful player the Grain Growers Association is in Australia’s domestic wheat market, which is a good thing. I repeat: this is a good thing—at least until they decide to misrepresent.

Their misrepresentation is threefold. Firstly, they cleverly attempt to parade themselves as a wheat farmers lobby group in name and in their vision statement. They claim to speak for the bulk of the wheat farmers. Secondly, their claim of a 13,000-strong membership is very misleading. It is a membership based on the most spurious grower representation. For example, doing a business transaction with or holding shares in GrainCorp makes you a member for life. There are no annual fees or fees at all. The most spurious contact gets you a membership. What is more, the members are inactive. Thirdly, led by their chief executive officer, the association has lobbied in Canberra, in the media and around the country for fundamental changes to the single desk under the mantra of: ‘We support the single desk, but’—and then they go on.

The truth is that this slick and well-resourced presentation is nothing but a guise for the interests of the grain merchants. It would not be news to any wheat farmer that the big grain merchants seek to dismantle the Australian Wheat Board arrangements and therefore the single desk. What is new is this Trojan Horse approach by the grain merchants. I bring this Trojan Horse tactic to the Senate’s attention because the strategy of the Grain Growers Association has started to gather pace and credibility in some parts of the country. Admittedly, it is the same old suspects who have been against the Australian Wheat Board and their monopoly operations, but they too have now picked up the Grain Growers deceptive mantra of: ‘We are not against the single desk, but’—and in fact it has reached such a crescendo that you know them by their words.
The Grain Growers Association have had a series of some 22 so-called farmer workshops. The Grain Growers Association portray the workshops as having the endorsement of the Grains Council of Australia—the properly recognised farmers lobby group—and themselves as being there to discuss marketing arrangements within the industry. In reality, the meetings are subtle propaganda attempts to lure wheat farmers away from their belief in the single desk. The meetings begin with the distribution of a strategic planning paper endorsed—and, if not, paid for—by the Grain Growers Association that conveniently criticises the Australian Wheat Board and the single desk powers, I dare say just to open up debate. Further to this, the forum facilitator vigorously pushes certain lines during the meeting—for example, single desk at port and deregulation of bags and boxes along with the reconfiguration of the Australian Wheat Board International and the Australian Wheat Board Ltd. The attempt to indoctrinate does not stop there. The Australian Wheat Board have been effectively locked out of these so-called workshops. They have been refused permission to send a representative, let alone speak at all of the 22 workshops—which I would have thought was necessary at any of these forums.

In short, the Grain Growers Association is attempting to carefully manipulate the workshops to get the result it wants: to set the agenda in the government’s mind. I assume that the Grain Growers Association report from the 22 workshops will be ready to submit for the 2004 wheat marketing review. We already know the report it wishes to write: if it cannot abolish the single desk, it will undermine the integrity of the single desk. However, these pretenders will hit a brick wall, because over 90 per cent of the wheat farmers in Australia will not have a bar of any change of the single desk arrangements. So there are two camps: the Australian Grain Growers Association, representing the interests of the grain merchants; and the Grains Council of Australia, representing the 45,000 predominantly family wheat farmers. Whatever adjustments may be made or may have to be made to the wheat marketing arrangements following the 2004 review, the fundamental difference between the Grain Growers Association and the Grains Council must be kept in mind for the sake of an honest debate.

Indonesia: Terrorist Attacks

Senator WEBBER (Western Australia) (6.46 p.m.)—I rise tonight to speak about SAP, an acronym for the selective application of principle. In this country, and especially in this parliament, there has historically been bipartisan support for Australia not seeking judicial sanction of capital punishment, nor has Australia supported its use elsewhere in the world. Indeed, within the last month the Minister for Justice and Customs, Senator Ellison, has been to the United States to negotiate with the US government to ensure that David Hicks, an Australian citizen, does not face the death penalty. Yet, what have we seen in the reaction to the death sentence of convicted Bali bomb terrorist Amrosi? We have seen Australian political leaders, albeit with the exception of the Chief Minister of the ACT, Mr Stanhope, and the Premier of South Australia, Mr Rann, saying that they either support the death penalty or feel that it is up to the Indonesians to decide. Is that the approach that we have taken in the past? Is that the approach that we have taken if an Australian citizen is condemned to death in other countries? No, but that is the approach that we take now—the Pontius Pilate response, some would say. Collectively, we have washed our hands of our opposition to the death penalty. There can be no doubt that the actions of people who committed the bombings in Bali were crimes against humanity, but does this mean...
that we should sacrifice our own humanity on the public altar of vengeance? No, it does not. Thankfully, Mr Stanhope and Mr Rann understand this.

I want to go on the record as saying that I also oppose the death penalty in all situations. You cannot be in favour of the death penalty in some situations and not in others. We cannot be opposed to it here in Australia and support it in Indonesia. A person’s support for capital punishment cannot be turned on and off depending on the circumstance. There can be no greater form of cold-blooded killing than that of state sanctioned execution. When a group of individuals as a jury or a panel of judges determines that a person deserves to die according to law, they are not acting out of passion or human rage; they are acting in the clear light of day and they are choosing to take a life. This is not the way to defeat terrorism, nor is it the way to deal with other crimes. The death penalty does not stop people committing crimes. Can we really pretend that, if people are prepared to be suicide bombers, having the death penalty will deter them? Think that one through for a moment. If we catch you before you can explode your bomb, a bomb which you expect to cause your death, then is sentencing you to death actually a penalty? It is no penalty in fact. Instead, it is the reward the suicide bomber seeks. It will not stop that individual, or any others who may follow in the same path. A society that says it has the right to put to death a person according to the law does not offer any real alternative to that suicide bomber. We do not fight people who are prepared to kill by sinking to their level. Death is not a punishment for those people. They want to be martyrs and those who support the death penalty are prepared to let them achieve that.

A far greater penalty for someone who is prepared to die is to not grant them their wish. What greater punishment for the fanatic than to deny them their death wish? Let us incarcerate that person for the next 60 years or so to send a message that, before they get to die, they can reflect on the failure of their mission and the casualties it caused. What more abject failure is there than the failed suicide bomber? What stronger punishment than to deny them entry to whatever fool’s paradise they think is their reward? There is no martyrdom, no quick trip to paradise; rather, the message to their compatriots becomes that, if you engage in terrorism, we will not sink to your level. We will not use your despicable methods but will fight you by upholding our humanity. We will set our humanity against your killing. We will show the world that we do not resort to killing to solve problems.

For us, peace is not the absence of war, but the rule of law—not a law based upon retribution and violence but one based upon humanity. No matter how disgraceful your acts, no matter how heinous your crime, no matter how hurtful you are to others, we will not stoop to your level. To fight you, we will hold ourselves up as a nation concerned with human rights for all. We will hold up our democratic values, our love of freedom and our belief in the rule of law. By acting in concert with our values and beliefs, we will enable people everywhere to judge us against the anarchy and violence that terrorism promotes. This is not the selective application of principle; this is about the consistent application of principle. Not for me the Pontius Pilate act of washing my hands of the responsibility. Not for me the cop-out of saying, ‘It’s up to Indonesia.’ Not for me the populist silence. The death penalty is not appropriate in any situation, full stop.

**Indigenous Affairs: Education**

*Senator RIDGEWAY (New South Wales)*

(6.52 p.m.)—I rise to follow up a question raised today about Indigenous education and
talk in particular about the road that lies ahead as a result of the government’s proposed policy. Our Universities: Backing Australia’s Future. Whilst my main focus is the participation of Indigenous students in higher education, I want to draw upon the effects the government’s reform package will have on the entire sector. I emphasise that the effects on Indigenous students are exacerbated by their already marginalised position in the Australian education landscape.

To my mind, the education statistics for both Indigenous and non-Indigenous young Australians are of concern, as is the debt students are having to accumulate. But in the case of young Indigenous people these statistics highlight just how much ground has to be made up if all Australians are to have equal life opportunities. Of the 410,000 Indigenous people in this country—a very small numerical figure, if we think about it—about two-thirds are under the age of 25. This means that about 240,000 young Indigenous people are under that age, and most of those are under the age of 18.

Fewer than half of the young Indigenous people who are aged between 15 and 19 are attending secondary school. As a consequence, only about 10 per cent are completing their Higher School Certificate. As for non-Indigenous Australians, 70 per cent of them are attending secondary school and about 30 per cent are completing their HSC. Almost a third of Indigenous students had no formal qualifications of any sort before they entered higher education, compared with 7.7 per cent of non-Indigenous students. In 2001 some 70 per cent of all commencing Indigenous students gained admission through special entry arrangements, compared with 24 per cent of non-Indigenous students.

It is obvious to me that these statistics have significant implications for how the policy initiatives should be structured and delivered over the short, medium and long terms. It also strikes me that higher education is playing an integral part in the education of Indigenous people. Arguably, higher education is making up for the shortfalls in primary and secondary education for Indigenous people. Indigenous education needs to be addressed as a whole rather than compartmentalised into state and federal responsibilities, yet there appears to be a lack of commitment and cooperation between state and federal policies to try to improve Indigenous education outcomes. Thankfully, Indigenous higher education institutions, to varying degrees, do understand this need and are attempting to respond.

The problems in educational outcomes need to be addressed in light of other areas of Indigenous life such as access to employment, health services and breaking out of existing cycles of poverty. It is for this reason that special entry programs for Indigenous students in higher education are important, but they can only be part of the answer to delivering better education outcomes. These programs cannot be seen in isolation. Ongoing support for the various Indigenous support centres and for Indigenous staff is vital if institutions are going to see improved retention rates of both students and staff and improved student outcomes. Indigenous support centres across universities are, frankly, feeling the pinch as a result of tighter funding by the government of higher education.

While the latest budget is likely to have a profound effect on all students, its effect on Indigenous students should not be overlooked. It will certainly compound their circumstances. The government’s higher education reforms provide limited and token gestures of support for Indigenous education. They will do little to increase Indigenous people’s participation in higher education and will not provide the support that is needed to improve educational outcomes. I
will not go through all of the details but, whilst there are some positive initiatives in the reform package, I need to mention some particular issues which arise.

One of the key things that I would like to explore a bit more in regard to these reforms is the issue of tying funding allocations to workplace reform in Our Universities: Backing Australia’s Future. Not only is $10.4 million worth of Indigenous student funding tied to workplace relations but also just over $404 million worth of university funding is tied to workplace reform. If the government is committed to Backing Australia’s Future, I am puzzled as to how moving to A W As or individual staff contracts can either improve the experience of first-year university students or make teaching and research better.

The government has instituted the Australian Universities Quality Agency with the aim of raising the bar in terms of educational standards and international reputation. That is a positive step, but it appears to me that it would make a lot more sense if additional funding were tied to productivity or output, not to workplace agreements. The government has made funding contingent on an arrangement to which staff are ideologically opposed. The government says that it is creating a more flexible and effective work force, yet the logistics and practical application of its agenda would lead to the exact opposite. Asking universities to make individual staff contracts with every single staff member would be an administrative nightmare. In my view, no funding should be tied to workplace relations, and certainly not funding for Indigenous education.

Initiatives that are aimed at improving Indigenous participation in higher education not only require a holistic approach but also need support and commitment from the most senior levels of the institutions in order to succeed. It becomes increasingly difficult to rely on the present government in relation to improving educational outcomes for both Indigenous and non-Indigenous students, so it may be up to each university to look at its own commitment to Indigenous education and ask whether it is providing adequate support for the needs of its Indigenous students and staff.

The final thing I want to say is that I think we all accept that inroads have to be made in relation to Indigenous educational opportunities to ensure that a new generation of leaders is able to emerge and be nurtured. The cost of failure in this regard is the possibility that current problems of high unemployment, community violence and family breakdown—these being of interest to the Prime Minister as a result of violence summits that he has convened and his recent visit to Cape York—all go back to the question of the general lack of life opportunities. If we do not address that problem, it seems to me that all we will be doing is compounding even further the difficulties that many young people are experiencing within our communities but, most of all, for the generations to come.

**Manildra Group of Companies**

**Senator BUCKLAND (South Australia)**

(7.00 p.m.)—Earlier today we had a debate on a notice of motion moved by Senator O’Brien which condemned the Prime Minister for his ongoing pattern of deceit—this time in relation to his dealings with Mr Dick Honan from the Manildra Group. I was unable to join the debate at that time, but I would like to say a few things on the issue tonight.

On this occasion, the actions of the Prime Minister have been to try to deceive the parliament and the Australian people over the dealings he had with the Manildra Group, actions which gave that company a significant financial advantage over other suppliers of fuel ethanol. Manildra is the largest Aus-
Australian producer of fuel ethanol, and the company was able to rake in better than 96 per cent of the ethanol subsidies paid by the Howard government last year—money from the taxpayers’ pockets. That means that the Prime Minister’s mate’s company got $20,857,998 while the other Australian producer, CSR, got a mere $845,182. It seems that things can be pretty lucrative for the mates of the Prime Minister if this action is any guide. At the same time as the Prime Minister was giving this money to his mate, he was telling the Australian people that he did not have Manildra in his mind. The Prime Minister is simply a serial fibber, and when he does get caught—

The PRESIDENT—Order! Whilst I have let you make some reflections on the Prime Minister, I think you should withdraw that last one. I remind you that the substantive debate was held today on a notice of motion. You are outside that main debate and, if you are going to start using the type of language that was in the notice of motion in the adjournment debate, I might have to pull you up. I have let you go twice, but I ask you to withdraw that last remark.

Senator BUCKLAND—I withdraw that, Mr President, on your advice, and I trust I will not be stopped—

The PRESIDENT—It is not only on my advice; it is on advice from the Clerk.

Senator BUCKLAND—The Prime Minister does mislead, and we have seen that. When he does get caught at misleading, he hides behind his staff and/or he blames other people in order to shift attention from his continuous deceit.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Woomera: Climate
(Question No. 1610)

Senator Brown asked the Minister representing the Minister for Science, upon notice, on 10 July 2003:

(1) For each year during the 1999-2002 period (inclusive), what were the maximum and minimum temperatures recorded at Woomera.

(2) For each year during the 1999-2002 period (inclusive), on how many days did the temperature exceed: (a) 35°C; (b) 40°C; and (c) 45°C.

(3) For each year during the 1999-2002 period (inclusive), on how many days was there: (a) any rain recorded; and (b) more than 5mm of rain recorded.

(4) What are the average hours of sunshine in Woomera.

Senator Alston—The Minister for Science has provided the following answer to the honourable senator’s question:

(1) The Bureau of Meteorology has provided the following information concerning the maximum and minimum temperatures recorded at Woomera for each year of the period 1999-2002 inclusive:

<table>
<thead>
<tr>
<th>Year</th>
<th>Highest Maximum</th>
<th>Lowest Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>44.7°C</td>
<td>2.0°C</td>
</tr>
<tr>
<td>2000</td>
<td>44.5°C</td>
<td>2.7°C</td>
</tr>
<tr>
<td>2001</td>
<td>45.4°C</td>
<td>3.5°C</td>
</tr>
<tr>
<td>2002</td>
<td>43.4°C</td>
<td>0.6°C</td>
</tr>
</tbody>
</table>

(2) During the 1999-2002 period inclusive, the temperature exceeded (a) 35°C (b) 40°C and (c) 45°C on the following number of days (figures provided by the Bureau of Meteorology):

(a)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of days exceeding 35°C</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>51</td>
</tr>
<tr>
<td>2000</td>
<td>60</td>
</tr>
<tr>
<td>2001</td>
<td>58</td>
</tr>
<tr>
<td>2002</td>
<td>52</td>
</tr>
</tbody>
</table>

(b)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of days exceeding 40°C</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>12</td>
</tr>
<tr>
<td>2000</td>
<td>12</td>
</tr>
<tr>
<td>2001</td>
<td>21</td>
</tr>
<tr>
<td>2002</td>
<td>13</td>
</tr>
</tbody>
</table>

(c)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of days exceeding 45°C</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>0</td>
</tr>
<tr>
<td>2000</td>
<td>0</td>
</tr>
<tr>
<td>2001</td>
<td>2</td>
</tr>
<tr>
<td>2002</td>
<td>0</td>
</tr>
</tbody>
</table>
(3) For each year of the period 1999-2002 inclusive, the Bureau of Meteorology has provided the following figures:

(a)  
<table>
<thead>
<tr>
<th>Year</th>
<th>Number of days on which rain was recorded</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>48</td>
</tr>
<tr>
<td>2000</td>
<td>55</td>
</tr>
<tr>
<td>2001</td>
<td>60</td>
</tr>
<tr>
<td>2002</td>
<td>32</td>
</tr>
</tbody>
</table>

(b)  
<table>
<thead>
<tr>
<th>Year</th>
<th>Number of days on which more than 5 mm of rain was recorded</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>8</td>
</tr>
<tr>
<td>2000</td>
<td>9</td>
</tr>
<tr>
<td>2001</td>
<td>14</td>
</tr>
<tr>
<td>2002</td>
<td>3</td>
</tr>
</tbody>
</table>

(4) The annual mean hours of sunshine at Woomera for the period (1951 to 2003) is 9.1 hours.

**Defence Capability Investment Committee**  
(Question No. 1666)

*Senator Chris Evans* asked the Minister for Defence, upon notice, on 28 July 2003:

With reference to the Defence Capability Investment Committee:

(1) When was the committee established.
(2) Who established the committee.
(3) For what purpose was the committee established.
(4) Does the committee have terms of reference; if so, can a copy of these terms of reference be provided.
(5) What is the membership of the committee.
(6) What are the reporting arrangements for the committee, for example: (a) to whom does it report; (b) how regularly are such reports made; and (c) what do the reports contain.

*Senator Hill*—The answer to the honourable senator’s question is as follows:

(1)&(2) There have been two Defence committees called the Defence Capability and Investment Committee (DCIC). The first was established in May 1997 by the Deputy Secretary Strategy and Intelligence. In August 2002, the current DCIC was formed by the Secretary of Defence.

(3) The current DCIC was established to strengthen independent review of capability and investment in Defence by seeking to ensure that resourcing, including capital investment and operating costs, is consistent with Defence’s strategic priorities and resourcing strategy.

(4) No. The role of the committee is covered at part (3).

(5) The members of the extant DCIC are as follows:

(a) Secretary of Defence (Chair);
(b) Chief of the Defence Force;
(c) Under Secretary Defence Materiel;
(d) Chief of Navy;
(e) Chief of Army; and
(f) Chief of Air Force.

(6) (a), (b) and (c) The DCIC chair reports to the Defence Committee each month on the outcomes of the DCIC meetings.