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No. 9, 2003
THURSDAY, 21 AUGUST 2003

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FIRST SESSION—SIXTH PERIOD

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Thursday, 21 August 2003

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

NOTICES

Presentation

Senator FERRIS (South Australia) (9.31 a.m.)—At the request of the Chair of the Standing Committee on Regulations and ordinances, Senator Tehen, I give notice that 15 sitting days after today he shall move:

That the Iraq (Reconstruction and Repeal of Sanctions) Regulations 2003, as contained in Statutory Rules 2003 No. 97 and made under the Customs Act 1901, the Air Navigation Act 1920, the Charter of the United Nations Act 1945 and the Migration Act 1958, be disallowed. I seek leave to incorporate in Hansard a short summary of the committee’s concerns with these regulations.

Leave granted.

The document read as follows—

Iraq (Reconstruction and Repeal of Sanctions) Regulations 2003, Statutory Rules 2003 No. 97


Regulation 3 defines the term “senior Iraqi official” as (a) former President Saddam Hussein or (b) “another person who was a senior official”. This definition is central to the definition of the term “government asset” which, in turn, is central to offence creating provisions in the Regulations (see regulations 10 and 11). The phrase “another person who was a senior official” is unclear. Given that the term is tied to offence-creating regulations, the Committee has sought advice from the Minister on whether a clearer definition is possible.

Senator Brown to move on the next day of sitting:

That the Senate calls on the Government to insist on better protection for United Nations’ personnel in Iraq.

BUSINESS

Rearrangement

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.32 a.m.)—I move:

That government business order of the day no. 7 (National Transport Commission Bill 2003 and a related bill) be considered from 12.45 pm till not later than 2 pm today.

Question agreed to.

Rearrangement

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.32 a.m.)—I move:

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

(a) general business order of the day no. 13 (State Elections (One Vote, One Value) Bill 2001 [2002]); and

(b) consideration of government documents.

Question agreed to.

Rearrangement

Senator FERRIS (South Australia) (9.33 a.m.)—by leave—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I move:

That business of the Senate order of the day no. 3, relating to the presentation of the report of the committee on the provisions of the Financial Services Reform Amendment Bill 2003, be postponed till a later hour.

Question agreed to.

LEAVE OF ABSENCE

Senator FERRIS (South Australia) (9.33 a.m.)—by leave—I move:

That leave of absence be granted to Senator Knowles for the period 8 September 2003 to the end of the 2003 parliamentary sittings, on account of parliamentary business overseas.

Question agreed to.
NOTICES

Postponement

Items of business were postponed as follows:

General business notice of motion no. 542 standing in the name of Senator Mackay for today, relating to the cancellation of the ABC program Behind the News, postponed till 8 September 2003.

General business notice of motion no. 544 standing in the name of Senator Ridgeway for today, relating to the Free Trade Agreement negotiations between Australia and the United States of America, postponed till 8 September 2003.

COMMITTEES

Select Committee on Medicare

Extension of Time

Senator McLUCAS (Queensland) (9.35 a.m.)—I ask that general business notice of motion No. 552 proposing an extension of time for a committee to report be taken as formal.

The PRESIDENT—Are there any objections to that being taken as formal?

Senator KNOWLES (Western Australia) (9.35 a.m.)—I seek leave to make a comment about that motion.

The PRESIDENT—Perhaps it would be better to do that afterwards. Do you have any objection to it being taken as a formal motion?

Senator KNOWLES—Yes, I do.

Senator MACKAY (Tasmania) (9.35 a.m.)—by leave—I think it might be better for the senator to seek leave to make a short statement rather than deny formality. It may be more expeditious. If she were to do so, it would certainly be granted by us.

The PRESIDENT—I think the intention is to have the motion declared formal, then to make the comments and put it to a vote. Are there any objections to it being taken as formal? There being no objection, I call Senator McLucas.

Senator McLUCAS (Queensland) (9.36 a.m.)—I move:

That the time for the presentation of the report of the Select Committee on Medicare, and on the Health Legislation Amendment (Medicare and Private Health Insurance) Bill 2003 be extended to 30 October 2003.

Senator KNOWLES (Western Australia) (9.36 a.m.)—by leave—I know that the Senate Select Committee on Medicare is particularly important and that there has been considerable interest in it. But I am concerned about this extension, and I am concerned about part of the reason for this extension—that is, the referral to engage a consultant. I do not really have a problem on the basis of the committee wanting to get a consultant to have a look at a certain aspect of the inquiry—that is fine. But I think the consultant should in fact be an independent person or group of people. Unfortunately, in this instance we do not have that situation at present with the Senate committee.

I think that is a great shame because it potentially tarnishes the report that they will give to the committee at the cost of nearly $25,000 of taxpayers’ money. I refer to the fact that Professor Swerissen, who is heading this inquiry, has a very long association with the Labor Party as a staff member. He also has a very close association with a Labor minister in Victoria. Professor Duckett has also had a very long association with a Labor minister in Victoria. Professor Duckett has also had a very long association with the Labor Party. He has already put in a submission to the inquiry and has stated his case—very much against everything that the government is doing. That is his right but we cannot then pretend that he is an independent person. The same applies to Mr Livingstone, another person who is part of the referral. He is certainly a person who has written some very derogatory things about the package. Once again, that is his right. I am not denying anyone
their right to have a voice against the package. I am saying that the reason this inquiry is being extended is that these people are being asked to make an independent assessment of the package, yet we cannot even get from them the assumptions on which they will make that independent assessment. I requested, first, that the committee look at the assumptions that would be the basis on which they would form their conclusions and, second, that the committee engage someone who is truly independent. I want to put on record the government’s position in this regard. We do not oppose the seeking of information; we oppose the fact that this information is potentially tarnished already by the publicly stated positions of the individuals who will be making the assessment.

Senator LEES (South Australia) (9.39 a.m.)—by leave—I would like to make a few points. We asked the department questions on this issue when the department came before the committee and we were told they had done no work, had done no modelling and had no information. The committee have looked around and I believe we have found an organisation whose own standing depends on providing us with verifiable, detailed information. I suppose we could keep looking but the committee are trying to get this done as quickly as possible.

As for Senator Knowles’s last comment about not having the information as to how it will be structured, that is part of the brief. Because the department could give us nothing on any inflationary effects and just kept saying there were none—but could not show how they came to that conclusion—we obviously needed to develop a model of how we looked at the issue. That is part of the cost. This is an organisation that has done this sort of work before. I find it quite disappointing that we have taken three individuals and somehow implied that they are not able to be independent and professional. I understand that Stephen Duckett actually worked for Jeff Kennett. I do not think who a person has worked for is in any way relevant. I think we need to look at three highly professional people.

Senator Patterson—Meg, get a grip on life.

Senator LEES—If the minister is going to get upset just because these people were amongst those who attended the health summit, I am very disappointed. We have the opportunity to get some information that the committee need in order to do our work. On the point Senator Knowles raised about timing, this is not going to hold us up. One of the things that is holding us up is the volume of submissions and information that we get at each of the hearings. The committee secretariat are under enormous pressure. We have already had someone seconded from the department to assist but the secretariat are working 10-hour days already as they begin doing the outline of the report. This is not something that we have dreamed up just to delay the process. It is essential that we get some more detail and information, particularly when we cannot get anything out of the department.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.42 a.m.)—by leave—I made some remarks in relation to the timing of committees reporting on bills yesterday in the debate on the tabling of the Selection of Bills Committee report. Again we have here, from a management of the Senate’s business point of view, a significant piece of legislation, a significant piece of the government’s program, and the Senate is being kept from being able to deal with it until, effectively, the last fortnight.

Senator Mackay—This is not our fault.

Senator IAN CAMPBELL—I am just making a point; I am not having a go at any-
body. We will be back here in November and we will have a list of the normal 40, 50 or 60 bills that we want to bring forward. We will have lectures from people saying that we should sit more weeks and do this and that. These sittings contain roughly 10 weeks of sitting time: we are sitting two weeks on and two weeks off, with one exception, through to December. In this motion before us today is a request for an extension of time for a committee that has already had the legislation before it for many weeks. It would have, if it were to report on time, yet another three weeks from today to consider the bill or bills and it is seeking an extension of a further seven weeks, which takes the reporting date out to 30 October, as I read the motion. Although it is not public at this stage, we have a proposal to extend the estimates hearings in November, which will effectively take out the week commencing 3 November.

Senator Faulkner—It will be extended by one day.

Senator IAN CAMPBELL—Two days. We will talk about that.

Senator Forshaw—What are you talking about?

Senator IAN CAMPBELL—We are actually talking about the program, Senator Forshaw. It will probably not bother you.

Senator Forshaw—It does; I'm on the committee.

Senator IAN CAMPBELL—It is an important issue because you will be here complaining, Senator Forshaw, about the management of the program and why you are sitting up until four o'clock in the morning. Your party is about to vote for a resolution to extend the reporting date for one bill for a further seven weeks. My view is that this is a form of delay and obstruction. If it is not, it is very bad management. I cannot see why this committee should not be able to report by say, if it needs an extension, 7 October to give us that October fortnight to deal with these bills. This motion means that the bills cannot be dealt with during the September sittings and they cannot be dealt with during the three weeks we sit in October. Depending on how we resolve the estimates hearing, which is what the banter across the table was about, that leaves us either one day in the week of November or no days, and then the final fortnight in December. With this bill and a number of other bills that have again been delayed in committees, we are effectively ensuring that a range of major packages will not be considered by the Senate until the final fortnight.

Quite frankly, if you need an extension for this committee—and I have heard what Senator Lees has said and I respect it—then I think it would be reasonable to have an extension but to have an extension of a further month and not a further, effectively, two months. In other words, we should have the reporting date of 7 October, which gives you six weeks to extend the inquiry and still gives the Senate the opportunity to deal with these bills in the October sitting period, not to effectively delay consideration of the bills until the end of November. That is a reasonable thing to do. It means the Senate can actually manage its program and it also means that the bills are going to have an enormous length of time before a committee. All I am asking for is a reasonable approach, not one which is clearly unreasonable and which will make the program very hard to manage towards the end of the year.

Senator McLUCAS (Queensland) (9.46 a.m.)—by leave—The proposals from the government are the most significant changes to affect Medicare since its inception. We have had over 190 submissions to this inquiry and by the end of next week we will have had 11 days of hearings, and they are not yet completed. We have been to all states of Australia and we will be taking evidence
from the Northern Territory as well. The community is asking for a broader debate about the effects of the government’s proposals on Medicare, not a shortened debate. Many of the submissions, including some of the most significant submissions, have said that we need a long-term inquiry into health care in Australia.

The Manager of Government Business has said that the Senate has referred a piece of legislation. He needs to be reminded that there have been two references to this committee, very extensive terms of reference and then, subsequently, the legislation. As the chair of the committee, I asked the secretariat to develop a time line in order to properly consider the extensive work that community members, academics and people interested in health care in this nation have done and to enable them to give evidence to the inquiry. It is only right that we do those pieces of work justice. They have advised the committee that it is only possible to deliver the report in the week of 27 to 30 October and it is right that we take that advice.

Senator Knowles made comments about the approval by you—and I thank you—for us to seek advice from the Australian Institute for Primary Care. I think her comments on some of the individuals who will be doing that research are unfounded. I asked Senator Knowles and other members of the Liberal Party to offer an alternative institution or group that would be able to provide the quality of advice that we require, and nothing was forthcoming. The Australian Institute for Primary Care are a well-regarded academic group. They have proposed to us that they will need four weeks from the date of contract to complete their work. It is understood that the date of contract is today, and four weeks from today will take us past even the reporting date of 9 September.

As I said, the community wants a bigger and more in-depth debate about Medicare, not a shortened or curtailed debate as the Liberal Party have attempted to do right from the instigation of this inquiry. The Liberal Party did not want understanding of what the effects of their Medicare package would be. As Senator Lees has said, the department has not been forthcoming with any evidence about the inflationary effects of the government’s proposals on health care in this nation. That is why we have had to commission work from external bodies. It is a sensible and reasonable request for an extension.

Senator Ian Campbell—It is delay and obstruction on your part.

The PRESIDENT—Order, Senator Campbell.

Senator McLUCAS—I refute absolutely that this is an unreasonable request for an extension. We need to do justice to the submissions that have been given to us and to the need for debate about health care in this nation, and curtailing this in the way that the Liberal Party are proposing is improper.

Senator Ian Campbell—It is not curtailing it. You have had three months for this inquiry.

The PRESIDENT—Order, Senator Campbell.

Senator Forshaw—You have not read one of the submissions, so why don’t you shut up.

The PRESIDENT—Senator Forshaw, that was uncalled for. There is too much noise across the chamber.

Senator Barnett—Mr President, I raise a point of order. I ask you to ask Senator Forshaw to withdraw that unparliamentary remark.

Senator Faulkner—Mr President, I think that is a ludicrous point of order. I suggest to you that the term ‘shut up’ is not unparlia-
mentary. What is unparliamentary, of course, is a senator shouting across the chamber. You may care to make that point. All interjections are disorderly and the opposition will not tolerate the situation if opposition senators are called to order when government senators continually interject and are not called to order.

The President—Senator Faulkner, I have been trying to restore order to the chamber. Shouting across the chamber, as everybody knows, is disorderly. Shouting across the chamber from both sides is out of order. Can we get back to the debate and get on with the day’s business?

Senator McLucas—Senator Knowles made some comments about the assumptions that the Australian Institute for Primary Care will have to make in order to complete the work that they have begun. Senator Knowles should have read the contract proposal from the Australian Institute for Primary Care. It is advised in that proposal that additional time would make it possible to test parameter assumptions with key health economists and health service researchers and to improve the quality of the data. We would need extra time, and Senator Knowles knows that. We have decided not to take that option. We know that the quality of work from this institute will be sound. I only wish that the department had been forthcoming with information so that we would not have had to progress down this track.

Senator Barnett (Tasmania) (9.52 a.m.)—Mr President, I seek leave to make a short statement on the same issue.

The President—Is leave granted?

Senator Mackay—No. What is it about?

Senator Barnett—It is about the same issue.

Senator Mackay—No.

Senator Ian Campbell—You cannot have an agreement to allow formality and have statements by leave and then refuse leave.

Senator Mackay—I am refusing leave.

The President—Leave is refused.

Senator Ian Campbell—that is an absolute breach of faith.

Senator Mackay—It is not. You behave yourself.

Senator Ian Campbell (Western Australia—Manager of Government Business in the Senate) (9.53 a.m.)—Mr President, I seek leave to make a short statement in relation to the opposition whip’s refusal to grant leave.

Leave granted.

Senator Ian Campbell—Senator Knowles had indicated that she was going to deny formality and have a debate on this. There was an agreement between all parties that we would not deny formality on the basis that we would allow statements by leave. This is a clear breach of that undertaking and understanding. Clearly, the opposition whip does not like to have this debate. If we had wanted to we could have denied formality but in good faith, having made that decision at the request of the opposition whip not to deny formality and to have statements by leave, we stuck by that. We have now had a breach of that agreement. What it says to the coalition is that in future when we get undertakings from the opposition whip they cannot be trusted and cannot be taken at her word and that in future we will have to deny formality and have a full-blown debate.

Senator Mackay—Mr President, I raise a point of order. I indicate that if the Manager of Government Business in the Senate is going to get so het up about this, we will grant leave for anyone who wishes to make a contribution to this debate for however long it takes.

CHAMBER
Senator BARNETT (Tasmania) (9.55 a.m.)—by leave—I thank the opposition for their reconsideration of this matter. I also note that Senator Lyn Allsion might wish to make a comment. I have some new evidence, information and argument to put to the Senate so that the matter can be reconsidered very carefully. Firstly, I want to agree with Senator McLucas’s comment about the fact that this is an important inquiry. Of course Medicare is important and that is why we are considering this matter very carefully.

The issue is not the importance of the inquiry; the issue is the integrity and the independence and the objectivity of those conducting the research—that is, the Australian Institute for Primary Care and in particular Professors Duckett, Serjeantson, Livingston and Weeks. Let me make it clear that Professor Duckett has already made a submission to the inquiry that is critical of the government. Secondly, Livingston, in the public arena in a left-wing publication, Dissent, has been highly derogatory about the Medicare proposals put forward by the government. So two of the main consultants to the inquiry have already got preconceived views. They are by no means independent or objective. That should be taken as read.

The other point that I want to make is that our instructions to the Australian Institute for Primary Care were quite clear. Our instructions stated:
Do some research on the government’s proposals and the opposition’s proposals and the inflationary effects, if any.
They responded by saying:
Thank you for asking me for advice on our capacity to conduct research on the inflationary effects on health care costs for consumers that are likely to emerge.
This is a point that I brought up in the committee, and I bring it up again now for senators. They have a preconceived view that there will be inflationary effects—and we said ‘if any’. So the instructions are very important. I think they have preconceived views that there will be inflationary effects, and of course there is nothing in the Medicare package that forces doctors to charge more. Senator Kay Patterson has made that point very clearly and again. So we are spending $22,000 of taxpayers’ money. There are other alternatives out there and I say for the benefit of Senator McLucas that one of those is Econtech. That point has been raised and it is put again to the Senate chamber. I think you should reconsider very carefully your position.

Senator ALLISON (Victoria) (9.58 a.m.)—by leave—It is unfortunate that we are having this debate. I think that the committee has tried very hard to be cooperative with the government. I want to respond to Senator Ian Campbell’s remarks earlier, which I was not in the chamber to hear. I understand that he is aggrieved at what he says is my agreement to deal with the bill sooner than the end of October. What I did say, in answer to his question in a whips meeting the other day, was that I would talk with the chair, as I did, and consider whether we could bring the bills on for debate prior to reporting on the more general terms of reference. Indeed, the committee talked about a kind of two-stage process whereby we might be able to deal with the legislation and do a short report about it and then do a more general one further down the track. Having thought about this carefully and having discussed it with the secretariat, the chair is of the view that that is not going to be easy—it may be impossible. I accept that.

All I said to Senator Ian Campbell was that I would give an undertaking to explore the idea, which I did. I have indicated that I accept the arguments. It is in our interests to do this as quickly as possible. I do not want to spend the rest of the year travelling around
the country on this inquiry—worthy though it may be. As Senator McLucas says, there are good arguments for extending it to an even more general inquiry.

I want to respond to some of the remarks that have been made by both Senator Knowles and Senator Barnett with regard to the so-called political bias of those people we have chosen to provide us with information about the inflationary effects. It is clutching at straws to suggest that, because ‘if any’ was removed from the terms of reference, those who are producing this report will take that to mean that there will be some inflationary effects and they will therefore need to find them. What an insult to some of the most seriously professional people in the health sector to suggest that to include or to exclude those two words makes any difference. I find that extraordinary.

I turn to political bias. It is an interesting time to be talking about political bias in this field. This week we saw a health alliance meet at Old Parliament House on Sunday, Monday and Tuesday. The government dismissed that group of absolutely eminent people in the medical sector as being political, having bias, or in some extraordinary manner just supporting a political point of view. Again, that is a huge insult to an eminent group of people who are serious about health in this country and who came together—for the first time ever, as far as we know—to debate where this country should be going.

The reason we are having this inquiry is that the government has not done so. The government has not sat down with those people. It has not sat down with the people at the coalface. It has not sat down with the people who designed Medicare in the first place. Professor Duckett and the like have been denigrated by the government for simply speaking up about what they see as being wrong with this bill. I find that extraordinary. Essentially this committee is doing the government’s work for it. The government should have been out there showing leadership, talking to these people about what needs to be done to solve the impasse between the Commonwealth and the states over the health care agreements, to ameliorate what we all know to be the inflationary effects of this package. That is what the submissions are saying to us. We have not had a submission from someone saying, ‘It is not going to be inflationary and here are the reasons why; we will spell it all out.’ Maybe the department could do that, but they have been reluctant so far. In fact, they have said they have not taken the time—no doubt at government instruction—to do this.

So the committee is in no other position but to say, ‘We need this expertise. We have all these submissions saying there are inflationary effects. How do we test that? Is it just anecdotal? Is it just political? Is it just people who do not like the government who are saying this? How do we test it?’ We get expert advice to do that, and that is what we have done.

Certain my effort in this inquiry will be to bring forward the reporting date. I hope we can report earlier than that, and I think there is a chance we can, but at this stage that is the best estimate. Can I say something else about the secretariat arrangements. There are constant pressures on our committee secretaries and their staff. They work extremely hard. But if there are any delays in this place—I do not have evidence for this and maybe we should do a study on it—it is because the constant cuts imposed on the Department of the Senate mean that our secre-
taries cannot do this work faster than they currently do. If we had more staff, perhaps we could report sooner. It is very difficult. So if there is to be some inquiry into why this report is late, let us have a look at whether the Senate’s secretariat staffing arrangements are adequately resourced. I think we might find that they are not.

As I understand it, there is the capacity for the Senate to have four select committees going at any one point in time. We currently have two. Staff for the Medicare inquiry have been taken from other committees that are busy trying to write their own reports, which has put a lot of pressure on other departments. In this place we ought to have the funds to be able to set up two more committees and have them properly staffed. Where is that money? It is just not available. That is because we have taken 14 per cent out of budgets through so-called ‘efficiency dividends’, or whatever they are called, over the last few years. So if there is to be a complaint about the speed with which we can do this work, let us have a look at the resourcing that goes into it.

Senator HUTCHINS (New South Wales) (10.05 a.m.)—by leave—I am disturbed about the direction of this debate. I know Senator Knowles and, despite her right-wing views on a number of things, she is a decent sort of person. I am amazed at the direction in which she is seeking to take the Senate chamber today. Senator Knowles, Senator Moore and a number of other senators and I have been involved in an inquiry into poverty and financial hardship. Senator Knowles would know as well as I do that the people who have been appearing before us to give evidence have said that the lack of bulk-billing in a number of areas, particularly in regional Australia, has been a significant factor contributing to their financial hardship.

As I have said, Senator Knowles’s actions today are certainly out of character. Despite the fact that during the inquiry that Senator Moore and I sat on an overwhelming number of witnesses were critical of the government and the government’s actions and policies, Senator Knowles sat there and made sure that the government’s position was at least articulated and upheld. I do not want to say too much today, because I know my colleagues, including Senator Forshaw, are about to make a significant contribution, but I would think that the actions of Senator Knowles are certainly out of character. I know that she is off to New York shortly and I hope that she represents the country well in that endeavour. I am a bit disturbed by the direction Senator Knowles has taken today. One of Senator Knowles’s favourite sayings is ‘sawing through sawdust’, and I hope that we do not do that today.

Senator HUMPHRIES (Australian Capital Territory) (10.09 a.m.)—by leave—I seek to saw through the sawdust a bit more. I want to make a couple of brief points. Yes, this is one of the most significant changes proposed to Medicare since its inception, which is why the powers of the Senate to properly and independently scrutinise the legislation should be respected and exerted to the full. We need to ensure that the sieve that the Senate applies to this legislation is a very fine one, and I share the concerns of other senators on this side of the chamber that the process being used to do that is not one that will produce that result. I am concerned about the idea of commissioning this particular institute to conduct that work, in particular because several of the parties have had involvement in the issues already. Several of the parties to this study are already on the record on these issues and perhaps, most significantly, one of the parties, Professor Duckett, has actually made a submission to the committee.
Senator Abetz—He is going to examine his submission, is he?

Senator HUMPHRIES—Indeed, Senator Abetz picks up the very point. Professor Duckett and his colleagues will be asked in effect to comment inter alia on their own work. They will be asked to judge: did we get it right? Did we come to the right conclusion? It seems to me that in a wide world with many people with expertise, when there are many people who could conduct this kind of work, there are others you would choose to do that kind of study. Senator Barnett has put on the record today that Econtech is a well-respected firm already working in this field which could provide that expertise. None of the members of Econtech have already put a submission in to the committee. In those circumstances, why not choose those sorts of people?

Honourable senators interjecting—

The PRESIDENT—Order! Interjections are disorderly and particularly disorderly when they are not made from senators’ designated seats. I would remind senators to come to order. Let’s get this debate sorted out in a civil fashion.

Senator Carr—Mr President, I raise a point of order. You are quite right: it is disorderly. What I have indicated is that Econtech is a tory front and I think that should be acknowledged in the chamber.

The PRESIDENT—There is no point of order.

Senator HUMPHRIES—I am of the view that in this great nation of ours of almost 20 million people it is possible to find some professionals who are not tainted by existing contributions to this important public debate and who have not already put some particular position on the record in this debate. If you want to find somebody who is neutral, the last people you would go to are the ones who have been chosen by the committee. They are already clearly on the record as having a position and they are not the people to do this study. My recommendation is to find somebody else; that is not the view of the committee. In those circumstances, it is most unfortunate that we taint this process by not giving the committee the chance to properly analyse the evidence and the issues that are before it at the present time.

Senator FORSHAW (New South Wales) (10.13 a.m.)—by leave—There are two issues at the heart of this debate. The first one is the issue of the extension of time for the committee to report. The second issue, which really we should not be debating here, is the decision by you, Mr President, to approve the decision of the select committee to have the research undertaken. I find it somewhat disgraceful that for the last half an hour we have had government senators, members of the select committee—Senators Knowles, Barnett and Humphries—attacking the decision of the President. I think that is outrageous. That was a debate that we had in the committee and the committee made a decision. The President has upheld the decision. That should be the end of the matter.

If we wanted to go on and talk about bias and so on we could be here all day talking about examples of the bias the current coalition government have shown in research projects that they have had undertaken. Let us look at just a couple. Who chaired the inquiry into energy? Former senator Warwick Parer. Who chaired the inquiry into Telstra? Dick Estens, a well-known long-time supporter of the National Party. He came up with the sorts of outcomes that the government wanted in the first place. And these senators opposite have the temerity to stand up here and talk about independence! What an absolute farce. Just a moment ago we heard Senator Abetz say, ‘We should have got the Institute of Public Affairs to do it.’ The point is that the research needs to be
undertaken. It is going to be done in as short a time as possible because the committee is concerned about endeavouring to get this report completed and tabled in the parliament so that we can then get on with debating the legislation.

If we had had a lot more time, if the Senate Select Committee on Medicare did not have the pressure of the government’s legislation before us, we would have been looking to have a lot more detailed research undertaken into this whole issue of the future of Medicare, particularly the inflationary impacts of the government’s package and other issues that need to be examined. The reason we have had to take this step is that when we asked the Department of Health and Ageing to give us the modelling, the research and the data on their claim that this package is not inflationary they would not do it and they could not do it. This has been a major issue of debate throughout our public hearings. It was a very reasonable decision for the committee to take to have this research undertaken.

The other couple of points I want to make are with regard to the timetable for the committee. Let us remember that, firstly, the select committee was established on 26 June. As Senator McLucas, the chair of the committee, has said, it was given very broad, detailed terms of reference to look at the government’s package, to look at alternative packages and to look at a range of other health care issues. One would have expected, in the normal course of events, such a select committee to have taken a substantial period of time to examine issues of that detail and to bring down a report. I can recall select committees established back in the days when we were in government doing that. One inquiry—into broadcasting, I think—chaired by Senator Alston ran for well over a year or two years, to my recollection. I stand to be corrected.

**Senator Carr**—It was attacking the ABC.

**Senator FORSHAW**—The Senate Select Committee on ABC Management and Operations—it just went on and on.

**Senator Vanstone**—Like you are now.

**Senator FORSHAW**—Yes, and you have given me leave to do that, Senator Vanstone, so I am going to. The Senate needs to be reminded of these facts. In all the circumstances, it would not be unreasonable to have expected that this committee would have taken some time to examine those issues. The other aspect of this is that the legislation was referred to the select committee. Conscious of that—conscious that we have a duty to have that legislation debated in the Senate—we deliberately set out to ensure that that could be done and that the committee could do its work in as short a time as reasonably possible. It has proven to be the case that we need an extension for a few more weeks. At the end of the period of time that is being sought we would report on 30 October. That would be approximately four months for this committee to have done its work.

Let us look at the work it has been doing. As Senator McLucas has said, we have had over 190 submissions. They are not just form letters. Submissions of great detail have been given to us by various organisations—the AMA, various divisions of general practice, various community health groups, state governments and a broad range of interest groups involved in and interested in health care. We have had public hearings in every state, including Queensland when we go to Brisbane and Bundaberg next week. We will then go to Melbourne and come back to Canberra next Thursday for the final day of hearings. This committee sat for a good deal of time during the break and undertook a very tight and intensive program. Some of the members of this committee, including
Senator Knowles and Senator Humphries, were also members of the Senate Community Affairs References Committee inquiry into poverty and financial hardship—chaired by you, Mr Acting Deputy President Hutchins—which has been travelling as well. So there has been a lot of hard work put in by all members from all sides.

Clearly that has also impacted upon the secretariat. The secretariat of the Senate community affairs committee are handling the logistics of the select committee on Medicare and also having to do all their other work, including the inquiry into poverty, so they have been under great time pressure. They have done a fantastic job of ensuring that both committees—the select committee and the Community Affairs References Committee—could get their work done. It has proved to be the case that we need more time. We need more time for the research work to be done and we then need the usual amount of time—and it is a very tight timetable—for the draft report to be prepared, for that to be examined by the committee and for any dissenting reports and so on.

The committee secretariat and opposition members of the committee have bent over backwards to meet a timetable that will allow this legislation to be debated this year. But today the government senators have tried to use the forum of the Senate to overturn decisions that were arrived at by the committee. They have never wanted this inquiry. They wanted to have major changes made to Medicare in this country and yet not to have a real public inquiry into them. They did not want it in the first place. They opposed the proposition to establish the select committee. They really did not want to travel and hear from the public, and today they are trying to put more roadblocks in the way of this committee doing its work. I urge the Senate to support wholeheartedly the extension of time for this committee to report. It is not unusual. In fact, if you go through the Senate records you will find many instances where committees dealing with—with no disrespect—public issues a lot less serious than the issues this committee is dealing with have had extensions granted simply in order to be able to do the job they have been charged with doing. On this occasion, this is a very reasonable request and it should be supported.

Senator STEPHENS (New South Wales) (10.22 a.m.)—by leave—I want to add a couple of comments to the debate that has been fairly widely canvassed this morning. Senator McLucas has explained the circumstances of this request for an extension of time. The issue that really is of concern to me is the extent to which the government senators who are participating on this committee have been so critical of the proposal by the committee to seek some research from the Australian Institute for Primary Care. I think it is important to remind the Senate that, while government senators have been quite vocal about their concerns of bias by this group, the Australian Institute for Primary Care is a highly renowned group which has done extensive research in health economics. The research that has been proposed to look at the inflationary costs of this package relates to both the government’s A Fairer Medicare package and the opposition’s proposal. It is not as though the committee is trying to get the Australian Institute for Primary Care to have a very critical analysis of the government’s proposal without examining the opposition’s alternative.

The kind of work that is required to be done is for information that has not been provided by the department on direct health care costs to consumers. It is of concern to the committee that that information has not been made available to us. The research required is based on the fact that we know that direct health care costs to consumers associ-
ated with GP visits are a function of the fees that are charged by GPs, so any costs such as private health insurance that consumers incur to offset the risk of out-of-pocket expenses, which are the gap fees proposed by the government in health insurance, are going to impact on consumers. While Senator Barnett has taken quite an interesting line on the inflationary effect, if this research indicates that there are zero inflationary effects then the committee will be very pleased to receive that information. The research is to look at the estimate of aggregate inflationary effects on direct costs for consumers which are likely to be a function of the impact of proposed changes on GP fees and charges, including bulk-billing, the supply of GP services, consumers’ use of GP services and consumers’ use of GP substitute services, such as public hospital emergency departments; and information about bulk-billing, GP fees and charges, and consumer utilisation of GP services. We have a real problem in that there are a number of unknowns about the impact of the proposed changes on the factors that affect direct costs for consumers. That is the issue that we are really concerned about.

We have had over 190 submissions to the inquiry so far and there is only one submission that is actually complimentary of the government’s package, and that of course is from the department. Every other submission is quite critical of some factors of the package and of the legislation, and that is of concern to all committee members, not just those from the opposition. I think it is important that we do recognise that this extension of time is an important, genuine and valid request, and that members of the Senate do support it. It is important for us to get the work done well.

Senator McLUCAS (Queensland) (10.27 a.m.)—by leave—it is important to recognise that the process of making the decision about whom we would commission—the Australian Institute for Primary Care—was made at a private meeting of this committee. It was made after deliberation about alternatives. I actually offered Liberal members of the committee an opportunity to propose alternative people whom we could ask to do the work. There was nothing forthcoming from other members of the committee and so the decision was made. It is wrong to stand up in this chamber today, after these discussions have been held for about a fortnight, and offer an alternative now, suggesting that we could have asked Econtech. We have no information about their ability to do medical modelling. I think it has been very wrong for Liberal members of the committee to attack the professionalism of members of the Australian Institute for Primary Care. I think it is very disappointing that people’s personal reputations can be denigrated in such a way when they are eminent people in health economic research in this country.

Question put:
That the motion (Senator McLUCAS’s) be agreed to.

The Senate divided. [10.33 a.m.]
(The President—Senator the Hon. Paul Calvert)

Ayes............ 36
Noes............ 32
Majority........ 4

AYES

Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Buckland, G. Campbell, G.
Carr, K.J. Cherry, J.C.
Cook, P.F.S. Crossin, P.M.
Denman, K.J. Evans, C.V.
Faulkner, J.P. Forshaw, M.G.
Greig, B. Harradine, B.
Hogg, J.J. Hutchins, S.P.
Kirk, L. Lees, M.H.
Ludwig, J.W. Lundy, K.A.
Mackay, S.M.*  Marshall, G.  
McLucas, J.E.  Murphy, S.M.  
Murray, A.J.M.  Nettle, K.  
Ridgeway, A.D.  Sherry, N.J.  
Stephens, U.  Stott Despoja, N.  
Webber, R.  Wong, P.  

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Question agreed to.  

SOLOMON ISLANDS  
Senator BROWN (Tasmania) (10.36 a.m.)—I move:  
That the Senate—  

(a) notes that community, church, chamber of commerce, union and other non-government organisations are pushing for the establishment of a Truth and Reconciliation Commission in the Solomon Islands; and  

(b) calls on the Australian Government to offer the Solomon Islanders financial, technical and other support for the establishment of such a commission.  

Question put.  
The Senate divided.  

(The President—Senator the Hon. Paul Calvert)  

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DEATH PENALTY  
Senator BARTLETT (Queensland—Leader of the Australian Democrats) (10.45 a.m.)—by leave—I move the motion as amended:  
That the Senate—  

(a) notes that:
(i) according to Amnesty International reports, at least 6,031 prisoners were executed between 2000 and 2002;

(ii) Australia has ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, thereby undertaking not to execute anyone within Australia, and

(iii) the preamble to the Second Optional Protocol indicates the intention of the parties to undertake an international commitment to abolish the death penalty and sets out the belief of the parties that the ‘abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights’; and

(b) calls on the Australian Government to reaffirm its commitment to work towards the international abolition of the death penalty.

Question agreed to.

QUARANTINE AMENDMENT (HEALTH) BILL 2003

First Reading

Senator HILL (South Australia—Minister for Defence) (10.46 a.m.)—I move:

That the following bill be introduced: a Bill for an Act to amend the Quarantine Act 1908, and for related purposes.

Question agreed to.

Senator HILL (South Australia—Minister for Defence) (10.46 a.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator HILL (South Australia—Minister for Defence) (10.46 a.m.)—I table an explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The purpose of this bill is to amend the human quarantine provisions of the Quarantine Act 1908. The Quarantine Act 1908 (the Act) and its subordinate legislation provide the legislative basis for human, plant and animal quarantine activities. The Department of Agriculture, Fisheries and Forestry’s Australian Quarantine and Inspection Service (AQIS) administers the legislation for plant and animal quarantine entirely and, for human quarantine, on behalf of the Department of Health and Ageing.

Australia’s quarantine policy is based on the concept of the management of risk to an acceptably low level. The international movement of people, animals, plants and goods results in an inevitable quarantine risk to Australia. Australia’s approach to managing this risk, while providing the appropriate protection for Australia, is based on scientific reasoning and is consistent with international rules and standards.

On 8 April 2003 the Government gazetted Severe Acute Respiratory Syndrome (SARS) as a quarantinable disease, in order that the full measures available under the Act could be applied to this new disease threat, when and if required, based on ongoing assessment of risk. The SARS outbreak has highlighted the importance of border protection measures against the transmission of disease as an essential first line of defence.

In 1995, AQIS commissioned the Nairn Review of the plant and animal quarantine provisions of the Act. AQIS has completed implementing the recommendations of the Nairn Review and the Quarantine Amendment Act 1999 came into force on 23 June 2000.

In 1997, the human quarantine provisions of the Act were reviewed in accordance with National Competition Policy (NCP) requirements. A publicly available Discussion Paper and an independent consultant’s Competition Impact Analysis Report informed the development of the Final Report of the NCP Review.
The Final Report of the NCP Review determined that the human quarantine provisions of the Act have minimal impact upon competition and business. Where an impact was identified, the Report concluded that the costs to the government and industry were minor and outweighed and justified by the benefits to public health of the prevention of disease outbreaks. The then Minister for Health and Aged Care, Dr Michael Wooldridge, approved the recommendations of the Final Report of the NCP Review on 2 July 1998.

Following the recommendations of the Final Report of the NCP Review, the Department of Health and Aged Care undertook a review of the human quarantine provisions of the Act in 2000, with a view to updating and improving the legislative framework for human quarantine activities in Australia. This Human Quarantine Legislation Review was overseen by a Steering Committee, chaired by the Commonwealth Chief Medical Officer, (who is also the Director of Human Quarantine) with representatives from the Australian Quarantine and Inspection Service and other relevant Commonwealth agencies, and a representative of the States and Territories’ Chief Quarantine Officers.

In December 2000, the then Minister for Health and Aged Care, Dr Michael Wooldridge, approved the Human Quarantine Legislation Review’s Final Report. This Report recommended a two-stage response to the Review’s findings:

Stage 1

Minor and technical amendments to remove some current inconsistencies and to better align some existing provisions with current policy and practice regarding human quarantine control measures.

Stage 2

A strategic examination of health’s role in quarantine in the context of current and future communicable disease management.

This bill has been developed in response to the Stage 1 recommendation of the Final Report of the Human Quarantine Legislation Review. The proposed amendments are minor and technical in nature.

This bill introduces a number of amendments and new provisions to ensure the Act is comprehensive yet flexible in its approach to border control measures.

The amendments:

• incorporate a new right for people who have been ordered into quarantine to request an independent medical assessment;

• support the current policy of granting pratique by exception for international aircraft except where specified circumstances exist;

• allow for vector control activities to be undertaken, or ordered, within the entire boundary of a port as well as in a 400m surrounding buffer zone, with a penalty for non-compliance consistent with other penalty provisions in the Quarantine Act;

• ensure that quarantine signals apply to sea vessels only and not to aircraft;

• provide that costs relating to human quarantine may be recovered from the master, owner or agent of a quarantined vessel consistent with other similar provisions in the Quarantine Act;

• ensure that individuals are not liable for the costs of food or medicine relating to human quarantine; and

• remove the outdated references to “division or divisions” of quarantine.

There is currently no avenue of review for people who are ordered into quarantine. Pursuant to the amendments in this bill, a person ordered into quarantine who is, or is likely to be, suffering from a disease, may seek an independent medical assessment of their condition from a medical practitioner of their choice. They must be informed of this right, and may seek to exercise it at any time after being ordered into quarantine. Such a request may be invoked again after a lapse of 72 hours but not before. This aims to balance the interests of the individual against the interest of protecting the wider community against public health risks.

A new section is inserted into the Act, to enable pratique to be granted automatically in relation to the arrival of overseas aircraft, unless specified circumstances exist. Pratique is a term used to refer to the health clearance of a vessel (whether a
ship or an overseas aircraft), or an installation, by a quarantine officer. Previously, the master or commander of a vessel was required to report to a quarantine officer upon the arrival of the vessel at a port in Australia or the Cocos Islands. However, increases in air traffic and trade in recent decades require a risk management approach in relation to overseas aircraft arrivals.

In relation to incoming overseas aircraft this risk management approach is addressed by enabling pratique to be automatically granted in appropriate circumstances. Circumstances in which pratique will not be automatically granted include: if the commander of an aircraft has notified a quarantine officer of the presence of a prescribed symptom or an outbreak on board; or a quarantine officer is not satisfied that an aircraft is free from infection. The Director of Human Quarantine can also give a direction, before an aircraft arrives, that pratique will not be granted automatically on arrival, so that appropriate precautions can be taken commensurate with the perceived level of risk. The recent SARS outbreak provides an example of circumstances where the Director of Human Quarantine may decide to give such a direction, for example in relation to aircraft arrivals from specified countries which pose a higher level of disease threat.

The bill introduces a new part on vector monitoring and control activities into the Act. The objective is to prevent the introduction, spread and establishment of exotic diseases and their vectors so that any threat to public health resulting from a vector incursion is minimised or removed entirely. This provides for vector monitoring and control activities to be undertaken within a port, and within a permissible distance—currently 400m—from the boundary of a port, or from a place at which a vessel has landed, or is moored or berthed. Provisions are also inserted to provide greater flexibility in relation to vector control activities carried out on private property to ensure that a vector has not spread onto, or is not likely to become established on, the property. This part also provides for a new offence of failing to comply with a direction given by a quarantine officer to carry out vector control measures on the property.

A quarantine officer will be able to enter property (including private property) to conduct vector monitoring and control activities with consent, or in an emergency, or under the terms of a warrant. In order to remove inconsistency and ambiguity, this bill inserts several new definitions into the Act. The definition of vector is inserted to ensure that a consistent description applies throughout the Act.

A definition of medical practitioner, being a medical practitioner registered in Australia, is inserted into the provisions relating to persons being ordered into quarantine, released from quarantine and obtaining an independent medical opinion.

The definition of proclaimed place is repealed and replaced with a definition of declared place. This modernises the administration of the Act by allowing the Minister to declare any place in or beyond Australia infected, or in danger of being infected, by a quarantinable disease or pest.

Other amendments in this bill include: the removal of all references to a division or divisions of quarantine; provision that persons released under quarantine surveillance cannot be apprehended; and clarification that a person can be made subject to quarantine on the basis of a quarantine officer’s reasonable suspicion that a person has been infected or exposed to a quarantinable disease or pest. This addresses an anomaly, in that a person can be ordered into quarantine on various grounds, including a quarantine officer’s opinion that the person is, or is likely to be, infected with a quarantinable disease, or that a person or persons are suffering or suspected to be suffering from a communicable disease. However, there is no equivalent provision under section 18 in relation to persons being subject to quarantine. This corrects that anomaly, and moreover, requires that the suspicion be reasonable.

These amendments address a number of technical issues to improve the operation of this long-standing piece of legislation. The Quarantine Act has served Australia well to protect human health over the last century, and with these amendments will continue to do so.

The recent international outbreak of the Severe Acute Respiratory Syndrome (SARS) virus has
highlighted the need for a flexible and responsive legislative framework to enable Australia to respond to new and emerging disease threats in a timely way, and to implement border control and quarantine measures commensurate to the risk posed by such disease threats.

However, I believe there is clearly a need for a broader strategic approach to health protection of Australia in the 21st century, which addresses important issues surrounding contemporary disease preparedness, governance and response. In implementing the 'Stage 2' recommendations of the Human Quarantine Legislation Review, my Department will consider these issues, including options for administrative review, and cost recovery where appropriate.

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

HUMAN RIGHTS: HONG KONG

Senator STOTT DESPOJA (South Australia) (10.47 a.m.)—I move:

That the Senate

(a) expresses its concern that the draft legislation prepared in accordance with Hong Kong’s requirement to introduce national security legislation could encroach on the rights and liberties of the people of Hong Kong;

(b) notes, pursuant to the Sino-British Declaration of 1984, the People’s Republic of China pledged to preserve the rights and freedoms of the people of Hong Kong for a period of 50 years from 1 July 1997;

(c) recalls that the Australian Government has previously expressed its support for the Sino-British Joint Declaration;

(d) welcomes the improvements to the Article 23 legislation announced by the Hong Kong Special Administrative Region (SAR) Government on 3 June 2003 and 5 July 2003, but considers that further amendments and clarifications are necessary to show how the legislation will be implemented;

(e) looks forward to the enactment and implementation of commitments by the People’s Republic of China regarding democratic governance in the Hong Kong Legislative Council; and

(f) welcomes the Hong Kong SAR Government’s decision to further consult with the people of Hong Kong regarding the proposed legislation, urging it to recognise that while national security legislation may affect the civil liberties of offenders, it should not be used to diminish the individual rights and liberties that are fundamental to the democratic process.

Question agreed to.

Senator Brown—I would like it recorded that there was unanimous support for that motion.

Senator Robert Ray—No, sit down!

Senator Brown—I am making that point, Senator Ray. Don’t tell me to sit down—I will say what I like.

Senator Robert Ray—In what capacity are you making it?

Senator Brown—I am speaking to the President and not to you.

The PRESIDENT—Senator Brown, there is no provision in the standing orders for that remark of yours—but it will appear in the Hansard, as you will be well aware.

TRADE: FREE TRADE AGREEMENT

Senator NETTLE (New South Wales) (10.48 a.m.)—by leave—I move the motion as amended:

That the Senate

(a) notes:

(i) the strong campaign for ‘fair trade’ being conducted by the Australian Council of Trade Unions (ACTU) and its United States (US) counterpart, the American Federation of Labor-Congress of Industrial Organisations (AFL-CIO), in relation to the current
Free Trade Agreement being negotiated by the US and Australia,

(ii) the unanimous support at the ACTU Congress for freezing current Australian tariff levels, excluding public services, incorporating enforceable International Labour Organisation (ILO) standards and adopting anti-dumping provisions in any trade deals, and

(iii) that any free trade agreement with Australia must pass the US Congress; and

(b) calls on the Federal Government to:

(i) openly declare its exclusion of Australian cultural industries and standards from the Australian-US Free Trade Agreement,

(ii) remove public services and other services of national or social significance from the Free Trade Agreement negotiating table,

(iii) include enforceable ILO standards and environmental standards in all trade deals with Australia, and

(iv) bring any free trade agreement to the Parliament for ratification.

Senator COOK (Western Australia) (10.49 a.m.)—by leave—The Labor Party will not be supporting this motion. It is unfortunate that we have not been fully consulted about it and it has been unilaterally proposed. I should immediately recognise, of course, that it is the right of Senator Nettle to do that. But, if one was concerned about trying to get some sanity on the trade front, perhaps it would have been far better to have consulted more widely about this issue than to have come in and moved it straight off and with no indication—at least, as far as I am aware—to our side that it was to be extended in the manner in which it has been. It does not go to the purpose of what the extension is but the lack of notice about the extension.

There are a couple of things about this debate that ought to be put on the record. The first thing is that much of the language being used is misleading. The language in trade debate, which was the property of economists to begin with, in the mouths of politicians and those who want to craft slogans for popular consumption has been mismanaged.

Senator Brown—Like ‘free trade’.

Senator COOK—I acknowledge Senator Brown’s interjection, so Senator Brown’s interjection is now on the record and I am sure he would like that to have occurred. He is nodding in the affirmative that he does.

Returning to the subject of free trade, there is one issue right now on the world trading agenda that the Senate, I think, could properly express a strong view about. We are going to Cancun for the World Trade Organisation mid-term review of the Doha Round in two weeks time. The issue I refer to is one put on the world trade agenda by Burkina Faso and Mali, two of the least developed countries in the world. They are cotton producers, as are many of the least developed countries in the world. The global price of cotton is affected absolutely by export subsidies given by the United States to US cotton producers, and the US has much deeper pockets than Burkina Faso or Mali. Free trade, in its true meaning, and I support this, would mean the removal of US subsidies which distort the world cotton price and render the efficient producers—and they are efficient, albeit labour-intensive, producers by global standards—in Burkina Faso and Mali uncompetitive because the United States can subsidise their own farmers but the poor countries of Africa cannot.

Let us take the cotton crop as an example. It is a typical crop of developing countries. Who is going to argue—and Australia certainly does not—within the World Trade Organisation that subsidies, particularly export
subsidiaries, for world cotton production should be removed to enable the natural advantage that Burkina Faso, Mali and other least developed countries in Africa have in selling cotton to the world market to be realised in true gains? And rather than accepting aid and handouts from rich countries to prop them up, they can grow their own crops and sell their own goods in the world market, get a price back for those goods and develop their own economies. That is what free trade means.

Who is going to argue in this chamber that the poor countries of Africa, or indeed Australian rural producers, should not argue for the removal of export subsidies, direct subsidies, tariffs and quotas that prevent free trade in agricultural goods in the world? The United States has just put through this grotesquely distorting Farm Bill—$10 billion worth of subsidies a year to US farmers and zero subsidies to our farmers. We are competing on a level playing field: what a joke! Who is going to argue that those quotas and tariffs that prevent that section of the industry should not be removed?

Let us not just look at the US, because in many respects it is not the worst offender by a long shot. What about Europe, Japan and Korea? Indeed, 40 per cent of agricultural trade in the world is south-south trade. India protects its market from allowing other least developed economies to sell agricultural goods in India. What about that? Are we going to say that that free trade is unfair and we should strike it down? I do not think so. Australia has an interest here for its own primary producers but that interest is primarily for least developed or developing countries of the world, because what they are more competitive in than anything else is agricultural production—and in some other cases textile and clothing production—but they cannot sell their goods to protected markets. That is to say, there is an active debate in the World Trade Organisation at the moment that, until the rich countries deliver the commitments that they made in the Uruguay Round to the poor countries, the poor countries will not go any further in the negotiations in this new round: the Doha Round.

Who is going to argue on a point of principle that it is fair for the rich countries to extract from the poor countries’ commitment under the rubric free trade agreement, to have the poor countries deliver on that commitment and not to deliver back on it so that the poor countries have access to their markets? It is not fair, but that is free trade. What we are getting into here is a sloganised debate, and the debate is confused. We now have active negotiations for an Australia-US free trade agreement. The words ‘free trade’ in that title refer to bilateral free trade, between just two countries. What I have been talking about is multilateral free trade, which is the ideal that I believe the Labor Party stands for and I think most other people in Australia stand for.

But the title ‘free trade’ in that agreement with the US could be mutually described not as a free trade agreement at all but as a bilateral trade agreement. If you are not an economist, it could be described as a preferential trade agreement or a discriminatory trade agreement because it discriminates against all other markets to which Australia exports in favour of one market. In this case, that would be the United States. If you want an example of how that discrimination works, the assumption under the Australia-US free trade agreement is that it will remove all tariffs on automotive exports between Australia and the United States. That will discriminate against those other countries in the world to whom we export automobiles that have tariffs in place, or who export automobiles to us. Ask the Japanese or the Europeans what they think of Detroit
having a particular advantage over them in selling their cars in Australia.

When we get into this debate about free and fair trade, we get into this confusion of ideas. Who is going to argue against the idea of fair trade? Everything should be fair. That is a noble Australian sentiment. But words are bullets in trade negotiation; they have real meaning. They do not have superficial meaning. They are not crafted for populist appeal; they are crafted with specific intent in mind. To try and break down a notion of free trade by introducing a populist sentiment of fair trade confuses the debate and misleads a number of honest people. It is about time we faced up to that. We have a responsibility in the Labor Party, as an alternative government—and we will be there at the next election—to implement a policy on free trade. That is what we have a responsibility to do, so that the cotton farmers in Burkina Faso and the agricultural producers around the world can get a fair go, and so that the rich countries are made to open their markets to the poor countries and not use their market power to insist that only the poor countries open their markets.

For those reasons, I think that this motion would have been far better dealt with if we had consulted and talked about it between ourselves, and decided what is it that the Senate can say to bring some serious guidance to this question. Turning to paragraph (b), there are some particular things in paragraph (b) that ought to be said that are not there. Of course our cultural industries in Australia should be protected. We have stood for that. I understand the government has said that, certainly the Greens have said that—and I acknowledge that Senator Nettle herself has said that—and the Democrats have said that, and we have said it directly to the Australian artists in the entertainment and cultural industries.

The biggest threat to cultural integrity in Australia is not having a series of clauses to protect our cultural identity. The biggest threat is e-commerce, which goes past and under all of that. There is nothing in this motion about that and what protections we can put in to see that e-commerce does not undermine the cultural integrity of the nation. Clause (b)(ii) talks about public services and services of national or social significance—a noble sentiment in itself. I would prefer to carry a resolution which says that the Pharmaceutical Benefits Scheme is not going to be tampered with in a free trade agreement with the United States. The Pharmaceutical Benefits Scheme underpins Medicare, the ability to deliver cheaper medicines to people in need and the ability to bring in new medicines that are too expensive for Australians to pay for immediately at a reasonable price. That is fundamental to an Australian position.

In that motion, too, I would have said something about the Foreign Investment Review Board. One of the issues on the table for negotiation is removal of the frail filter we have to ascertain whether foreign investment in Australia is in our national interest. That is being negotiated. I think there needs to be a filter which decides whether or not Shell can take over Woodside or whether or not foreign capital coming into Australia is going to be used for the development of this economy and not for some other purpose. There needs to be some sort of safeguard. Every other country in the world has it, so why shouldn’t we? Why should we be in the situation of having to remove it? I would have preferred something like that to be in this motion. If we had been able to consult and talk to one another about it to ascertain consensus of the Senate when putting up this motion, we could have expressed some of these ideas too. I think that would have captured strong cross-party support and, poten-
tially, the unified view of this chamber. That would have been better than bombing us out of the blue with a motion which has now been amended and which is, frankly, I have to say, on the face of it a wedge motion.

It is a matter of public record that the Labor Party policy on trade is not exactly the same as the ACTU’s policy. It is a matter of public knowledge that a number of unions who are affiliated with the ACTU are affiliated with the Labor Party. So it is a very cute trick for the Greens to come along and try and put us in opposition to the ACTU by requiring us to vote against our own policy where we disagree with the ACTU. Nice trick, good politics. I acknowledge you for it. You have got the absolute right to do it, and it is a good way of chasing votes. But is it in the interests of trying to advance the trade agenda? I think not. For those reasons, we will oppose.

Senator NETTLE (New South Wales) (11.02 a.m.)—I seek leave to make a shorter statement.

The PRESIDENT—This morning on both sides of the chamber senators have been seeking leave to comment on motions by making short statements. Unfortunately this morning short statements have tended to become long statements. Whilst not wanting to stop debate, I think if leave is going to be granted for short statements then they should be short statements. If it is going to be granted for long statements, at least let us know.

Leave granted.

Senator NETTLE—Senator Cook put forward the idea that I did not consult on this issue. I rang and had a conversation with the shadow trade minister about this motion yesterday morning, when I proposed it. That is my understanding of whom I should be consulting with. I am quite happy to be corrected if that is not whom I should consult with on this issue.

Senator Cook—In light of that I withdraw my objection on that point.

Senator NETTLE—Thank you. My discussion with the shadow minister was to try to find agreement on a motion that the Senate could put forward together on this issue. I proposed to the shadow trade minister that we change some of those exact points that Senator Cook has raised in terms of putting those issues into the debate. Indeed, when I framed the motion I specifically put it so that we were noting the fair trade campaign of the ACTU, because I recognise the debate that exists between the ALP and the ACTU on the issue of free trade versus fair trade. So I specifically framed the motion to note the fair trade campaign by the ACTU and then to call on the Senate to put in place changes which I knew the Labor Party agreed to in relation to removing cultural industries and public industries from the motion.

The intention behind the motion was to get agreement. The shadow trade minister was to come back to me with something we could agree on. That did not occur. But I do look forward to the opportunity to receive the full support of the Senate for some motions we will put forward which go to the detail of these particular arrangements. I think it is important to acknowledge, in the week that the ACTU congress is on, campaigns that are coming out of the ACTU. This is one of the many good campaigns coming out of the congress that I and the Greens have been particularly active on. I wanted to take the opportunity to congratulate the ACTU congress for this particular campaign and to add some of the sentiments of the Senate to this debate. I will not go into the arguments now in relation to this issue. But I do look forward to the opportunity, in the near future, for the Senate to put their full
support behind a motion on this issue of fair trade.

Question put:

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

The Senate divided. [11.10 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.
Greig, B. Murray, A.J.M.
Nettle, K. Ridgeway, A.D.
Stott Despoja, N.

NOES

Barnett, G. Bishop, T.M.
Brandis, G.H. Buckland, G.
Calvert, P.H. Campbell, G.
Carr, K.J. Colbeck, R.
Collins, J.M.A. Cook, P.F.S.
Crossin, P.M. Denman, K.J.
Evans, C.V. Heffernan, W.
Hill, R.M. Hogg, J.J.
Humphries, G. Hutchins, S.P.
Johnston, D. Kirk, L.
Knowles, S.C. Ludwig, J.W.
Lundy, K.A. Mackay, S.M.
Marshall, G. Mason, B.J.
McGauran, J.J.J. * McClusky, J.E.
Moore, C. Payne, M.A.
Santoro, S. Scullion, N.G.
Sherry, N.J. Stephens, U.
Tchen, T. Tierney, J.W.
Troeth, J.M. Watson, J.O.W.
Webber, R. Wong, P.

* denotes teller

Question negatived.

MINE BAN TREATY

Senator STOTT DESPOJA (South Australia) (11.12 a.m.)—I move:

That the Senate—

(a) notes that:

(i) the Fifth Meeting of States Parties to the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (the ‘Mine Ban Treaty’), will be held in Bangkok from 15 September to 19 September 2003,

(ii) not more than half the countries in the Asia-Pacific region have banned landmines, while about twelve countries continue to produce and use them, making the Asia-Pacific region the most prolific producer and user of landmines of any region in the world, and

(iii) mine casualties were recorded in 13 of the 16 mine-affected countries within the Asia-Pacific region in 2002;

(b) welcomes the Australian Government’s ongoing financial commitment to landmine clearing within the Asia-Pacific region; and

(c) calls on the Australian Government to increase efforts to encourage other Asia-Pacific countries to sign and ratify the Mine Ban Treaty, through its bilateral discussions with the relevant countries and through its dialogue with forums such as the Association of South East Asian Nations.

Question agreed to.

COMMITTEES

Select Committee on Superannuation

Extension of Time

Senator McGauran (Victoria) (11.13 a.m.)—At the request of Senator Watson, I move:

That the time for the presentation of the report of the Select Committee on Superannuation, on draft Superannuation Industry (Supervision) Amendment Regulations 2003 and draft Retirement Savings Accounts Amendment Regulations 2003 be extended to 10 September 2003.

Question agreed to.
Economics Legislation Committee
Extension of Time

Senator McGAURAN (Victoria) (11.14 a.m.)—At the request of Senator Brandis, I move:

That the time for the presentation of the report of the Economics Legislation Committee on the Late Payment of Commercial Debts (Interest) Bill 2003 be extended to 16 October 2003.

Question agreed to.

ENVIRONMENT: NATIONAL LANDCARE WEEK

Senator BUCKLAND (South Australia) (11.14 a.m.)—At the request of Senator O’Brien, I move:

That the Senate—

(a) notes that:

(i) 18 August to 24 August 2003 is National Landcare Week,

(ii) Labor established Landcare in 1989,

(iii) Landcare is a program of community-based land care projects directed by landholders, community groups and individuals who contribute to grass roots conservation activity,

(iv) Landcare has made an invaluable contribution to tackling the decline in Australia’s land and water quality, but significant challenges remain, and

(v) the 2003 National Landcare Awards recognise organisations and individuals making an outstanding contribution to the protection and rehabilitation of Australia’s land and waterways;

(b) congratulates finalists in the 2003 National Landcare Awards and thanks all Landcare volunteers for their magnificent contribution to our environment;

(c) notes that:

(i) Landcare’s contribution and future are being undermined by the fact that the Howard Government has not organised the Natural Heritage Trust 2 (NHT2) appropriately and as a result, up to 600 Landcare and Coastcare coordinators across Australia were moved to short-term contracts on 7 July 2003 when their Commonwealth-funded contracts expired, and

(ii) as a result 600, highly skilled Landcare and Coastcare workers are at increased risk of leaving these programs to find more stable employment, and that the programs may face a skills shortage and therefore be less effective in the future; and

(d) condemns the Howard Government for its mismanagement of NHT2 and therefore its lack of commitment to Landcare.

Question agreed to.

HEARING AWARENESS WEEK

Senator STOTT DESPOJA (South Australia) (11.15 a.m.)—I move:

That the Senate—

(a) notes that:

(i) the week beginning 24 August 2003 is Hearing Awareness Week 2003, and

(ii) it is estimated that up to 2.7 million Australians need assistance for hearing loss, yet only one-fifth of those Australians who would benefit from a hearing aid have one;

(b) recognises that although the Commonwealth Government funds Australian Hearing, it does not provide funding for Auslan interpreters for the thousands of Australians who rely on Auslan interpreters to communicate with their doctors and medical specialists;

(c) notes that:

(i) on 14 August 2003 a petition was tabled in the Senate calling on the Federal Government to urgently fund interpreting services for deaf and deafblind Australians, and

(ii) this petition was signed by 10 469 South Australians, highlighting the level of frustration and anger at the Government’s thoughtlessness and discrimination; and
(d) calls on the Government to provide urgent funding for Auslan interpreting services.

Question agreed to.

COMMITTEES
Procedure Committee

Senator HOGG (Queensland) (11.15 a.m.)—I present the second report of 2003 of the Procedure Committee entitled Publication of questions on notice and answers: protection by parliamentary privilege.

Ordered that the report be printed.

Senator HOGG—I seek leave to move a motion in relation to the report.

Leave granted.

Senator HOGG—I move:

That consideration of the report be made a business of the Senate order of the day for the next day of sitting.

Question agreed to.

Publications Committee

Report

Senator COLBECK (Tasmania) (11.16 a.m.)—I present the 10th report of the Publications Committee.

Ordered that the report be printed.

EDUCATION SERVICES FOR OVERSEAS STUDENTS (REGISTRATION CHARGES) AMENDMENT BILL 2003

First Reading

Bills received from the House of Representatives.

Senator HILL (South Australia—Minister for Defence) (11.17 a.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator HILL (South Australia—Minister for Defence) (11.17 a.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

EDUCATION SERVICES FOR OVERSEAS STUDENTS (REGISTRATION CHARGES) AMENDMENT BILL 2003

Education exports have grown phenomenally in recent years. As Australia’s fastest growing export service sector, international education contributes over $5 billion annually to the economy. Australian education has a global reputation for its high quality and innovation. These attributes, combined with competitive tuition fees and a lower cost of living than its major competitors, make the Australian education and training services export industry a thriving, expanding and vital sector in the Australian economy.

As you would have seen from the recent budget announcements, this Government is committed to protecting this valuable industry, and assisting its development through strong policies and supportive legislation such as the Education Services for Overseas Students (ESOS) Act 2000.

The ESOS legislation established key national elements for the regulation of the international education and training services industry. It addressed problems facing the industry; the uncertain financial protections for students’ pre-paid course fees; the emergence of a small minority of unscrupulous providers; and inconsistent quality assurance.
This bill contributes to this system by creating a new fee structure to replace the current inequitable tiered charges structure for the compulsory annual registration charge payable by all providers registered on CRICOS. The new fee structure comprises a $300 base fee per annum together with a charge of only $25.00 per student enrolment per year. No other changes are proposed and providers will still calculate the number of enrolments as one enrolment for a course over 26 weeks and half an enrolment for a course of less than 26 weeks.

The existing tiered charging structure imposes a relatively greater burden on registered providers with small numbers of overseas students. The new base fee and charge per student enrolment means all providers pay the same, on a per capita basis, regardless of size. It also means that those providers that have the most to gain from our reputation as a high quality study destination, will carry a more equitable burden to ensure the quality, integrity and sustainability of the industry. Importantly, the bill does not impose any further regulatory burden.

From these changes my Department will receive $5.1 million over 4 years on an ongoing basis for increased compliance and enforcement activity. This will allow it to more proactively use the powers that already exist in the ESOS legislation to more speedily remove those providers who are not acting in the best interests of the industry. It will include, for example, looking at making greater use of provisions to deal with registered providers without the financial capacity to stay in the industry; taking more collaborative action with States and Territories; and smarter information matching to better target our compliance activities. More effort will also be put into assisting providers to understand and meet their obligations.

In addition, the extra revenue raised from the new charging structure will support and expand Australia’s international education industry. The extra revenue will be apportioned across activities such as quality assurance of providers delivering courses offshore, provider and course benchmarking and providing information to industry and students on the quality assurance framework. This is a very practical demonstration of the Government’s commitment to facilitating long term, sustainable growth for this important export industry.

Protection and enhancement of Australia’s reputation for providing reliable and high quality education is crucial for both providers and their international students who rely on the strength of an Australian qualification as they further their careers, both here and overseas.

This bill continues the Government’s support for a strengthened regulatory framework for Australia’s education and training export industry and will ensure its integrity and long-term viability. I commend the bill to the Senate.

COMMUNICATIONS LEGISLATION AMENDMENT BILL (No. 3) 2003

The Communications Legislation Amendment Bill (No. 3) 2003 makes amendments to the Broadcasting Services Act 1992, the Radiocommunications Act 1992 and the Telecommunications Act 1997 in relation to:

• Solus television markets;
• Two-service television markets;
• Transmission of datacasting services;
• Variations to approved national broadcaster implementation plans; and
• Penalties payable instead of prosecution for non-compliance with obligations relating to telecommunications customer equipment and cabling.

Television viewers in capital cities in Australia enjoy three commercial television services, as well as the ABC and SBS. However, many of their counterparts in regional areas only receive two, or sometimes just one, commercial service. When it introduced digital television, the Government made significant changes to the Broadcasting Services Act to encourage incumbent broadcasters to provide additional services in two or single service (“solus”) markets. These changes will help provide viewers in regional areas with better television services.

This bill corrects minor anomalies in the legislative framework relating to the introduction of these new services.
Under section 38A of the Broadcasting Services Act, a commercial television broadcasting licensee in a market with only one commercial service can apply to the Australian Broadcasting Authority for a licence to operate a second analog commercial service in the same licence area. Both these services must ultimately be converted to digital, in accordance with legislation. The Government introduced amendments (which came into effect on 1 January 2001) to give the broadcaster the option of electing to multichannel both digital versions on the same channel, with exemption from HDTV obligations. This will result in cost savings to the broadcasters in terms of transmission and other equipment. Licensees are required to elect whether or not they wish to take up this option "at or about the time" the section 38A licence is allocated.

In 1996 a second service was established in Griffith under the section 38A provisions. Since the 2001 amendment came into force, the ABA has allocated second licences under section 38A in the remaining four solus markets, and in each case the licensees have elected to multichannel digital transmissions of both services. However, because the Griffith licence was established before 2001, the broadcaster in that market was unable to meet the requirement that it elect 'at or about the time' its section 38A licence was granted, whether it wished to multichannel its digital simulcast services.

The bill corrects this anomaly by allowing a licensee in a solus market, where a second licence was allocated under section 38A prior to 1 January 2001, to elect within 90 days of the relevant provision of the bill coming into effect to multichannel the digital transmission of the original and section 38A services.

The bill also contains provisions to facilitate the earlier potential availability of new commercial television services in regional markets with only two existing commercial services.

Licence areas outside the capital cities are classified as regional or remote, depending on their location. In some areas of Australia there is overlap between a regional licence area and a remote area.

Under section 38B of the Broadcasting Services Act, commercial broadcasters in two-service regional markets can elect to provide a third service in digital mode. The Act currently provides that, where these markets overlap with remote licence areas, the date on which the broadcasters can elect to provide a third service under section 38B is set in the context of the digital conversion arrangements for the overlapping remote area. As arrangements are yet to be finalised for the introduction of digital television services in remote areas, this is likely to delay the availability of new services in the relevant regional markets.

The bill breaks this nexus by allowing the ABA to determine separate dates in overlapping regional and remote markets from which licensees can elect to provide a third service under section 38B.

The Radiocommunications Act currently prevents free to air broadcasters from transmitting datacasting services until the earlier of 12 months after the commencement of the simulcast period in their area, or the first time a datacasting service was transmitted by an independent datacasting transmitter licensee. The Government originally introduced these provisions to help ensure a level playing field in the provision of datacasting services.

These provisions are no longer necessary, given that, following the recent datacasting review, the Government decided not to proceed with allocation of datacasting transmitter licences at this stage. The retention of these provisions could slow the ability of regional free to air broadcasters to provide datacasting services until, in some cases, the end of 2004. The bill therefore removes these provisions.

The national broadcasters must develop implementation plans in relation to the conversion of their television services from analog to digital transmission mode. Implementation plans prescribe, amongst other things, the commencement dates and technical specifications for particular digital television services. The legislation requires the ABC and SBS to rollout their digital television services in accordance with implementation plans approved by the Minister or variations to such plans that have been subsequently approved by the Minister.

There are over 600 national broadcaster television services requiring conversion and variations are often required because of delays in the arrival of
equipment from overseas, changes to timetables to coordinate rollout with other broadcasters and minor changes to technical specifications. Under the current provisions, the Minister must approve each variation.

The bill contains amendments to allow the Minister to delegate the power to approve proposed variations to approved implementation plans to the Secretary or senior officers of the Department.

The bill also contains provisions relating to penalties payable as an alternative to prosecution under Part 21 of the Telecommunications Act.

Part 21 of the Telecommunications Act sets out a number of obligations relating to the manufacture and importation of customer equipment and customer cabling, and the installation of customer cabling, which are intended to ensure appropriate levels of service delivery, product performance and safety. Non-compliance with these requirements has the potential to cause significant detriment to consumers.

Prosecuting an individual or a body corporate for offences under Part 21 is, however, often inappropriate because there is a potential for harm to reputation if a conviction is recorded. Prosecution also involves a significant diversion of the time and resources of the Australian Communications Authority (the ACA).

The bill provides for the establishment of an infringement notice scheme whereby the alleged offender has the option of paying to the Commonwealth, as an alternative to prosecution, a penalty that is less than that which would apply if the matter were dealt with by a court and a contravention of an offence established. It is anticipated that this medium level regulatory response will enable the ACA to act more quickly to address non-compliance, and thereby encourage improved compliance.

Consumers are expected to benefit through reduced risk of physical injury and poor service delivery arising from non-compliance, lower prices and greater confidence in the quality of cabling and customer equipment.

A similar penalty in lieu of prosecution scheme currently exists under section 315 of the Radiocommunications Act and has been effective in encouraging increased compliance with provisions under that Act that are similar in nature to those included in the proposed penalty in lieu of prosecution scheme in the bill.

The amendments to the Broadcasting Services Act and the Radiocommunications Act represent sensible minor adjustments to the digital television and datacasting regulatory framework to remove anomalies or unnecessary prohibitions and to streamline implementation arrangements for national broadcasters. The amendments to the Telecommunications Act will improve compliance with the technical requirements that apply to customer equipment and cabling.

Debate (on motion by Senator Buckland) adjourned.

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

**BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES**

Message received from the House of Representatives agreeing to the amendments made by the Senate to the following bill:

Civil Aviation Legislation Amendment Bill 2003

**TAXATION LAWS AMENDMENT BILL (No. 5) 2003**

Report of the Senate Economics Legislation Committee

Senator McGAURAN (Victoria) (11.19 a.m.)—On behalf of the Chair of the Economics Legislation Committee, Senator Brandis, I present the report of the committee on the provisions of the Taxation Laws Amendment Bill (No. 5) 2003, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**BUSINESS**

Rearrangement

Senator HILL (South Australia—Leader of the Government in the Senate) (11.19 a.m.)—I move:
That government business notice of motion No. 2 standing in the name of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) for today, relating to consideration of legislation, be postponed till the next day of sitting.

Question agreed to.

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (No. 1) 2002

AUSTRALIAN HERITAGE COUNCIL BILL 2002

AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2002

In Committee

Consideration resumed from 20 August.

AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2002

The TEMPORARY CHAIRMAN (Senator Marshall)—The committee is considering the Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002 as amended. The question is that the bill, as amended, be agreed to.

Senator LEES (South Australia) (11.20 a.m.)—While we are waiting for Senator Lundy—I understand it is an opposition amendment that we are next going to be dealing with—I am very concerned that Senator Brown has just put out a press release, and indeed his press conference was supposed to be about now, claiming that this new legislation that forms the much stronger body, the Australian Heritage Council, ‘de-lists thousands of places off the Register of the National Estate’. I want to put on the record that that is in fact untrue. The Register of the National Estate will continue. In fact, there will still be the opportunity, if a place meets criteria, for more places to be added.

There are in fact now three new lists and places may be moved onto other lists. So places can be on several lists. There will continue to be the World Heritage List, of course, and while Australia can make recommendations for places of high significance to go onto that it is not in our hands as to what is listed on the World Heritage List. Obviously, we would be very keen I would imagine to get several additional places on there shortly. We will also have a National Heritage List and a Commonwealth Heritage List. Places eligible for the Commonwealth Heritage List will obviously be places on Commonwealth property but they will also be able to stay on the Register of the National Estate. I think it is very disappointing that Senator Brown should put out a document that is so misleading.

Senator LUNDY (Australian Capital Territory) (11.22 a.m.)—by leave—I move opposition amendment (5) on sheet 2847:

(5) Schedule 1, item 12, page 5 (line 3), after “included in”, insert “the Register of the National Estate, under the Australian Heritage Commission Act 2003, or”.

The opposition opposes item 13 in the following terms:

(6) Schedule 1, item 13, page 5 (lines 7 and 8), to be opposed.

This requires the Australian Communications Authority to be obliged to consider the impact of communications facilities on the environment whenever a place on the Register of the National Estate is affected. The government proposes to remove this provision, and I note also that there are some similar amendments from both the APA and the Democrats subsequent to this amendment. Labor’s amendment will ensure that the impact on heritage places will continue to be considered.

I take this opportunity to point out that Senator Brown is not the only one to have
put out some media statements. It is probably appropriate for me to briefly reflect on the comments of the Australian Conservation Foundation. Their media statement issued yesterday said:

The ACF today expressed disappointment that the Government’s heritage protection bills had passed the Senate without crucial amendments.

‘The Australian Heritage Council Acts are a shaky foundation for heritage protection and in some areas a backward step for our natural, cultural and Indigenous heritage,’ says John Connor, ACF’s Campaigns Director.

The media statement goes on to say:

‘The legislation white-ants the independence of the Australian Heritage Commission, politicises the selection process for places on the National and Commonwealth Heritage Lists and removes key government decisions from scrutiny.’

That is certainly Labor’s view as well. I commend the opposition amendments to the chamber.

**Senator LEES (South Australia) (11.24 a.m.)—**I will be opposing the opposition amendments. However, I draw the committee’s attention to two amendments that are in fact identical and I ask again whether Senator Allison would be prepared to move them jointly. I therefore foreshadow that we will be moving those amendments, if that is okay with Senator Allison. I think they are a technical improvement—only a little but certainly an improvement—on Labor’s amendments.

Senator Lundy quoted from the ACF’s media statement. I realise we are running out of time for this bill—I think this is day 7 we have been dealing with it—so I will be brief. However, I cannot let it go without saying that the ACF is out on its own on this issue. It is supposedly the umbrella organisation for conservation. There is no-one else under the umbrella. I will quickly list some of the other organisations that are supporting this legislation. They are: the Australian Heritage Commission; the Australian International Council on Monuments and Sites; the Australian Council of National Trusts; the Institution of Engineers; the Heritage Committee; the Federation of Australian Historical Societies; the Australian Academy of the Humanities; the National Heritage Chairs and Officials representing all the states and territories heritage councils—and they are all in support of this legislation; the Royal Australian Institute of Architects; the Australasian Society of Historical Architecture; the Australian Institute of Archaeology; Museums Australia; the Humane Society International; WWF, the World Wildlife Fund for Nature; and the Tasmanian Conservation Trust.

As I noted yesterday in one of my other statements, there are myriad smaller organisations waiting for this legislation to get through because they believe the sites that they are particularly interested in—and I specifically mention here a lot of Indigenous sites—will be far better protected under this legislation.

**The TEMPORARY CHAIRMAN (Senator Marshall)—**Senator Lundy, we will be putting the question on amendment (5) separately and dealing with that first. The question is that opposition amendment (5) on sheet 2847 be agreed to.

Question negatived.

**The TEMPORARY CHAIRMAN**—The question now is that schedule 1, item 13 stand as printed.

Question agreed to.

**Senator LEES (South Australia) (11.27 a.m.)—**I move the APA amendment (3) on sheet 3038 together with the Democrats:

(3) Schedule 1, item 12, page 5 (lines 1 to 6), omit the item, substitute:

12 Subparagraphs 27(7)(d)(i) and (ii) of Schedule 3

Repeal the subparagraphs, substitute:
(i) included in the National Heritage List or Commonwealth Heritage List, within the meaning of the Environment Protection and Biodiversity Conservation Act 1999; or

(ii) included in the Register of the National Estate, within the meaning of the Australian Heritage Council Act 2003; or

Basically, this retains the need for the Australian Communications Authority to have regard for places that are on the Register of the National Estate when issuing permits and considering the impacts of what they are doing.

Senator LUNDY (Australian Capital Territory) (11.28 a.m.)—I indicate that Labor did just try to move a similar amendment, but we will not be supporting this amendment.

Question agreed to.

Senator LUNDY (Australian Capital Territory) (11.28 a.m.)—It is my great pleasure to move the remaining opposition amendment, amendment (7) on sheet 2847:

(7) Schedule 2, page 6 (line 2) to page 9 (line 5), omit the Schedule, substitute:

Schedule 2—Transitional provisions

1 Regulations

(1) The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the regulations may prescribe arrangements to deal with any issues of a transitional nature that may arise as a result of the repeal by this Act of the Australian Heritage Commission Act 1975.

This amendment addresses a series of potentially outstanding transitional issues. I commend it to the committee.

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments.

Adoption of Report

Senator HILL (South Australia—Minister for Defence) (11.30 a.m.)—I move:

That the report from the committee be adopted.

Senator ALLISON (Victoria) (11.30 a.m.)—I move the following amendment to the motion:

At the end of the motion, add:

“but the Senate is of the view that this bill still provides too little scope for public scrutiny of the Minister’s refusal to list politically contentious places on the Heritage List, thereby denying those sites the new heritage protections provided by this legislation”.

Senator LUNDY (Australian Capital Territory) (11.31 a.m.)—I do not know what the Democrats’ intentions are with respect to supporting the third reading of these bills—Labor certainly will not be. But if this amendment is an attempt by the Democrats to somehow excuse themselves for not taking the appropriate stand on these bills to protect the independence of the Australian Heritage Commission, then it is a pretty weak set of words that, in my view, will not absolve them of guilt for the role they have played in selling out and trading off a fundamental principle of heritage protection in this country. Whilst Labor absolutely thinks there is not enough in this bill to protect the independence of the decision making processes around heritage, if this is the best the Democrats can do, it is very disappointing.

Senator ALLISON (Victoria) (11.31 a.m.)—by leave—It is not the best we can
do. We have put in a lot of effort to improve the listing process and to make it more independent. It is to some extent an expression of what we think is still missing in the bill. We have tried on many occasions, Senator Lundy, to improve that listing process and to make it more open to scrutiny. We do think the bill is improved, and that is why we will not be joining you in your opposition to the legislation, but we think it is important to stress that the listing process could be better, and open to more scrutiny. That is what this amendment reminds the Senate of.

Question negatived.

Original question agreed to.

Report adopted.

Third Reading

Senator HILL  (South Australia—Minister for Defence)  (11.33 a.m.)—I move:

That these bills be now read a third time.

This is a historic moment. I believe this environment and heritage legislation is going to be passed. The few words I am going to say are based on that assumption, so if it is not passed, disregard everything I have said.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—I am sure everyone will bar Hansard, Minister.

Senator HILL—It is a historic moment because, after almost eight years of effort, it looks as if the parliament is going to put in place a much better system of protection of Australian heritage. It has been eight years of hard work. I can go right back to the beginning of that process to a ministerial meeting of state and Commonwealth heritage ministers, where it was recognised that there needed to be a better system than the old Register of the National Estate, which had outlived its time. It had outlived its time because it provided no real protection and had become unworkable in terms of the number of listings. There was not the depth of analysis that is required on applications for listing. There needed, in other words, to be a better system of protection in Australia and it needed to properly take into account the responsibilities of the Commonwealth and the states.

What is reformist about this package is that the Commonwealth, for the first time, accepts a real responsibility to protect heritage items of national significance. Therefore, I wanted to take this opportunity to thank and congratulate all of those who have laboured over the last eight years to get to this point. I think of the various members of the Australian Heritage Commission who, in effect, have been voted out of a job but who are prepared to be voted out of a job because they recognise that there needs to be a better system of protection and that this will provide a better system of protection.

I wanted to thank the staff of the Heritage Commission, who have laboured over the detail of this package for some years. I wanted to thank Senator Lees, who has been prepared to negotiate to the point of reaching a positive outcome, and the other Independents, who have got to that point also today. Without them we would not be confident that we could put in place this better system of heritage protection. The Democrats have supported some of the amendments, and I thank them for that.

There are those who see heritage legislation as a tool for protest. That is the old thinking. With respect, that is Senator Brown’s thinking, and to some extent, sadly, the Labor Party have signed on to that by not being prepared to be part of this reform process. That gets you to the current situation of a list of 20,000 items, but no real protection. This new legislation will allow proper analysis. As a result of that, the Australian people can be confident that the items to be listed are genuinely worthy of listing, with
an ultimate responsibility on government at both levels to protect those items. That is a far better system than the one that has existed to date.

When the Heritage Commission Act was passed, it was moved by the Whitlam government, supported by the coalition and then implemented by the Fraser government after the election. That is different from now in that both sides of the parliament, the major parties, were prepared to agree that that form of heritage protection, as it was then, was necessary. We have built up over the years this list of 20,000 items and now we have got to a situation where all reasonably objective and fair observers have said that it is time for a new and better system. What is sad is that, in this instance, the Labor Party is not prepared to support that reform in the same way as the Liberal Party and the National Party were prepared to support reform across the chamber back in the days of Whitlam. I think that is a pity because heritage is for all Australians; it is our responsibility as a nation and it would be a better outcome today if the Labor Party had come on board and made this a bipartisan outcome in the best interests of the nation.

Senator LUNDY (Australian Capital Territory) (11.39 a.m.)—I too would like to take this opportunity to respond to the comments of the Minister for Defence on these environment and heritage bills. Fundamentally, the government could have done two things with this legislation: they could have strengthened the protection provisions, which they claim to have done, and they could have done it without undermining the fundamental principles of the independence of the Heritage Commission. It is not an either/or question. I am astounded that the minister continues to present the issue to the chamber as an either/or. We could have had both; we could have retained independence and not had heritage decisions politicised in the way that this legislation will allow and we could have had the strengthened protections. Labor does not accept that there had to be a trade-off whereby the Independents have been bullied or blackmailed by being told, ‘You are not going to get the protection measures unless you trade off the issue of independence.’

I think that it is the folly of those who will support this legislation that that trade-off has been accepted. Labor will not accept it and I completely reject the minister’s suggestion that Labor are somehow, by our opposition to this government’s plans, not treating the heritage issue with due respect. The difference is that Labor were the builders of this legislation of heritage protection in this country and what we are seeing here is the Liberal Party, the coalition government, being the wreckers. That is the difference. Labor built up strong heritage protection in this country; we built a regime around the independence of the decisions about what goes on that list. The opportunity for the coalition here was to strengthen those protections. They chose to trade off the independence—and there are certainly still questions about the strength of the protection anyway. There is no comparison.

Labor are trying to preserve the sound principles that underpinned heritage protection when it was built by the Whitlam government, and they have since grown to so many things over the years. That is the real difference about our position here today. There is no doubt that thousands of Australia’s heritage treasures will lose protection when the government’s heritage reform package takes effect. There are about 14,000
places on the existing Register of the National Estate. Labor are gravely concerned that many will fall between the gaps when the register is replaced with two new heritage lists, with no assurances that they will ever secure a place in the new regime. Through this debate we have had many questions and sought responses from the minister about the precise effect of that gap: what that gap looks like and what its implications are for specific heritage items and places around the country.

The government’s new model allows the whim of the minister to effectively dictate the places that will be protected because of their heritage significance. That is a disgraceful situation which I have to say reflects the politicisation of so much that has gone on under the coalition government. Labor will now work with the community and heritage organisations to make sure that important local and heritage places are not sold off to developers or abandoned, because that would, in effect, substantially reduce the opportunity for those places to be heritage protected. Finally, Labor have an excellent track record in heritage protection and we are maintaining and strengthening that record in our opposition to the bills before us today.

In closing, I would like to reflect on the role that the Democrats and Senator Lees have played. I think that it is very clear that the Democrats were the first ones to blink when this legislation came forward. Labor were very clear about their opposition to the removal of independence, but at no stage, when they were speaking to Labor about what Labor thought about the various measures and trying to negotiate a deal in the lead-up to this bill, were the Democrats even prepared to go there in the first instance. I think that is a great shame. I also note with great interest the fact that that deal obviously fell through and Senator Lees became the key player, as has just been acknowledged by the minister in his contribution to this third reading debate.

We have seen a marketplace of various proposed amendments, and the government has effectively been able to pick and choose the weakest of those amendments to build up the body of its legislation in working with the crossbench. It has been extremely disappointing, firstly, to see the fundamental principles of independence that Labor put forward in our amendments not being supported when they could have been; and, secondly, to see this on the back of an arrangement with the Democrats initially, and in some part in the ultimate shape of this bill, and certainly with Senator Lees and others in putting together what they claim will offer stronger protection. Labor do not accept that. We will not be supporting the third reading of these bills. In doing so, we will maintain our excellent credentials and record on addressing the need for, and the urgency of, heritage protection in Australia.

Senator ALLISON  (Victoria)  (11.45 a.m.)—Senator Lundy’s comments about Labor being a great heritage protector are interesting. I am from Melbourne where, not long ago, the Labor government—and I know Senator Lundy is not responsible for what the Bracks government does—put a road right through the middle of the longest Victorian-era railway shed in the Southern Hemisphere. It did that because there was no process to stop it—you could write letters to the Bracks government; you could do what you liked. There actually was not much of a protest, which disappointed me from a community point of view as well, and we now have a road slicing right through the middle of the shed. So it would be nice if Labor were strong on heritage. Of course most of that takes place at the state level, and I could point to lots of other examples where heritage has been entirely ignored in Victoria.
I thank the minister for his grudging acknowledgement of our role in this debate and in this negotiation on these environment and heritage bills. One day I could write a book about it, perhaps, but I remind him that our role has been a bit larger than just supporting some of the amendments that have been put up—quite a lot larger, actually. When this legislation was first tabled and sent off to committee and it was pretty obvious that there was not a lot of support for it, we said to the government, ‘Take it to the heritage groups and the conservation groups and sort out some of those serious problems.’ The government did that, and I give them credit for it. They were obviously keen to get the bill up. They came back to this place, and that was a good starting point. We have played an important role here. I do not think we would have any of the amendments that have been agreed to in this place had it not been for our efforts. I must sing our praises because the minister is not going to. It was a bit of a battle and the government were intransigent on a lot of the things we would have liked to see much more movement on. Listing was one. That is why, as I said in my third reading amendment, this is still a deficiency in the bill. This is still better than what we have had, because whether you are on the Register of the National Estate or not does not stop a state government putting a road right through your shed. This bill may not either.

As the Senate leaves this bill to the government to implement, I have some misgivings about the willingness of the government to really pursue heritage protection—and I could quote a lot of failures in the EPBC with regard to protecting the environment. In a way this is now the government’s baby, and I seriously hope we see an attempt on the part of the government to implement what they have made a commitment in this place and elsewhere to do. A lot relies on the government’s intentions and their willingness to take this up seriously. I hope the fine words from the minister are reflected at departmental level and that other ministers, cabinet, the Liberal Party and the Liberal-National coalition generally support what should be an improved heritage protection regime. I wanted to put on the record that we had a slightly greater involvement in delivering these amendments than the minister would like to suggest and to say that it is over to the government now. We will be watching very carefully to make sure that this bill is implemented in the spirit in which the minister now talks. I hope that is the case.

Senator Brown (Tasmania) (11.50 a.m.)—The Greens will be voting against the third reading of these environment and heritage bills. Let me make some comments on why that is so and what the future holds. Almost exactly 30 years ago Brenda Hean and her pilot, Max Price, set off from Hobart airport to fly to this city to trail a protest against the flooding of Lake Pedder across the then Parliament House, down the way from where we are. She had been rung a couple of nights before by someone saying, ‘Mrs Hean, can you swim?’ The inherent death threat was clear. On the night before their plane took off, somebody broke into the hangar with an axe and removed the emergency beacon from the plane. The plane, Brenda Hean and Max Price have not been seen since. No trace of them has ever been found. I dedicate the stand that I am making in this place to those wonderful people. The Labor Premier of the day, Eric Reece, refused an independent judicial inquiry; so, as far as I am concerned, the mystery of the killing of Brenda Hean and Max Price still hangs above this city.

One of the things that came out of the destruction of Lake Pedder by the Reece government was the commitment by the Whitlam government to establish a committee of inquiry, which brought down its findings in
1974. Out of that came the Australian Heritage Commission, established to independently look at the nation’s heritage. Inherent in that—and it was well funded—was the anticipation that federal governments would act in order to protect the places on the list. That, of course, has been the shortcoming. There have not been teeth put into the legislation to protect those places—and Senator Hill says there are 20,000 of them now—as there ought to have been.

What we have moved to now is legislation that removes altogether, on those figures, 20,000 places from the list of the heritage register. During the course of the debate it has been said that some 500 will get back on there soon. That means that 19½ thousand places recognised by the independent experts to be of national heritage value are left to the wolves who will move in as a pack, variously, to convert these places into some commercial gain for the few at the expense of the nation. It is no wonder that under those circumstances there has been a vigorous opposition to the shortcoming which throws out 19½ thousand places of national significance from even having recognition by the national government let alone responsibility taken for them.

What was wrong with the process of the destruction of the internationally valuable property of the Lake Pedder National Park—besides its illegality until, by retrospective legislation, the then state government got out of their illegal move to destroy this national park—was that there was no federal overview. Prime Minister Whitlam and Prime Minister Fraser acknowledged this. There was no federal power to intervene to protect those places. Fortunately, the World Heritage treaty was signed in the meantime and that did give a tool for protecting both the Franklin River and the Daintree rainforest, for example. But what has happened here is that large swathes of the national heritage, including its forest heritage and the wildlife heritage in those forests, has been handed back to the states. We have gone back to the Pedder predicament, where maverick state governments can move in, and are moving in as we sit here today debating this legislation, to destroy iconic parts of the nation’s heritage.

In fact, since this bill was introduced to the parliament, Forestry Tasmania at the behest of Gunns has logged into the Florentine Valley and, in a so-called regeneration burn officially allowed under the Prime Minister’s signature and organised by the state authorities, burnt to death the largest tree in Australia and, so far as we know, the largest living thing outside North America—the El Grande tree in the Florentine Valley. Not only is there no protection mechanism but the Howard government has decided to take the burden of national responsibility off its shoulders and allow it to fall to the very questionable interests of the Tasmanian Labor government and the influence of corporations like Gunns in the failed process of forest practices in Tasmania. A while ago the minister said that this heritage legislation was to provide a tool of protest for people like me. In one way he is right because, just a month ago, not just I but 4,000 Tasmanians—in the middle of winter and the morning after snow had fallen right across the Styx Valley in Tasmania—got into our cars and, in the mud, went out there into the valley to protest about the destruction of the tallest forests in this nation of ours, the grand Valley of the Giants forests. That destruction was permitted under the authority of Prime Minister Howard when he signed the regional forest agreement and shed his national responsibility for iconic parts of our heritage.

How can the minister or anybody else expect me to support a process—and the minister might laugh about this—or a piece of legislation which not only says, ‘The Valley of
the Giants is not on the National Heritage List and therefore we will not go to protect it, but actually endorses the destruction, as the Howard government does, of the Valley of the Giants and the Tarkine rainforest and the Blue Tier—that marvellous centre of forest and ecological wonderment in the north-east—and, coming down the line, the north-east peninsula of Recherche Bay? I have raised that many times in this parliament. There is no commitment from the government or anybody else to protect this place where the French came ashore 211 years ago, not only making prodigious scientific discoveries but having that fantastic interaction with the Palawa people—the Indigenous people of Tasmania. That is about to be bulldozed. There is no commitment from this government that it is going to move in to intercede or to even list that place for protection, because it does not have to bother. If Gunns want to be astute enough to have more dinners with the ministers in Tasmania or to make a slightly bigger donation to whichever political party, then that will influence the decision-making process there. Meantime, this wonderful part of Australia’s heritage is left bereft of any protection, responsibility or indeed being seen as anything other than as a ‘place for protest’, according to Senator Hill.

The question arises: why should citizens have to be protesting about such places 30 years after the Lake Pedder debacle? This legislation should be protecting them. This legislation should be making sure that if Gunns move in on the north-east peninsula of Recherche Bay they will end up in jail—not the protesters. But what we have seen under serial Labor and Liberal governments, at state level at least, in the interim is that it is the environmentalists, the citizens, who go to jail. The penalties have stacked up. I have got people asking me what they can do because they are facing jail now for having sat in a tree to protect national estate forests from the laissez-faire complete ignorance, the studied ignorance, of Prime Minister Howard, whose responsibility it is to protect such forests as the woodchippers move in to destroy them to make a quick buck. That is Australia 2003.

All that having been said, it was hoped that the Australian Heritage Commission, as an independent organisation, would be given the legal teeth in an environmental sense—as, indeed, we see in the corporate sense with the Australian consumer protection authorities and so on—but, no, that has not happened; instead, the independent arbiter has been abolished. As Senator Lundy said, it is now left to ministerial discretion both to put places on the list and to delist them. One Nation’s intervention the other night made sure that that delisting can, in the main, be done without the Senate or the House of Representatives being able to intervene.

It does seem as though this legislation will go through, so where do we stand from there? I as a Greens senator—and I know my fellow senator, Senator Kerry Nettle, feels the same way—commit myself to accepting that we now have to do the work to roll back this exposure of the Australian heritage to maverick state governments and corporations through legislation in this place at some future time that will give this EPBC the powers that were stripped from it by the guillotining process in this parliament three years ago in relation to forests and that will restore those 19½ thousand places taken off the list to the future list and ensure that they are protected. It will also ensure that the only entity that can unprotect them is the parliament of this nation. Surely that is warranted if we are going to truly recognise this nation’s heritage. Why should it be left to any minister coming down the line to undo the whole list, if he or she wants to, and allow somebody else to come and maraud our National Es-
tate? It should not, and we will be moving strongly in the future to ensure that it does.

As the minister departs the chamber, let me say this: that will be a very strong counter to the political dimension of this legislation in the run-up to the coming election. The minister or the Prime Minister will be going around the country saying: ‘We’re going to put this piece of the national heritage that we took off the list back on the list. Aren’t we good people?’ I am going to be reminding the government of the fact that, for every place they put on the list, they have taken 19 or 20 off the list and exposed them to commercial forces which will inevitably see these places not as national heritage places but as exploitation territory.

Senator LEES (South Australia) (12.03 p.m.)—On so many issues here Senator Brown is, unfortunately, not completely correct, although I share his enormous frustration that forests are not in this environment and heritage legislation.

Senator Brown—You did it.

Senator LEES—No, Senator Brown, I did not do it. The decision was made by the previous Labor government, who started the process of handing back responsibility for forests to the states, and this government has followed that process. The Liberal Party, the National Party and the Labor Party supported that, partly because it was easier: the whole issue had become too emotive and too difficult for them, so basically they wanted to pass the buck back to state governments. If we waited until we got forests included in the legislation in this place we would be making no change; we would be sitting here stalled. I, too, lament the fact that forests are not going to be covered under this legislation, but if we were to wait until the Liberal, Labor and National parties agree to accept responsibility back at federal level for forests, I imagine we would be waiting for many years to come. As Senator Brown knows, a lot of those battles have to be fought very vigorously at state level.

I would like to pick up Senator Brown on a couple of other issues. This legislation has teeth. Finally, we are in a situation where, if people destroy items on the National Estate list, there is recourse through the courts. There are fines of millions of dollars and there are jail sentences. As I said previously, bringing this in under the EPBC Act means that there is the potential to lock up people, as has already happened under the EPBC Act. So we are considerably strengthening the protection for those items on the Register of the National Estate. And I must pick up Senator Brown on this issue: the Register of the National Estate stays. Those 13,000 places on the list stay on the list, but they may also go over onto other lists. Perhaps they will be on two or three lists. That is the process that can now start once this legislation goes through.

My final comment is to thank the staff of the minister’s office for their very detailed and, I believe, committed work on this legislation; to thank those people from the department who are also committed to this legislation; and also to thank the people from the Australian Heritage Commission. If that level of commitment is maintained, I have absolutely no doubt whatsoever that we have a fabulous system and that those people behind the scenes will do their utmost to make sure that the legislation really works, so congratulations to you.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (12.05 p.m.)—I rise to speak because this is significant environment and heritage legislation which has been handled for the Democrats by my colleague and Deputy Leader of the Australian Democrats, Senator Allison. I do think some points need to be emphasised.
think some good points have been made in this final session alone, let alone throughout this debate. Firstly, I think it needs to be reiterated that it is the way the government have behaved that has led to this legislation being delayed for such an exceptionally long period of time and that has also led to an outcome that is significantly weaker than would otherwise have been achievable. I do not blame the government for trying to get the weakest possible outcome that gives them the most power, but it is unfortunate that they used a process which I have previously described as being in exceedingly bad faith and involving the most unbelievable amount of doublespeak and dishonesty that I have ever seen in 13 years of working on a whole range of issues in the parliamentary arena.

The inference of the minister a couple of times throughout this debate that somehow or other the Democrats are unable to reach agreement is simply another example of a government which is fast gaining a reputation for dishonesty at levels previously believed to be unreachable. We have shown in a number of other areas, including in this portfolio—and the departed minister, Minister Hill, would know this—through environment legislation, that we are able to reach agreement. That is because he operated in an up-front way, and I will point to a couple of instances shortly.

The points made by Senator Brown were very good points. While it was not his intention—and I am not trying to be smart—a lot of the points he made about the ongoing destruction that is happening in a whole range of areas and the lack of protection are some of the reasons why, as flawed as this bill is, there are still some advances in it. That is because all the destruction that is happening now is happening under current laws, and clearly just voting this bill down and having no change at all is not going to stop all the destruction at which he quite rightly expresses outrage. The Tasmanian forest destruction that he has highlighted in some detail is a case in point. It is probably relevant, seeing that tomorrow I will be looking at some of that myself in Tasmania, if things go to plan.

I should pick him up on the point that the Daintree rainforest is not all protected. Whilst I am giving some focus to Tasmanian forests tomorrow, perhaps Senator Brown—and Senator Allison, as well—might like to remember the Queensland forests and the spectacular Daintree areas. Whilst some of that is protected through World Heritage listing, some of it is not and it is still at risk, any day, of being literally clear-felled and of having housing put on it. I just thought I would take the opportunity to make that point. People often assume that the Daintree is now fully protected, but it is not and we need to address that. But this legislation is not the place for that.

I turn now to some of the statements by the ALP. Whilst I have not been handling the legislation directly, it has been going on for some time in committee hearings and the like. I have not seen any indication at all that Labor has been interested in anything other than just preventing this bill from getting through. As Senator Allison pointed out, you would hardly point to the record of a lot of Labor governments at state level if you were trying to suggest there was any strength in heritage protection.

A good example, which I made before in this place, is the Sydney Harbour Federation Trust and the former Defence lands that have now been put under that trust. There was opposition from the Labor Party here to that legislation going through. But, after being significantly strengthened, it was put through with the support of the Democrats. The alternative to not putting it through would have
meant all those lands would have been unprotected. They could have been sold off to anybody or, as the state government wanted, they could have been handed back to the state government—and you can bet that they would have been sold off to anybody, because that is the record of the New South Wales state government on anything to do with Sydney Harbour foreshores. Instead, we now have some incredibly significant lands—some of which are environmentally significant but in the main are unbelievably significant in a heritage sense and in an historical sense—that now have as good a guarantee of protection as you could ever get, given the reality that, even with the strongest laws, you can have a government that will try to find a way around them. That guarantee of protection is because of the willingness of the Democrats to reach agreement to strengthen legislation to enable that to happen.

Senator Brown also made the point that the existing legislation has no teeth, but these bills now have some teeth. The problem which has been highlighted by many is that those teeth apply to much fewer places. It has to be emphasised that none of those places had any legal protection before. This legislation will provide a mechanism for at least some places—obviously a fewer number—to get some legal protection. The battle, as Senator Brown rightly pointed out, will be in trying to ensure that the maximum amount of protection is provided. But walking away from the opportunity to provide extra protection, even for a small number of sites, is something that I would certainly think twice about before doing.

I would like to mention some of the missed opportunities with this legislation, particularly in terms of amendments that were not supported and agreements that had been reached with the government but on which the government then backed down. The government backed down on those agreements because they obviously discovered that they had an alternative avenue to get weaker amendments through. It is unfortunate that some of the misrepresentations by the government of the Democrats’ views were believed by others, who then felt that it was a worthwhile path to go down. Nonetheless, it should be noted that many of the groups that specialise in heritage support this legislation going through, even though they acknowledge its significant flaws. Many of them urged efforts to be made to remove as many of those flaws as possible. It is a shame that the opportunity we had to remove more of those flaws was missed.

I would like to make particular mention of Indigenous heritage. Whilst I understand the comments and the hopes that people have expressed about the government’s words being followed up with action, I have to confess that I am a trifle sceptical that that is going to happen, to put it mildly, and it will require consistent and persistent pressure. Regular concerns were expressed by Indigenous groups at various stages of the process, including in the last few days, but those concerns were continually sidelined by the government saying that they would deal with them through a separate piece of legislation. I can just about guarantee now that the Indigenous heritage protection bill will not reappear and that basically those opportunities will be lost, and Indigenous people’s concerns will have been ignored and dunned. Attempts by the Democrats to provide some strength to ensure that the government meet their commitments—commitments they are happy to give with increasing frequency because, clearly, the government feel no need to have their statements backed up with truth or to follow through on them—and to force them to follow through unfortunately did not get the support of the Senate.
Nonetheless, it is fair to say that virtually every amendment that did get through this place was as a direct result of Democrat actions and, in most cases, Democrat drafting. I should particularly note the contribution of a couple of staff for the Democrats who worked incredibly hard on this issue for many months under incredibly frustrating circumstances. It is a shame that, firstly, a lot of their work was not acknowledged and was reappropriated and, secondly, that because of the corrupted process that occurred they were not able to be more successful with some of the extra protections we would have achieved.

But, for better or worse, the legislation is going to pass the Senate. Certainly I hope all those heritage groups that have been urging these bills to be passed follow through in doing absolutely everything they can to ensure that the government sticks to its word. As I have said a number of times in this place, you can have the strongest legislation you like—and this certainly is not it—but, if you have a government that does not have the political will to implement it, it is still incredibly difficult to get action. Certainly you would have to say that the political will from this government in protecting significant environmental and heritage areas is pretty much nonexistent.

It should be noted in relation to some of the ongoing destruction people have pointed to in their various contributions throughout this debate that the Howard government could act to prevent it now under existing laws but chooses not to. That is the dilemma that we face in so many areas in this chamber when we are trying to get the government to implement its laws or use the undoubted powers that it has. The government could use its powers now under the federal environmental protection act to dramatically curtail land clearing in Queensland. It will not do that—it has chosen not to. Part of the frustration of trying to work out the best possible legislation is to then have a government that does not want to use it anyway. But it is now in the hands of the government and the minister, who is out to lunch, I believe—and we have pretty much got a government that is out to lunch altogether on these issues.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—I think that is irrelevant to the third reading debate on the bill before the house, Senator Bartlett.

Senator BARTLETT—Having it now in the hands of the government does not fill me with warm comfort and confidence, but that is the situation we are now in. Certainly the Democrats commit, as we have been doing consistently in a range of environmental areas—and I pointed to a couple of examples, occasionally with success and oftentimes with the frustration of not so much success—to continue to push this government, as I am sure Senator Brown, as he has indicated, will and many others will. It does provide a framework where, if we can get the opportunity to get further protections and improvements in the future, then at least there are now some legal teeth there as a foundation to build on and expand. It is that aspect of the legislation that must be acknowledged while still noting the many other missed opportunities that have occurred.

Senator MURPHY (Tasmania) (12.18 p.m.)—I would like to say a few words on the Environment and Heritage Legislation Amendment Bill (No. 1) 2002 and related legislation and indicate why I am supporting it. It is a step in the right direction. It might not be the step that everybody wants to see taken, but that is the process of the parliament.

On the issue of forests, particularly in Tasmania, there is a very easy solution. The process of determining the protection and uses for Tasmanian forests has a long history.
In the eighties we established processes—and I was involved in most of them, I have to say—to identify the areas that had the greatest conservation value. Most of those are now World Heritage areas, are in reserves or are national parks. That was a process which was agreed to by the conservation movement at the time. Of course, in outcomes, like this legislation, it is often the case that there is not unanimous agreement—and there was not on those occasions—but it is unfair to criticise the government with regard to the process. It was a process that commenced under a Labor government at the federal level and was ultimately completed, in the Tasmanian sense—signed off on, if you like—by a coalition government at the federal level, because the Tasmanian government in the early part of the process had refused to sign on to the national forest policy statement processes which led to the regional forest agreement.

I have concerns about how Tasmania’s forests are being managed, particularly the public forests that are being commercially harvested. There are serious problems, but this legislation is not the solution to them and this is not the process that is required to solve them. It is a state government responsibility. The Commonwealth can have a role to play, but not through this legislation. So whilst I have many areas of agreement with Senator Brown about forestry matters, I am not able to agree with him about this particular matter in respect of this particular legislation.

I have raised with the minister—and I raised again yesterday in the course of the debate—the issue of taxation incentives and tax rebates as incentives for people who privately own heritage properties. I will continue to pursue that with the government so that any mixture of incentives they come up with will ensure that heritage properties on the National Heritage List and obviously of national significance are afforded the best possible protection. And that is what the incentives should be about.

It is worth noting that most of the heritage properties that are privately owned are houses. I would say that is an important aspect to the ongoing development of the protection of heritage in this country. I pursue this to some degree with the Tasmanian interest at heart. I appreciate the fact that the minister has agreed to an early assessment of Tasmanian heritage places for inclusion on the national list and, in addition, to proceed to develop the nomination of Port Arthur, in particular, and other associated convict properties for heritage listing, certainly by no later than 2006. That will be a very important thing for Tasmania because of the significant tourism value that places such as Port Arthur have for the state. Tourism is a very important part of the state’s economy. I express my appreciation to the minister for undertaking, on behalf of the government, to do that.

This legislation, whilst it might not be perfect in the eyes of some, is going to ensure that heritage places are afforded better protection than they are now and, if the government is true to its word, we will see some funding applications in areas which are very important. That is the reason why I will continue to support the legislation.

Question put:
That these bills be now read a third time.
The Senate divided. [12.28 p.m.]

(The Acting Deputy President—Senator P.R. Lightfoot)

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AYES

Abetz, E.            Allison, L.F.
Alston, R.K.R.       Barnett, G.
Bartlett, A.F.J.     Boswell, R.L.D.
upon which Senator Nettle had moved by way of an amendment:

At the end of the motion, add “but the Senate:

(a) condemns the Government for:

(i) under-funding the university system in Australia for the past 7 years and as a result:

(A) leaving students and parents to pay one of the highest proportions of fees for their education in the Organisation for Economic Co-operation and Development,

(B) discouraging older and poorer students for seeking a place at university,

(C) allowing completion rates of Aboriginal students to suffer through lack of appropriate financial and structural support,

(D) presiding over a haemorrhaging of talent from Australian universities to overseas research and teaching positions due to lack of opportunity and suitable remuneration at home, and

(E) undermining staff moral and effectiveness as a consequence of massively increased workloads, and reduced administrative support; and

(ii) attacking the freedom of academics and general staff to be represented by their union; and

(b) calls on the Government to:

(i) repeal the $4 a week average income tax cuts announced in the budget in order to reinvest that money in the public higher education system enabling the abolition of student fees, both upfront and the higher education contribution scheme; and

(ii) invest the currently promised $1.4 billion, together with savings made from a restoration of fair company tax rates, in the sector to achieve:
The bill updates funding amounts in the Higher Education Funding Act 1988 for indexation and the latest estimates of HECS liabilities. The bill also provides the next tranche of additional funding to the Australian Research Council, as announced in the $3 billion Backing Australia’s Ability initiative. The bill also makes a series of administrative adjustments to the Australian Research Council Act 2001 in order to streamline processes and financial management of the Australian Research Council, its advisory structures and its research programs. The government, in consultation with the opposition, will be moving an amendment in relation to the power to vary the funding split between the ARC’s research programs—the Discovery program and the Linkage program. At this stage can I thank the opposition for their cooperation in relation to that amendment. I wonder about the benefit of the opposition in this nation, but every now and then they do come good and they are of assistance. We thank them for their contribution to that particular aspect of the legislation.

The current legislation requires the minister to vary the funding split between the research program categories as appropriate. A formal variation is required every time funding becomes available because of a change in the status of grants, no matter how minor the change—for example, when a grant is handed back in because a researcher ceases work on the project. The bill streamlines this process by allowing the minister to specify a funding split range, thereby reducing the need for the minister to regularly make new determinations. The government amendment—which, as I indicated, is a result of...
discussions with the opposition—proposes to limit the funding split range to a maximum of five per cent above or below a specified single percentage of the funding cap. Funding split variations to date have largely been minor and within this range. I commend the bill to the Senate.

Senator CARR (Victoria) (12.36 p.m.)—I seek leave to make a short statement with regard to the order.

Senator Abetz—How long?

Senator CARR—Very short.

Senator Abetz—One minute?

Senator CARR—I do not know.

Senator Abetz—Well, how long?

Senator CARR—You wanted to get a second reading vote by 12.45. I expect that we will be able to do that if you do not waste time now.

Leave granted.

Senator CARR—Yesterday, when the government brought this bill on, there was considerable confusion in the chamber. This was a result of incredibly poor management by the government. It was a result of the government basically not being able to organise its own affairs and not being able to communicate effectively about what it wants to do with the legislative program. As a consequence of that action—of the government providing the opposition with about three minutes notice—there was a change in the order of opposition speakers. As a consequence I was not able to move the second reading amendment on behalf of the opposition. Now the situation arises where Senator Nettle’s amendment becomes the substantive motion and the opposition’s second reading amendment becomes a foreshadowed second reading amendment. I would like to indicate that we cannot support the Green’s amendment and therefore we will be voting against it. I ask that the chamber consider supporting the Labor Party’s second reading amendment when it is put subsequently.

Question negatived.

Senator CARR (Victoria) (12.38 p.m.)—I move the opposition’s second reading amendment standing in my name:

At the end of the motion, add:

“but the Senate condemns the Government for:

(a) the failure of its policies to tackle the real issues facing higher education in Australia, including in the following areas:

(i) the increasing financial burden its policies are placing on students and their families, and the related growth of student debt,

(ii) the continuing inability of universities to enrol qualified students who wish to take up a publicly-funded place,

(iii) the inadequate provision for growth in higher education, especially in the period 2004-2007,

(iv) the inadequate planning for meeting key areas of skill shortage through higher education, including teaching and nursing,

(v) inadequate indexation of university funding,

(vi) inattention to the links between higher education and technical and further education, and

(vii) a lack of focus on quality, innovation and global changes in higher education; and

(b) underfunding the rebuilding of the Mt Stromlo observatory”.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.
Senator CARR (Victoria) (12.39 p.m.)—There is to be an amendment before the chamber with regard to the discretionary powers of the minister over particular programs. This has arisen as a result of the opposition initiating discussions with the government. It indicates yet again the importance of making sure people have a chance to read legislation. This is an occasion where the draftsmen clearly had not intended—if we take the government on its word; and I am obliged to—to give the minister unfettered discretionary powers. In consequence we raised the matter and now there is an amendment before the chamber. I am concerned about this in the context of the government having a major bill coming on and having failed to give us this legislation. There are probably four bills, in total, in its higher education package but the major one, in terms of the HEFA Act, will involve substantial changes to the current administrative arrangements. If a minor routine bill like this one has an error in it, we can only presume that the others will.

Senator Abetz—it is hard to be perfect like you, Kim.

Senator CARR—the minister says that it is hard to be perfect but we know that this government is far from perfect. It has now undertaken up to 12 separate reviews into research. It strikes me that we have a deliberate plan here. The minister obviously wishes to provoke me on this question. Unfortunately, I have to point out that the Australian Research Council, in its submission to the Crossroads process, actually argued the case that they wanted to see a complete move away from the block grant funding arrangements into an arrangement whereby there would be contestable funding. In the first instance they said they would be happy to accept a 70-30 split. In their submission they proposed a model which allocated block funding for university research via a largely fully-funded single contestable model through competitive programs of the ARC and the NHMRC.

It was good of them to acknowledge that there may be a medical council involved. I suppose that it is a big concession from the Australian Research Council that there might be other people in the business who have a view about the way in which research funding should be allocated. They went on to say that Australia’s performance in research is very poor. It is extremely poor but it is my view that the way to fix that is not to make all the funding contestable. It is not appropriate to move away from the dual system of funding with regard to block grants and competitive arrangements. You may well argue that there is a case for changing the proportionality and I accept that point of view, but they want to move away to a fully contestable performance based arrangement, which was the position put up in February this year in cabinet and which led to the establishment of the Crossroads response by the government announced in the budget this year.

When you have a situation where the government has established up to 12 separate reviews, the key element of which is to evaluate how to move away from block grant funding, and then you have a piece of legislation brought before parliament that suggests that we should consider allowing the minister total discretionary power, you can understand why we are a little suspicious. I understand that the government would like this bill dealt with before 12.45 p.m. and I will give them that opportunity.

Senator ABETZ (Tasmania—Special Minister of State) (12.43 p.m.)—I move government amendment (1):

(1) Schedule 2, item 15, page 6 (line 29), after “determination.”, insert “A range specified for a category must be specified as a range
of percentages of the funding cap with reference to a single percentage (the specified percentage) of the cap, so the lower end of the range is not more than 5% (of the cap) less than the specified percentage and the higher end of the range is not more than 5% (of the cap) greater than the specified percentage.”

I table a supplementary explanatory memorandum relating to the government amendment to be moved to this bill. The memorandum was circulated in the chamber on 18 August. I commend the amendment to the chamber.

Senator STOTT DESPOJA (South Australia) (12.44 p.m.)—I would like to indicate that the Australian Democrats will be supporting the amendment.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with an amendment; report adopted.

Third Reading

Senator ABETZ (Tasmania—Special Minister of State) (12.45 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

NATIONAL TRANSPORT COMMISSION BILL 2003
NATIONAL TRANSPORT COMMISSION (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 2003

Second Reading

Debate resumed from 14 August, on motion by Senator Patterson:

That these bills be now read a second time.

Senator HUTCHINS (New South Wales) (12.46 p.m.)—The National Transport Commission Bill 2003 proposes to establish a new National Transport Commission with broader responsibilities than the current National Road Transport Commission. The new NTC will be responsible for road, rail and intermodal transport. The Commonwealth, state and territory heads of government all support the creation of this commission, and the Labor Party supports the bill. Many of the changes replicate the original NRTC Act that was passed by Labor and are sensible.

What I want to talk about today is ultra low sulphur diesel fuel. Part of the GST deal between the coalition and the Democrats was to promote environmentally friendly fuels. As you would be well aware, Mr Acting Deputy President Marshall, the government ratted on that deal with the Democrats but finally passed the Energy Grants (Credit) Scheme Bill two years later than was required by that deal with the Democrats. As part of the bill, ultra low sulphur diesel fuel was made exempt from an additional 1c per litre excise. From January 2004 the additional excise will be 2c per litre and in 2006 ultra low sulphur diesel fuel will be mandatory. The current rate of excise on ultra low sulphur diesel fuel is 38.143c per litre and there are significant concerns with this diesel. The problems are threefold: the first is the efficiency of the fuel, the second is the fuel’s effect on maintenance costs for vehicles and the third is the lack of availability of the fuel in many areas of Australia.

In relation to the first part, fuel efficiency, ultra low sulphur diesel fuel has been shown to be considerably less efficient than ordinary diesel fuel. This means that, while the fuel is less polluting, the additional fuel required effectively eliminates any environmental effects. It is not clear that there are any financial benefits to transport operators from the introduction of this fuel or the excise. The government’s efforts to decrease gas emissions are simply not sustainable. Rather than actually having an impact they give the impression of making a difference when in fact I do not believe they do.
There are a number of legitimate concerns regarding the effect of ultra low sulphur fuel on vehicle engines. In the United States the introduction of ultra low sulphur fuel resulted in vehicle faults across the country. Here in Australia there were serious problems with low sulphur diesel when it was first introduced in December 2000. Problems which arose both here and overseas include the fuel system leak. The fuel can cause deterioration in fuel pumps and seals which were made prior to 1994. Considering that fuel pump seals last between eight and 15 years there is a legitimate concern that seals which should be entirely usable will be rendered useless by the use of ultra low sulphur diesel. BP, which is currently one of the only two producers of diesel in the country and which produces the low sulphur diesel fuel introduced in December 2000, have assured truck operators that the same problem will not occur with this low sulphur diesel. The effect of this low sulphur diesel fuel on fuel pumps and seals is a direct result of the process of removing sulphur from the fuel. The process reduces the natural lubrication of diesel fuel which results in the deterioration of fuel pump systems. Industry groups such as the Bus Industry Federation have recommended that owners of pre-1994 vehicles should consider replacing elements of their fuel system to allow them to use the low sulphur diesel.

In relation to availability, in the last edition of a magazine called Owner Driver, which is exclusively sent out to men and women who operate single lorries, I read about the availability of this fuel and the opportunity for them to have access to the rebate. Currently BP and Caltex are the only producers of this diesel in the country but both BP and Caltex have only made their fuel available in Sydney, Brisbane, Perth and Kalgoorlie. If there are any excise disincentives for business and individuals using standard diesel fuel they should at the very least be provided with the same opportunity to pay a lower excise. Legislation has been passed but it is out of step with the ability of the low sulphur diesel producers to provide the fuel required to avoid the additional excise. In fact, the head of the Australian Trucking Association, Mr Chris Althus, believes that the policy to encourage the use of ultra low sulphur diesel is failing. He has suggested that the policy will not meet the forecast market share of 30 per cent. The Energy Grants Credit Scheme regulations provide for transitional relief for the agricultural sector while the new system is being implemented. However, truck operators have not been provided with any such relief.

I know that sounds quite technical, and I hope the departmental people who are here listening take on board my comments because the industry is not convinced that this is going to lead to the great environmental or economic savings that have been tied up in some deal between the Democrats and the government. Indeed, in the end, the availability of this fuel for truck operators is limited to a number of cities in Australia. One of the big ports in Australia, Melbourne, does not have the opportunity for this fuel. I am not sure when it will be available to them, to enable the people who operate the equipment to have the opportunity to have reduced fuel costs.

I was at a dinner put on by the executive of the Australian Trucking Association the other night—I was the only senator there. I was told by a number of the executive members—and I am well aware from my background—that their margins are between one per cent and 1½ per cent. So when we are talking about a cent a litre off the price of fuel, that is a significant cost to those operators and, if they are barred from having that opportunity to have access to that, then it is not going to lead to any economies of scale that allow for reduction in costs of transport.
throughout the country. It is a sad thing when a government gets tied up in all sorts of environmental issues and it does not take into account what really ends up being the consequences of its actions.

As I have said, the transport industry is not convinced about the efficiency of this fuel. They are not convinced about how much it is going to cost them to maintain their vehicles and, indeed, as I have mentioned earlier, it is not even available to a number of ports in the country. This bill is about the National Transport Commission. It is an entirely supportable bill. It is great to see that in the last 20 years both Labor and the coalition have been cognisant of the importance to our country of road, rail and the intermodal parts of transport to make sure that we can deliver efficiency in this country and give service to people. The opposition supports the legislation.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.55 p.m.)—The primary purpose of the National Transport Commission Bill 2003 is to establish the National Transport Commission as a replacement for the National Road Transport Commission. Like the NRTC, the commission will be an independent statutory body and will report to the Australian Transport Council, which comprises Commonwealth, state and territory transport ministers. The proposed act will be supported by an intergovernmental agreement which is currently being finalised for council ministers’ signatures.

The cognate bill, the National Transport Commission (Consequential Amendments and Transitional Provisions) Bill 2003, supports the introduction of the NTC Bill by effecting necessary and agreed amendments to other Commonwealth legislation and providing appropriate arrangements for a seamless transition from the NRTC to the commission. I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

Third Reading

Bills passed through their remaining stages without amendment or debate.

Sitting suspended from 12.58 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Australian Broadcasting Corporation: Funding

Senator HOGG (2.00 p.m.)—My question is directed to the Minister for Communications, Information Technology and the Arts. Does the minister recall telling the Senate yesterday that the Howard government had given $71.2 million of extra funding to the ABC for regional programming? Wasn’t this allocation from a previous budget, not the 2003-04 budget, and won’t it run out in the current triennium? Isn’t it a fact that the ABC asked for this money to be renewed in full, as part of its latest triennial budget bid, and the minister specifically declined to renew that funding? Why did the minister provide such misleading and inaccurate information to the Senate in pursuit of his war on the ABC?

Senator ALSTON—The National Interest Initiative, as the ABC choose to call it, was, I think, for $71.2 million over four years. It expires, I think, at the end of next year. The ABC want to bring that into line with the triennial funding arrangements. They did seek to have a commitment for that, ahead of its expiration. Before the last federal budget the managing director advised me that the ABC were seeking $15 million per annum—being $7 million for multi-channelling and $8 million for local drama production—from the government plus the continuation of the National Interest Initiative from 2005-06 to
ensure that there would be no impact on the current level of ABC programming.

What I did say was that that was the first time outside the normal triennial budget process that the ABC had received additional programming information, I think for 20-odd years. That was certainly money that the ABC got which it would not have been expecting to get or entitled to get in the normal course of triennial funding arrangements. That is the point I was making yesterday.

Senator HOGG—Mr President, I ask a supplementary question. Minister, isn’t it true that the Howard government cut the ABC’s base funding in its first two budgets after coming to office, and that this base funding has never been fully restored to the ABC? Isn’t it also true that the ABC gave the minister adequate warning that it could not sustain all of its current activities unless the government provided additional funding in the 2003-04 budget? Why, then, did the minister falsely claim in the Senate yesterday that the axing of Behind the News was the ABC’s fault, when all of the evidence indicates that the ABC had no choice but to cut programming in the face of the cumulative effect of the Howard government’s funding cuts?

Senator ALSTON—The first point to make is that almost across the board—Defence might have been the only exception—we had to fill in your $10.5 billion budget black hole, and you know it. You opposed us every inch of the way. So do not for a minute pretend the ABC was singled out for special treatment—it was not. No claimant on the public purse is entitled to say, ‘Give us what we ask for, so we can do what we want to do.’ The ABC is in no different a position. The ABC makes a claim; it gets money allocated. It was allocated $762 million in the last year and it has a three-year commitment. Therefore, it has the capacity to find $800,000. It did not consult, it did not look at any other options—it simply announced it to the presenter by email. So everyone out there knows it was the ABC’s deliberate decision to take money from that iconic program, rather than from a range of other areas. In other words, it is entirely a matter for the ABC, and if BTN is not a priority—(Time expired)

Health: Commonwealth-State Health Agreements

Senator KNOWLES (2.05 p.m.)—My question is to the Minister for Health and Ageing, Senator Patterson. Will the minister please update the Senate on the number of states that have signed up to the health care agreements to receive the maximum funding being offered by the Howard government, as opposed to those states that seek to continue to deprive the state hospital system of $3.6 billion? Is the minister aware of data showing that the success of the Howard government’s private health insurance policies is alleviating pressure on those state-run public hospitals?

Senator PATTERSON—I thank Senator Knowles for her last question before she goes to represent us at the UN. I wish her well in that trip. I am going to remind honourable senators on the other side of the chamber again and again and again that this is a $42 billion offer to the states—$10 billion over and above what they got in the last five years, and 17 per cent over and above inflation. I will keep saying that to counteract what the opposition and the states have been saying.

We have declared what we are going to spend on public hospitals over the next five years. What we are asking the states to do is to come clean and tell the public in their states what they are going to spend this year and then that they will at least match the growth for the next five years—nothing
more, nothing less than they ask us to do. Not one state or territory has said they are going to sign up as yet—although I am having discussions about reform. But they have got until Sunday week, 31 August. Our shop will be open for business. We are going to have public servants available on Saturday or Sunday so the states cannot say they could not sign up. We will be open for business to give them that very generous increase. The states are claiming that it is a cut in funding; that is not true. Mr Beattie will get $2.1 billion more—a 33 per cent increase and 20 per cent over and above inflation—yet he is telling the public it will be $160 million less. It is outrageous.

It is very interesting to go back and have a look at Mr Beattie’s budget papers. He asserts that emergency department attendance is increasing. Either he is lying to the Queensland public or there is some secret agenda in the budget papers, because the budget papers show that he plans to provide no more services this year, that his target for emergency medicine is exactly the same as the last financial year and that his target for the number of people being admitted to hospital is the same. He has only allocated an additional $2.2 million for emergency departments to manage existing demand pressure. So much for the ‘inordinate growth’. We are giving him $2.1 billion more, and next year there will be an increase if he signs up, to treat the same number of patients—that is what his budget papers say—in emergency and the same number of people being admitted to hospitals.

Mr Beattie, the message is that you are going to get more money if you sign up to treat the same number of patients—that is what you have said in your budget papers you are going to do—and you will not lose the money that you could have for those people. He says in his ads that it is a lousy deal. It is a lousy deal for the Queensland public that they are being misled by Mr Beattie to believe that they are going to get a cut in funding when it is a $2.1 billion increase. Mr Beattie also needs to go and ask Julia Gillard about what is going to happen if the 30 per cent rebate goes if Labor ever get into office. The figures show us that in Queensland there has been a 16 per cent increase in patients going into private hospitals—twice the national average. Wendy Edmond says they are not—what is the word?—emergency patients; they are patients who can wait. I forgot the word, I was getting so excited. Wendy Edmond says they are elective surgery patients.

Senator Forshaw—Amnesia?

Senator PATTERSON—It is amnesia. I will need to be admitted too. Over half of them have their cardiac valves replaced, have their hips replaced, have chemotherapy, or have other surgery in private hospitals. That is not elective surgery. So Wendy Edmond is wrong. They need to ask Julia Gillard: ‘What is going to happen to that 16 per cent increase when the 30 per cent rebate comes off and when $750 more will go out of the pockets of Australians to pay their private health insurance?’ (Time expired)

Royal Flying Doctor Service

Senator BUCKLAND (2.09 p.m.)—My question is to the Minister for Health and Ageing, Senator Patterson. Is the minister aware that the Royal Flying Doctor Service is $9 million in debt and will have to take out a $17 million loan to upgrade its air fleet to provide health services to people in the bush? Given that the funding of the RFDS is overwhelmingly the responsibility of the Commonwealth government, why doesn’t the minister do something real in providing health services to the bush by fixing the funding basis of the Royal Flying Doctor Service?
The PRESIDENT—Before I call Senator Patterson, I will say that all week senators on both sides of the chamber have spent too much time shouting at each other across the chamber. It is not fair on the person answering the question and it is not fair on the person asking the question. I ask all honourable senators to try and keep their noise down so that we can hear what is being asked and what is being said.

Senator PATTERSON—This gives me an opportunity to talk about doing things for the bush. Under Labor nothing was done for the bush. When I visit the Royal Flying Doctor Service, do you know what they tell me?

Senator Ian Macdonald—They have never seen a Labor politician.

Senator PATTERSON—They do not say they have never seen a Labor politician but they have most probably never seen a Labor politician.

The PRESIDENT—Order! Obviously senators are defective in their hearing. I did ask all honourable senators to keep their noise down and I expect them to respect the chair.

Senator PATTERSON—that is even; I have amnesia and they have defective hearing. What the Royal Flying Doctor Service say to me is how concerned they are by the cost shifting that goes on between the state and the Commonwealth with the state cost shifting using flying doctor services. I think before a question is asked like that you should go back and ask your state colleagues about the pressure that they put on the Flying Doctor Service by cost shifting.

Do not come in here and talk to me about what is happening in the bush. Go back and have a look at your record and the fact that you had far too few doctors in rural areas. We now have an over 11 per cent increase in the number of doctors in rural areas—areas where it relieves pressure on the Flying Doctor Service. You had far too few specialists visiting rural areas and we have a specialist outreach program which we use. The Flying Doctor Service flies some of those people in and some drive in. We have a service to fly female doctors into rural areas where there were no female doctors before so they can actually see a female doctor—a fly in, fly out or drive in, drive out service. We also have incentives for GPs to train in rural areas.

One of the other great legacies of the Howard government will be the university departments of rural health and the clinical schools of rural health. We now see young people being trained out in rural areas so that more of them will stay and work in rural areas. Labor did nothing about delivering services to people in the bush, either through the Royal Flying Doctor Service or through any other service, and ought to be condemned for the condition they left the bush in terms of access to medical treatment.

Senator BUCKLAND—Mr President, I ask a supplementary question, and the minister might address the money issue. Why is the minister all talk and no action on yet another health funding crisis, this time the crucial RFDS services to the bush? Is the minister aware that the Prime Minister has spent more than $1 million of taxpayers’ money since 1996 for his VIP air-taxi betweenKirribilli in Sydney and his official residence, the Lodge, in Canberra and another $11.5 million on overseas trips since becoming Prime Minister? Why can’t the minister rein in the Prime Minister’s excesses and instead redirect some much needed funding for the Royal Flying Doctor Service?

Senator PATTERSON—You cannot win either way. You either go overseas and represent Australia or you get criticised for not going. You cannot win with the Labor Party, so I am going to let that comment about the Prime Minister go through to the keeper. Let
me just say that, if the Labor Party are concerned about public money, why don’t they renegotiate the lease on Centenary House? Why don’t they do something about that disgraceful situation where the Audit Office is paying something like $900 a square metre, three times the commercial rate? The Royal Flying Doctor Service receive significant Commonwealth funding—over $20 million annually—in addition to funding provided by state and territory governments. The comment they have made to me is that their concern is about the cost-shifting arrangements the state governments are involved in in the use of the Royal Flying Doctor Service.

HIH Insurance

Senator FERGUSON (2.15 p.m.)—My question is to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Will the minister inform the Senate of changes to the HIH Claims Support Scheme and the success of the scheme in alleviating financial hardship for HIH policyholders?

Senator COONAN—I thank Senator Ferguson for that question about the splendid initiative this government entered into with insurers to alleviate the plight of people who were affected by the collapse of HIH. Today I announce that the HIH Claims Support Scheme will close to new applications from 27 February 2004. The failure of HIH in 2001 had significant and far-reaching effects on the Australian community. It meant that as unsecured creditors of a company in liquidation—if they were that—HIH policyholders faced the prospect of uninsured losses. The consequences included the withdrawal of salary continuance payments, uninsured damage to homes and motor vehicles, and the exposure of many businesses and professionals who would have been liable to dip into their personal assets to pay compensation.

The Howard government, in conjunction with the insurance industry, stepped up to the plate to put in place the HIH Claims Support Scheme in 2001. The scheme is administered by HIH Claims Support Ltd, a subsidiary of the Insurance Council of Australia. Over the past two years more than 12,000 policyholders have applied for assistance, $640 million has been appropriated for the scheme and so far over $240 million has been paid out for the benefit of HIH policyholders. The scheme is being closed to new applications, and it is important that people are aware of this. This is happening because the number of new applications to the scheme has tailed off significantly. In the first six months of the scheme over 6,600 applications were received. This has now declined to an average of 28 new applications a week. As a result, the government has decided to close the scheme to new applications from 27 February next year. Policyholders who think they may be eligible for assistance now have six months to lodge an application.

There may of course be limited circumstances in which a policyholder is not aware of the existence of a claim until after the cut-off date. It is in the nature of insurance that it can sometimes take a considerable period of time for a claim to emerge and to crystallise and for policyholders to be aware that they have a claim. To ensure that policyholders in these circumstances are not disadvantaged by the closure of the scheme, a limited late application gateway will be established. I also stress that the closure of the scheme to new applications will not affect the management of existing claims or the processing of applications that are already lodged. Once the scheme is closed there will be no need to maintain the structure. The government will wind it back and undertake a competitive tender process to consolidate the claims management functions on an ongoing basis.
Apart from providing this information to the Senate and to those listening, I take this opportunity to thank—because they do not often get thanked—the Department of the Treasury and the insurance industry for their cooperation in setting up and managing a very difficult scheme. Without this unique partnership the scheme would not have been so successful and all of those policyholders would otherwise not have been helped.

Health: Hepatitis C

Senator McLUCAS (2.19 p.m.)—My question is to Senator Patterson, the Minister for Health and Ageing. Can the minister confirm that the not so recent report on the review of the national hepatitis C strategy which the minister has had in her possession now for 10 months is highly critical of the government’s response to the hepatitis C epidemic? Isn’t it the case that the report found there was a lack of resources for implementation; failure to grapple with the complexities of treatment and care; erosion of harm reduction through drug laws and drug policies, despite advocacy against this from affected and professional communities; inadequate research; and rudimentary surveillance? Why has the minister failed to publicly release this report, let alone act on its findings, when the report says, ‘The strategy has not succeeded in controlling the hepatitis C epidemic,’ and, ‘The urgency of this situation cannot be overstated’?

Senator Patterson—The hepatitis and HIV-AIDS strategy has been in place for five years. It continues until the end of June next year. I believed that it was absolutely important and imperative to review that strategy with sufficient time to address the issues, so I asked for a series of reviews of the various areas to be undertaken. That report has been with me for some time, but it is a report to inform the next five-year strategy. The next five-year strategy does not begin until July 2004. I have asked for a co-ordinated response to that report. Of course we will not agree with everything in the report, and the states will not always agree with everything in the report either. Some of the recommendations in the report go directly to the states and some go to us. We will not necessarily agree with all of the recommendations in the report but what we are doing will provide a whole-of-government response to inform—

Senator Carr—You don’t like research reports, do you?

Senator Patterson—Senator McLucas is obviously interested in this; Senator Carr just shouts across the chamber. Stay in your own patch of education and leave health to people who are interested, Senator Carr.

The President—Senator Patterson, ignore the interjections and address your remarks through the chair. Senator Carr, come to order.

Senator Patterson—These reviews were to inform the next five-year strategy. There are some issues raised in the report that I have already raised with state health ministers to do with the increase we have seen in HIV-AIDS. They have used some of the existing strategy and are rejigging it to address the changes. What I wanted to do was make sure that we had a strategy for the next five years that was not informed at short notice and that took into account various views. Again, we will not always agree with all of the views in the report, and I will respond in due course. One of the recommendations requires quite significant changes to the Intergovernmental Committee on AIDS, Hepatitis C and Related Diseases. There has been some concern between the two groups—those that represent people with HIV-AIDS and other sexually transmitted diseases and those that represent people with hepc—that having the committee deal with
them together proves difficult in terms of funding decisions. I am looking at that.

It is quite a significant change if you change the structure, and I believe it is important to look at that carefully. That is why I have extended the appointment of ANCARD for a period of time to enable me to respond to that report and that concept of restructuring. I am committed to the issue. There are various concerns there, not only in hep C and HIV-AIDS but also in other sexually transmitted diseases, particularly chlamydia, which I have been concerned about for a long time. In fact I gave a speech about 10 years ago as a backbencher on the increase in chlamydia and its effect on infertility. So it is not as if it is something I have come to as a Johnny-come-lately. The issues are quite complex and I believe it is important that we have the structure in place for the July 2004 start of the next five-year strategy both for HIV-AIDS and other sexually transmitted diseases and for hep C and, importantly, to address more clearly the concerns associated with Indigenous communities regarding hep C, HIV-AIDS and other sexually transmitted diseases.

**Senator McLUCAS**—Mr President, I ask a supplementary question. Given that the minister has given no undertaking to release the report and given that all of the stakeholders dealing with hepatitis C would find the contents of the report to be useful, I seek leave to table the report.

Leave not granted.

**Senator McLUCAS**—That is unfortunate, Mr President. Isn’t it the case that Australia’s successful response to the HIV-AIDS epidemic has, in the past, been based on open and collaborative policy development and implementation? Will Senator Patterson agree to table this report in parliament to allow a full and frank discussion of an appropriate collaborative response?

**Senator PATTERSON**—I asked for these reports to inform government about the next strategy, which does not start until July 2004.

Honourable senators interjecting—

**The PRESIDENT**—Order! There is too much chatter across the chamber. It is no wonder that the minister cannot hear what is being said and that the person who asked the question cannot hear the answer.

**Senator PATTERSON**—It requires discussion with my parliamentary secretary, who is responsible for the licit and illicit drugs programs. It requires cooperation and response from the Attorney-General to work through a Commonwealth response—

**Senator McLucas**—There are more people than the department who want to be part of it.

**Senator PATTERSON**—Senator McLucas keeps shouting across the chamber. Senator McLucas, I asked for this report early so that I could have time to review the issue and address it. If I did not have to spend so much time on the argy-bargy over health care agreements I would have more time to address this issue. I have asked for these reports to inform the next strategy, which begins— I do not know how many times I can tell you—next year. The government will have a response to those reports in due course. *(Time expired)*

**Telstra: Privatisation**

**Senator CHERRY** *(2.25 p.m.)*—My question is to the Minister for Communications, Information Technology and the Arts. I refer him to the government’s action in the other place to gag debate on Kay Hull’s motion to hold a referendum on the sale of Telstra. Is the minister aware that the most recent Newspoll shows 66 per cent opposition to the sale; Westpoll, 69 per cent; the *Adelaide Advertiser* poll, 81 per cent; De-Anne Kelly’s own electorate survey, 81 per cent;
Tony Windsor’s electorate survey, 96 per cent; the ninemsn survey, 73 per cent; and the ABC Rural Victoria poll, 78 per cent? Is the minister also aware that the ACA’s surveys find that customer satisfaction with Telstra’s services fell from 74 per cent to 60 per cent last year, and customer complaints to Telstra on faults rose by 26 per cent last year? Isn’t it clear that public confidence in the services provided by Telstra is falling and public opposition to your privatisation plan is rising? Is that why you are afraid to ask the people?

Senator ALSTON—The short answer is that the people have been given an opportunity to pass judgment on this issue on the last three occasions that we have had a federal election. It looks as though we may have to go to a fourth election on that basis. Quite clearly what that means, given that we have won the last three elections, is that you have to look pretty carefully at what people’s attitudes really are. I think it is fair to say that, around the world, if you ask people in isolation, ‘What do you think of privatisation?’ they would generally say, ‘Not a good idea,’ or, ‘I need to be persuaded.’ That of course did not deter Labor from privatising everything that moved when they were in government. When we turned up, there was hardly anything left. There can be no distinction in principle between the privatisation of the Commonwealth Bank and Qantas, on the one hand, and Telstra on the other. It is all a matter of whether the government should be running businesses. We do not do those sorts of things very well.

You need to look a bit more carefully at some of these statistics that you quoted. If you take De-Anne Kelly’s survey, for example, whilst at first blush you see a high proportion of people opposed to privatisation ‘in principle’, when you ask them how they feel in terms of retiring government debt or providing additional funds for infrastructure you get a remarkable turnaround—I think it is in excess of 70 per cent. If you asked them whether they favoured the Labor approach of splashing it all up against the wall so that there was nothing left after they managed to run through it by way of recurrent expenditure, then they would probably take a very dim view—and we would, too. But that has never been our attitude. We have always insisted that it overwhelming be used for debt retirement. That is one of the principal reasons that we have low interest rates and that people have been able to save hundreds of dollars a month on their mortgage bills, and they well and truly understand that.

When you conduct these surveys you need to be a bit careful. Do not just look at the question in isolation; ask people about the benefits that might accrue from going down that path. Ask them to understand what might happen if Labor got to government. Of course, they know the answer to that. It would take them about five minutes to suddenly have a Damascus conversion, wouldn’t it? They would be in there with their ears pinned back and they would have 10 good reasons to say that privatisation was a wonderful idea. We all remember the National Press Club speech that Mr Beazley gave when he was finance minister. Privatisation was a wonderful thing. There were no big caveats about Telstra. It was all about how this was a very efficient way of doing business. It imposed disciplines on organisations, and government should not be in there running the show. So you really should be careful about taking at face value those sorts of selective surveys.

The things that a couple of the Independents have done are really not surveys at all. They basically send something out saying: ‘I am absolutely opposed to privatisation. The only possible way I will be re-elected as an Independent is if I can find some point of distinction between me and the government,
and this is it. So I would just like you to tell me impartially and objectively how you feel about privatisation. That is a mickey mouse, bogus survey; that is not fair dinkum. I think the survey done by De-Anne Kelly is a much more important one, and of even more importance is the level of response that followed from the circulation of those findings—very little levels of concern, because there is an understanding that customer service levels have improved dramatically. Don’t just take my word for it: look at the ACA’s quarterly quality of service reports; it is all there to see. The bad old days were when Telstra was fully government owned: that was when Telstra fixed your phone when it was good and ready; that was when you did not have any customer service guarantees—no rebates on your phone bills for non-performance. And, as we know, the cost of phone calls has only recently fallen by 21 per cent. (Time expired)

Senator CHERRY—Mr President, I ask a supplementary question. I thought the last election was about border security. The ACA surveys on customer satisfaction showed a significant fall in customer satisfaction with services. Is the minister aware that this week the ACCC reported that Telstra is not complying with price cap determinations and is delivering to big business price cuts that are twice the size of those to residential customers? Isn’t it the case that the government is failing to deliver on what the Prime Minister referred to today as the guarantee of service deliveries that flow from legislative requirements rather than from ownership, ensuring that there is a fair deal going out to customers? Isn’t that why customer satisfaction is falling, thus firing why people do not trust your plans on Telstra?

Senator ALSTON—What Senator Cherry might find interesting is an interview that Bob McMullan gave not so long ago repeating what he had said a year or two earlier. Senator Faulkner—that’s Mr McMullan!

Senator ALSTON—Yes, same guy; glad you have picked that up. What Mr McMullan said was that ownership was not the most important issue; competition was. We agree entirely with that. The unfortunate thing is that poor old Senator Cherry has gone through the last election thinking that it was all about border security. It just shows how wrong you can be. He probably thought Labor was going to win the election too. The fact is that the public, overwhelmingly and in spades, was much more interested in the real issues on the ground, such as economic performance, not simply in what your friends in the media might have thought should have been the issues. That is the key point of distinction. If Senator Cherry just went away, did a little analysis and scratched below the surface he would find out what really happened at the last election—and it is likely to happen again at the next one.

Health: HIV-AIDS

Senator MOORE (2.32 p.m.)—My question is to Senator Patterson, the Minister for Health and Ageing. Can the minister confirm that the most recent figures for New South Wales show a 13 per cent increase in HIV infections over the past year? Can the minister further confirm that this pattern of increasing infections is now being seen nationally? Isn’t it the case that the government was warned almost 10 months ago in the review of the National HIV-AIDS Strategy that infections would rise unless the government woke up and reinvigorated its slowly collapsing commitment to HIV-AIDS prevention in our country? Isn’t it the case that the overarching report on the HIV-AIDS and hepatitis C strategies, the Wilson report, called for a reinvigorated strategy to commence last month—that is, July 2003—and yet the minister continues to drift along,
business as usual, while more and more Australians are infected?

Senator Patterson—The honourable senator does not give any responsibility to the states, and both the Commonwealth and the states have been working on the issue of HIV-AIDS. I am aware that there have been reports of increasing rates of notifications of HIV infections in Victoria, New South Wales, Queensland and the Northern Territory, and I have had discussions with some of the state ministers about the change in strategy needed with the change in behaviour. I do not necessarily need to go into the details of the change in behaviour, but there are some significant risk-taking behaviours occurring amongst the homosexual community which were not occurring, and, despite messages about safe sex, that is being ignored. I have had discussions with the state ministers about the way in which the message needs to be changed to address this changing behaviour, behaviour most probably because younger people are not seeing people dying in the same way or at the same rate as people were 10 years ago.

I have asked the department, in cooperation with the National Centre in HIV Epidemiology and Clinical Research, to analyse the data provided. Initial consideration by the department indicates that caution is warranted in interpreting the data. A reported large proportional increase, for example, in infections in the Northern Territory is of concern, but it is coming off a very small base. So when you see a high percentage, because it is coming off a very small base, it seems worse than it is. But it is very serious, and I have had discussions with Jane Aagaard about some of the effects, particularly of people coming across on leave during the East Timor crisis and the impact that that has had on the Northern Territory.

I have not been sitting on my hands. I actually discuss on a regular basis with the health ministers, despite the fact that we come from different sides of the fence, issues that concern me. I do not necessarily come in here and report on it on a daily basis. I am concerned about the apparent increase in HIV infections and the implication that that has for the community. We recognise the importance of maintaining our commitment to public health programs to reduce the incidence of HIV-AIDS and other sexually transmitted diseases—and I do not think we should ever forget about those.

We have a fully funded five-year strategy in place until the middle of next year and, as I said, that can be and has been altered, in discussion with health ministers, as behaviour changes. That commitment also includes a commitment to research activities. As I have said in an answer to Senator McLucas, I asked the department to review the AIDS strategy early so that, rather than doing it in a rushed way, we can inform the new strategy, which will require a five-year plan to address the very significant changes in behaviour. The strategic approach was highly praised throughout the review process. The issues raised in the review are, as I said, complex and require a considered and coordinated response, and we will not always agree with them. As I said before, some of the recommendations in the report are asking the states to also look at some of the issues that they are responsible for. So I have not taken my hand off the lever; I am concerned about it. It is a very difficult problem, and it is very important that the next five-year strategy is appropriately informed. It is also important that the overarching committees are structured in such a way that they actually deal with the hep C, HIV-AIDS, sexually transmitted diseases and Indigenous community issues in a renewed way to ensure that we have a good structure in place for the next five years.
Senator MOORE—Mr President, I ask a supplementary question. Can the minister confirm that one of the principles underlying Australia’s successful response to HIV-AIDS in the past has been a real partnership approach, with bipartisan political support and the open engagement of key stakeholders in our community? Isn’t it the case that the minister’s failure to release the review of the national HIV-AIDS strategy spells the end of this partnership approach and the end of open consultation in the development of policy in Australia? Why won’t the minister release the report and reopen the dialogue that has been the key to Australia’s success in combating our epidemic in the past?

Senator PATTERSON—It is not the end of the relationship. I will tell you something: in the early seventies—you listen to this—Victoria was looking for a venereologist, but there was no venereologist trained in Australia. I happened to have a very good friend who was trained in venereology. There was no fax in those days, but when an advertisement came out I asked him to come back to Australia to work in venereology. His name is David Bradford, and he did enormous work in AIDS in Victoria at the height of the epidemic, and he then moved to Queensland. I believe that I made a huge difference, because I sought him out before I was even in parliament. I was teaching health sciences, and I knew of his commitment and his training. Do not tell me that I do not have an interest in HIV-AIDS.

Health: Commonwealth-State Health Agreements

Senator LEES (2.38 p.m.)—My question is to Senator Patterson, the Minister for Health and Ageing. I ask: does the minister acknowledge that the health summit held this week at Old Parliament House was organised by health professionals because of their frustration that the process of reform of the health system has come to a halt? Minister, why, after you and all the state health ministers set up a process and accepted the recommendations for reform from the nine policy working groups established by a health ministers’ conference last year, did you still put health care agreements on the table based on the old method of funding—that is, based on how many patients states churn through their hospitals?

Senator PATTERSON—Thank you, Senator Lees; I really appreciate it. Every time we have health care agreements there is argy-bargy and somebody comes up as an expert and thinks they can run the system differently. We are the elected representatives—the state health ministers and the federal health minister—and I do not think we should absolve our responsibility by passing it over to some council or some committee. There would be argy-bargy as to who would be on it—and I said that yesterday; this is what that health summit was recommending. That health summit was totally dominated by New South Wales. If you look around and see—

Senator Lees interjecting—

Senator PATTERSON—Senator Lees is shaking her head; she says that she went. Do you know what, Senator Lees? I have in my head a memory of 10 years ago, and history has a habit of repeating itself. I had a look—and guess what? When Mr Howard was negotiating the health care agreements in 1993, almost 10 years ago to the month—it was January, actually—guess what? New South Wales, which happened to be a Liberal government then, organised a health summit—and guess what? Mr Howard did not go. He refused to go because he said that it was a stunt by New South Wales. And what do we have again, 10 years later? We have another stunt which is basically New South Wales controlled.
If you talk to people from the health departments in the other states, you will find that they were a bit wary about this summit, because they did not want to be roped into the fact that New South Wales has not actually moved on the reform agenda, has not actually taken up the Pharmaceutical Benefits Scheme, as has Victoria, Queensland and Western Australia, has not met the number of hospital admissions it was supposed to under the life of the last agreement—it got to only about 92 per cent—and has not rolled out its meningococcal program for vac C in time, as all the other states have done. The other states were very wary of this domination—and Senator Lees will shake her head, because she was there. Every time there is a health care agreement, there is a stunt by people who think that they can manage it differently.

I talked about those people who ran the summit, and I agree with some of the issues that they have about reform. We have a process in place. We have had nine committees addressing things like the interaction between GPs and hospitals, a committee looking at aged care and committees looking at various issues, both state and Commonwealth. They have made recommendations. I have written back to them and said, ‘Here are the recommendations, here are the areas that we can work on, and here are the areas on which our bureaucrats have decided.’ I have now been engaged with a number of states—and every day it is more—discussing how we can move forward on streamlining hospital-to-home programs, particularly for older people; how we can streamline cancer care; and how we can actually reduce pressure on GPs by having after-hours services. There has been a range of issues that I have been able to debate. It is no good having a council, and a summit is not going to do it. You need to get down on the ground with the health ministers, driving that reform agenda—specifically with each state on generic issues, but state by state because states differ in their geography and in terms of the way they deliver services. I am prepared to talk to any minister, any time—and I am. In fact, I will have talked to two ministers today about reform once we have signed up to the health care agreements.

**Senator LEES**—Mr President, I ask a supplementary question. I agree with the minister that we can put on some more band-aids. But isn’t it about time that health ministers actually interacted at conferences and discussions with those people who are working at the coalface? Health professionals want to see health dollars spent more wisely than they are now. They want to see an end to the waste and they want to see an end to the buck passing and cost shifting which you just mentioned again in answer to a question on HIV. So I ask: does the minister agree that, if the current health care agreements are signed, it will be another five years before any substantial changes can be made to the structure of the Australian health system to make it patient focused rather than hospital focused? This is not necessarily about the dollars attached to anything; it is about the structure of our health system and doing it better.

**Senator PATTERSON**—Mr Howe, the Labor health minister, did not fall for that card trick of having a three-day or a two-day summit, thinking you could solve the problems of the health system. What you need is a progressive process throughout the life of the agreements to address issues like changes in streamlining cancer care and delivering better mental health services. I am sorry, Senator Lees, you do not go to the health ministers’ meetings and you are never likely to ever go to a health ministers’ meeting unless you come over and join us—and we would welcome you. Unless you go to a health ministers’ meeting, you will not know
what goes on. We have very detailed discussions. Our officers work at a specific level and we now have significant changes. In South Australia, for example, we now have a very innovative program in getting people from hospital to home. In Victoria, we have seen a fantastic cooperation in delivering hub and spoke radiotherapy. New South Wales cannot get its act together to do that, but at least we are able to do it in Victoria. We have very good relationships with the health ministers to drive significant change. (Time expired)

Health: Advertising

Senator SHERRY (2.45 p.m.)—My question is to Senator Patterson, the Minister for Health and Ageing. How much did today’s full-page display advertisement in every metropolitan daily headed ‘Better and Fairer Health Care: The Australian Government’s Plan’ cost the taxpayer? Didn’t the Auditor-General recommend that advertising only be carried out when the government had legislated its policy? Didn’t the Joint Committee of Public Accounts and Audit recommend that government advertising ‘inform the public of new, existing or proposed government policies, or policy revisions’? Hasn’t the minister ignored the recommendations of both the Auditor-General and the Joint Committee of Public Accounts and Audit by advertising a plan rather than legislated policy?

Senator PATTERSON—Thank you for another dorothy dixer from the other side. Since May of this year, when the advertising started—when Mr Gallop put an advertisement in the West Australian headed ‘Help us demand a better deal for our public hospitals’ and actually put out misleading information indicating there was going to be a decrease in funding for public hospitals from the Commonwealth when it was a $10 billion—

Senator Abetz—Did Senator Sherry complain about that?

Senator PATTERSON—I did not have Senator Sherry asking a question. Senator Sherry did not ask a question about what the Western Australian government paid for those advertisements. Then we had Mr Gallop again sending an open letter to the public of Western Australia, telling them that they would be denied—

Senator Sherry—I didn’t ask about those!

Senator PATTERSON—Senator Sherry did not ask about that. Well, I am telling Senator Sherry what precipitated—

Senator Sherry—Mr President, I rise on a point of order. The minister herself has just admitted that she is not being relevant. Will you please draw her attention to it and ask her to answer the question I asked?

The PRESIDENT—Senator Patterson, would you return to the question. You have three minutes left.

Senator PATTERSON—Senator Sherry is getting tense about this because he does not want to hear the answer to the question—he does not want to hear what the state ministers and state premiers have been doing. Mr Gallop sent an open letter to the people of Western Australia telling them that they would be denied free access under planned changes to Medicare if they earned $32,000 or more. That was saying that they would not be eligible for bulk-billing. Is that right, Senator Knowles?

Opposition senators interjecting—

Senator PATTERSON—Well, she is a Western Australian and a very proud Western Australian. She knows what was going on and she has been on that magical mystery tour you have been running.

Senator Faulkner—At least she had the good sense not to be listening to you.
The PRESIDENT—Order! There is far too much noise. Senator Patterson, you have 2½ minutes left. I would ask you to return to the question and I would ask the senators on my left to come to order and let Senator Patterson answer the question.

Senator Faulkner—Mr President, I rise on a point of order. I thought that when you stood up you would draw Senator Patterson’s attention to the fact that she should be addressing the chair and not Senator Knowles. Why don’t you call her to order for that?

The PRESIDENT—I did ask Senator Patterson to return to the question, and she is about to do that.

Senator PATTERSON—Mr Gallop wrote to all Western Australians an open letter giving them misleading information which totally misrepresented the package. In Victoria Mr Bracks has done exactly the same thing. Mr Bracks has written an open letter to Victorians. As a senator for Victoria, I was fascinated to read that Mr Bracks said, ‘If your family earns more than $32,000 a year, you won’t qualify.’

Senator Chris Evans—Mr President, I rise on a point of order. I do not know whether the minister is deliberately flouting your ruling, but on two occasions you have directed her to return to the question and she still has not addressed the question. She should either address it or sit down.

The PRESIDENT—Order! Senator Patterson is referring to advertising, but I do not think it is the same question that was asked.

Senator PATTERSON—You asked me why we advertise and I am telling you why we advertise. Mr Bracks told the Victorian public that, under the $917 million Medicare package, people earning more than $32,000 would not qualify for bulk-billing. That is absolutely untrue. So we have those three advertisements. Then last week I woke up on Saturday morning to find Mr Beattie telling people in the Weekend Australian that they were going to get $160 million less in the health care agreement when they were getting a $2.1 billion increase—a 33 per cent nominal increase, 20 per cent over and above inflation. You cannot just sit down and wear it when the Labor Party in Victoria, Western Australia and Queensland are doing that. And then Mr Beattie runs advertisements on the radio saying that the health care agreement is a lousy deal. It is a lousy deal for Queensland that Mr Beattie tells them fibs; it is a lousy deal for Queensland that Mr Beattie tells them they are getting $160 million less when they are getting $2.1 billion more—it is a lousy deal that they get this sort of misinformation. We needed to respond to that by telling people exactly what the facts were. It is a factual advertisement; it is not a misleading advertisement, like the Labor Party has been running now in four states.

Senator SHERRY—Mr President, I ask a supplementary question. I ask the minister: how much did the advertising cost that she authorised to be placed in every metropolitan daily today? What was the cost, Minister? What are the other elements of this campaign? Will the minister desist from further advertising her plan until she legislates for it, or will the minister ignore the Australian Auditor-General and her own coalition-chaired committee?

Senator PATTERSON—It probably did not cost as much as the misleading advertisements that have been placed over the last few months in Western Australian, Queensland and Victorian newspapers and on radio in Queensland.

National Museum of Australia: Funding

Senator HUMPHRIES (2.52 p.m.)—My question is directed to the Minister for the Arts and Sport, Senator Kemp. In the light of recent comments made on funding levels for the National Museum of Australia, will the
minister advise the Senate of the true levels of funding for the Museum? Is the minister aware of any policy alternatives concerning the National Museum?

Senator KEMP—I thank Senator Humphries for that very important question. I have been waiting now for a number of weeks for the shadow spokesperson on the arts, Senator Lundy, to correct a very serious error that she made on Canberra radio and that has been reported elsewhere. The problem is simply this: Senator Lundy decided to go on the radio and accuse the government of attempting to sabotage the National Museum of Australia ‘through reducing funding levels’. I have pointed out to Senator Lundy through a very well-worded press statement that she was in error and I was hoping that Senator Lundy would get up and apologise because of the confusion that this causes. I am now required to put the actual figures to the Senate. I just remind Senator Lundy that she said that the funding of the National Museum of Australia had been cut by the federal government.

Let me quote some figures to Senator Lundy. In 2000-01 funding for the NMA was just on $21 million. Two years later, in 2002-03, funding has increased to just under $40 million. It beggars belief how this could possibly be described as a funding cut. Then, as the debate went on, Dawn Casey, the Director of the Museum, was also asked this question. Reports of the National Museum of Australia facing a funding crisis were denied yesterday by Dawn Casey. I point out to the Senate, and I guess on this side of the chamber we all had some hopes that now that Senator Lundy has been promoted to be shadow spokesperson on the arts—and why she was promoted beggars belief, but she has been promoted—

Senator Sherry—When did you get demoted?

Senator KEMP—Senator, I do not believe that being the minister for the arts is a demotion; I believe that it is a promotion. If the Labor Party do not think that—

The PRESIDENT—Order! Senator Kemp, would you address your remarks through the chair—and senators on my left should stop interjecting.

Senator KEMP—Thank you, Mr President. As you would have heard, I was sorely provoked by the Labor Party saying that being the minister for the arts is not an important job. On this side we believe that it is a very important job. The point that I was making is that Senator Lundy is the seventh appointee to this position in seven years by the Labor Party. The first appointee was Dr Carmen Lawrence; the second one was Mr Bob McMullan; the third one was Mr Duncan Kerr; then we went back to Bob again; then we went to Carmen again; and then we went back to Bob. Now we have Senator Kate Lundy and we were hoping that she would take her job more seriously. I believe it is time for Senator Lundy to stand up in this chamber and correct the record. The funding for the National Museum of Australia has not been cut. Statistics in recent years show that there has been a very large and substantial rise in funding. (Time expired)

Defence: Property

Senator MACKAY (2.57 p.m.)—My question is directed to the Minister for Defence, Senator Hill. Is the minister aware of reports that the new owner of Brighton Barracks has sold the 40 ex-Army huts on the property for a total of over $200,000? Doesn’t this mean that the seller has already made a profit of $64,000 on the deal in which it bought the entire Brighton property from the Commonwealth for $136,000, effectively handing over $64,000 of taxpayers’ money to the new owner? Doesn’t this also show that the Special Minister of State,
Senator Abetz, was wrong when he claimed, ‘The sale price of $136,000 was quite considerable,’ and ‘Only to the uninformed is it a cheap price’? Haven’t the new owners proven that Senator Abetz is one of the uninformed, even though he is supposed to be responsible for Commonwealth property sales?

Senator HILL—The first point is that the property was sold through a public process for the highest price that was available on the market. That, by definition, is the value of the property. It is true that, before the property was sold, an evaluation was made and the final sale was for slightly less than the evaluation, but it was not a great deal less. In relation to the subsequent resale of any part of the property, I will need to take further advice. I do wonder whether the purchaser had to spend extensive funds on rehabilitation before resale because, as I recall it, that property was going to incur very substantial expenditure to put it in order. It might be better for me to get all of the facts before I respond. I am particularly suspicious of the Labor Party on this matter. They have sought to mislead the Australian public on this matter for a long time, and wasted a lot of time in estimates doing it. They are helped by Senator Brown, who I am sorry is not here—he would be jumping to his feet to take a point of order to say that it is his issue at this stage. He is not here; he is out doing a press conference, I assume. I will get that information, and I look forward to coming back with the full details.

Senator MACKAY—Mr President, I ask a supplementary question. Minister, isn’t it the case that the fact remains that the new owner sold the 40 ex-Army huts for $200,000 when he or she had only paid $136,000 for the entire property? Why didn’t the minister demand that the property only be sold if it generated the best possible financial return to the Commonwealth? Did the government bother to investigate the possibility of selling the buildings separately from the land, to determine whether this would result in a greater return on the sale?

Senator HILL—Defence go to a great deal of trouble to ensure the maximum return when we are selling public assets. We take that issue very seriously. The honourable senator will be pleased to learn that in the last financial year we were particularly successful. We achieved well in excess of the expectation, through careful marketing. In some cases that involved consents for the change of zoning, and in some cases it involved consents for remedial work to be done first and a whole range of other things. I have already said to the honourable senator that I will seek details on the new information she is seeking to put into the debate today, and I will come back with the full position. Mr President, I ask that further questions be placed on the Notice Paper.

The PRESIDENT—Before I call Senator Harris I have to say that today has been the worst performance in terms of noise during the answering of questions and asking of questions that I have seen in this place in the 12 months I have been President. During the break over the next two weeks I hope you reflect on your behaviour here today and come back with a little better behaviour in the Senate.

ANSWERS TO QUESTIONS ON NOTICE

Question Nos 450, 451, 1014, 1340, 1341, 1342, 1343, 1548, 1549, 1558, 1559, 1594

Senator HARRIS (Queensland) (3.02 p.m.)—Pursuant to standing order 74(5), I ask that the Senate take note of the failure of the Minister for Revenue and Assistant Treasurer, Senator Coonan, to provide answers to a series of questions.

The PRESIDENT—Senator, you have to ask for an explanation of the minister first.
Senator HARRIS—Thank you, President. I ask the Minister for Revenue and Assistant Treasurer, pursuant to standing order 74(5), for an explanation as to why I have not received answers to those questions on notice.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (3.03 p.m.)—I acknowledge Senator Harris’s query and I appreciate his courtesy in contacting my office. There are 11 questions on notice that I think are troubling Senator Harris. They do concern a range of very specific taxation arrangements. The questions are very technical and stray into areas bordering on requiring a legal opinion or legal interpretation—for example, requiring different interpretations between tax schemes litigated in various court cases. A number of the questions contain up to 15 parts. I think it is fair to say that getting the information and advice to respond to the questions is time consuming. It has been necessary to seek advice from the Australian Taxation Office in relation to many of the questions which concern detailed tax administration. This aside, I appreciate Senator Harris’s position. Following his request to my office, I have asked for responses to be expedited and tabled at the earliest opportunity.

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

That the Senate take note of the explanation.

The questions that I have put to the Minister for Revenue and Assistant Treasurer relate to the issue that we now refer to as the mass marketing schemes for tax deductibility. If we look at the history of these schemes, their purpose originally was to provide research and development funding for prospective businesses to be able to set up and develop, both to provide work for those corporations and to return to the taxation department those tax breaks that were originally given. The scheme obviously has been working for many years, but around the mid-1980s private rulings were given by the taxation department on a series of different programs. They ranged from growing tea-tree up in my area in Mareeba to the growing of olives and substantive investment in grapes and vineyards. All of these continued quite successfully. I must admit that some of the operations did not turn out to be viable, but that is always a possibility when people invest in these types of programs. However, the real problem with the mass marketing issue came just prior to the 1998 elections, when the ATO decided to reverse the private rulings that had stood, some of them, for well over 10 years. This has created some enormous hardship for those people who were involved. In reversing the private rulings on some of these schemes, the taxation department also issued, at the same time, rectification notices.

It is my belief that there are somewhere in the vicinity of 65,000 Australians who have been affected by the reversal of these private rulings—65,000 Australians who considered that they were working within the confines of the requirements of the tax act. The rectification notices that have been issued are quite substantial. They range, predominantly, between $75,000 and $150,000. These notices have been sent to ordinary, law-abiding, taxpaying Australians through no fault of their own—because they had received advice from substantial legal and accounting firms right across the board. Many of the firms that were giving advice to the people who contributed to these schemes were also giving advice to the ATO. So there is something of a conflict in this process under which the people who have had the private rulings reversed and who have been given rectification notices have enormous debts to pay, but the firms which gave the advice to these people have not, to my knowledge, received a single
disciplinary notice or any admonishment. To my knowledge those firms are still advising the Taxation Office. The questions that were put to Senator Coonan were put on behalf of those people who have been affected by these schemes.

People from all walks of life have been affected. It would not be uncommon to meet somebody, such as an air hostess, who has been caught in this situation. I know of people who have had to sell their family homes in an attempt to settle this matter with the ATO. There are a considerable number of people who are still fighting this process. It is a process that I believe is totally unjust. If the ATO were to pursue people who applied for tax deductibility relating to research and development after the private rulings were changed, that would be acceptable because those people would have made that decision knowing what the Taxation Office’s position was. But this is not the case. These people have had the rulings reversed on them, as I said earlier, sometimes up to 10 years after having entered into these schemes.

Some of the corporations on which the ATO reversed these rulings are still operating today and paying tax. Therefore, the initial concept of providing research and development money to these companies has been successful. Yet the people who have participated in those successful schemes have not been treated differently from anybody else: they have received rectification notices which automatically put them in the position of having a debt to the tax office. Those people are being pursued as I stand in this chamber today. It is grossly unjust. It was on those bases that I put those questions to Senator Coonan. It was in an attempt to resolve this issue, which, as I said earlier, impacts on the lives of up to 65,000 Australians. It is an issue that has to be resolved. It should be resolved quickly and it should be resolved in favour of these people who believed that they were contributing to the benefit of Australia.

Senator MURPHY (Tasmania) (3.13 p.m.)—I would like to say a few words with respect to the questions that Senator Harris was referring to. As someone who was chair of a committee that conducted two inquiries into this matter, I have a reasonable knowledge of some of the issues. I have a great degree of sympathy for the people who got caught in the mass marketing schemes affair and the outcome that the tax office has sought to inflict on them. The reassessment of many of the taxpayers’ tax assessments—which was done supposedly under the anti-avoidance measures of the tax act—led to a court case with regard to what the tax office deemed to be representative cases of the great bulk of the mass-marketed schemes. They prosecuted that case successfully. However, there have been a number of other cases that have gone to the court in which the tax office has failed. In fact, I think there have now been three cases—which one could also deem to be representative of the great bulk of taxpayers involved in these schemes—in which the taxpayers have been successful. That is the real problem.

As a member of the Senate committee that dealt with the inquiry I proposed to the tax office that assessments be made of each of the individual schemes—not of each individual taxpayer—to determine whether those schemes were viable projects. The tax office indicated that that was something that could be done. Some of the people were caught in schemes that were really scams. There is no question about that. That also brings into question the administration of the tax act. This is not and was not a new phenomenon for the tax office. It was not something that blew into town one day; it was something that had been around and had been dealt with as far back as 1982. The tax office certainly was aware of the types of problems that
could eventuate under the tax act. I do not have any argument with the tax office changing the tax laws to ensure that there is not a leakage of revenue from a taxation point of view and that tax effective investments that operate do so in a way that is beneficial to the general wellbeing of the country and in a way that ensures that the revenue is not being ripped off.

What is interesting about all this is that there are still a number of schemes today being sold to people that are in effect allowing some people, mostly the promoters of these schemes, to take money from taxpayers that becomes the tax effective investment and use that money to purchase property for themselves. No other Australian can do that. No other Australian can purchase land or property and claim it as a tax deduction and yet this tax system is still allowing that to happen.

I agree with Senator Harris that the issue of the mass marketed schemes, as they have become known, was not properly dealt with. I can understand from the tax office’s point of view that they sought a solution that would minimise the cost of dealing with what was a substantial number of taxpayers. But it was not the correct solution. Yes, they have offered up a settlement process and a settlement offer and, yes, a lot of people have taken that. But there is a range of people and the unfortunate thing is that the tax office is not prepared to accept the outcomes in respect of some taxpayers who have been successful in the court—that is, where there are other taxpayers involved in the same tax incentive investment the tax office will not allow those taxpayers the same rights as the taxpayer who has been successful in the court. Indeed, some taxpayers who have settled with the tax office were involved in schemes that have now been found by the court to be kosher in terms of tax law but the tax office will not reimburse the moneys that those people who went to the court were deemed to be able to retain. So it has been a very inequitable process.

It really comes down to a question of the government making a decision about equity in the application of tax law in this country. It was a very unfortunate era in tax administration. It clearly demonstrated the difficulties that the tax office administrators have in administering tax law in this country. The fact that it continues to happen demonstrates that there are still a significant number of difficulties within the tax office. But I do agree with Senator Harris: I would hope that at some point justice might prevail for those people who got caught in very unfortunate circumstances. They did everything in accordance with the law, including the seeking of what one might deem expert advice. In fact, tax rulings were issued, although when a private binding ruling is issued by the tax office it does only have application to the taxpayer to whom it is issued. But it questions a system in which a private binding ruling is issued to a taxpayer that allows for a particular claim under the tax act to that taxpayer but there are other taxpayers in the same circumstances who may not know about the private ruling and are paying tax different from the person with the private ruling. My view is that the rulings system is still fundamentally flawed. It still allows inequitable application of the tax law by the tax office. They are the sorts of things that are the responsibilities of governments to address. I hope that the government at some time might endeavour to do that.

Question agreed to.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Australian Broadcasting Corporation: Funding

Senator MACKAY (Tasmania) (3.21 p.m.)—I move:
That the Senate take note of the answer given by the Minister for Communications, Information Technology and the Arts (Senator Alston) to a question without notice asked by Senator Hogg today relating to the funding for the Australian Broadcasting Corporation.

And a very good question it was. The genesis of this question was that Minister Alston yesterday in the chamber actually gave a very distinct impression that there had been additional funding of $71.2 million given to the ABC. I will read exactly what he said from the Hansard:

For the first time in 16 years we gave them an increase of $71.2 million for regional programming.

That was it—no caveats, no qualifications, nothing. He actually said that. Today he comes in and he admits—because he was forced to admit it by the question put by you, Mr Deputy President—that this $71.2 million was in fact given to the ABC two budgets ago and that it expires at the end of the next financial year.

Then we go to the issue of the horror budgets that occurred in 1997-98 and 1998-99 when the base funding of the ABC was cut. That base was never restored. Ever since coming to office this government has been attempting by stealth to bleed the ABC to death. In the first two years it was in office the government pillaged from the ABC, taking the $66 million from the ABC’s base funding that I alluded to earlier and that $66 million has in fact never been restored.

The ABC has said quite clearly for some time that unless it receives additional funding it will be forced to cut programming. In fact we have been hearing this message from as early as 2002. We have heard it at estimates, we have heard it at public meetings, and we understand that the minister would have heard it, and did hear it, at private meetings. We all saw it articulated extremely clearly in the ABC’s triennial funding submission. This message was given loud and clear: ‘If you do not increase our funding we will be forced to cut programs.’ We on this side of the chamber heard the message and the public heard the message. It was only the government that did not hear the message, that refused to hear the message.

We are used to the old excuse from this government, and particularly from the Prime Minister, that they were not told, and now we are seeing that even when they are told they do not hear. Look at what happened in the 2003-04 budget: in spite of this clear message, the government effectively froze the ABC’s budget for the next three years and did not renew the regional funding initiatives, the $71.2 million from the previous budget that Senator Alston would have this chamber believe was new money. They have not renewed that and have effectively frozen that funding. Yesterday we heard the minister clearly imply that it was new funding. It is not. As I said before, the old funding has not been renewed through the ABC’s triennial funding.

So there you have it. The ABC warned the government: ‘Increase our funding or we will be forced to cut programs.’ The government chose not to listen and is now trying to blame the ABC for the unpalatable decision the ABC has had to make. This is just another step in the government’s assault on the ABC—an assault, I argue, that continues as a smokescreen for a minister trying to cover up his policy failings over the 68 complaints that he lodged about the coverage of the war in Iraq.

I note from a reply to Senator Santoro’s estimates questions on notice that Minister Alston was not the only one to complain about the ABC’s coverage of the war on Iraq. It seems that over 5½ thousand Australians also saw fit to complain. Fortunately, they did not see things quite the same way as
Senator Alston and Senator Santoro did. Of the 5,500 who complained, over three-quarters were complaining about the scheduling changes. The numbers of people who rang to complain about bias were almost exactly the same for those who thought that the ABC was biased against and those who thought the ABC was biased for with respect to being pro-American or anti-American. So we have Senator Santoro coming in here doing a hatchet job, saying that 5,500 Australians complained about the ABC’s coverage, but what most of them complained about was interruption to normal programming.

So here we have the ABC defunded. We have the ABC vilified by the government. We have the minister coming in here trying to complain that it is new money when it is not. When will this stop? I think it will only stop when the minister actually pulls himself and Senator Santoro into gear and gets on to some real issues, which I would encourage them to do.

**Senator EGGLESTON** (Western Australia) (3.25 p.m.)—The ALP never stops criticising the government over the ABC. It is ridiculous criticism. We have maintained funding at real levels for the ABC over the last years—

**Senator Mackay**—What about the first two years?

**Senator EGGLESTON**—When we first came in, if you recall, Senator Mackay, we had something called ‘Beazley’s big black hole’ and to overcome that huge debt we cut departmental funding across the board by 10 per cent. The ABC as an agency of the government had that cut also. But since then ABC funding has been maintained and in real terms, in the current financial year, the ABC will receive $760 million in funding and in excess of $2.2 billion over the next three years. So I do not think that you can claim that the ABC is doing too badly at all under this government.

In fact the ABC has received additional funding for digitalisation. That will enable the ABC to go digital when digital TV is introduced on a broad basis. Digital television is already being broadcast by the ABC, and the ABC and SBS have received funding to set themselves up to provide digital television. The initial 10 per cent cut, as I said, back in 1996 reflected the poor economic management of the ALP. It is something that the ALP does not like to face up to and, as we can see, Senator Mackay is fleeing from the chamber at the very mention of the Beazley big black hole which the Howard government was left to deal with when it came to office.

One of the key characteristic features of the Howard government has been responsible economic management. As a result of that responsible economic management this country now has low inflation rates, low interest rates, low unemployment and an economy which is the envy of all the other countries in the OECD. This country survived the Asian economic crisis thanks to the fact that the Howard government had been in office for two years when it occurred and fiscal responsibility was being exercised by the federal government. That stands in great contrast to the total irresponsibility shown by the Labor Party during the 13 years that it was in government when it left this country with that enormous $10 billion debt which resulted in those initial funding cuts across the board, including to the ABC.

The ABC has now maintained its funding and has received special funding for digital television. The ABC has expanded its regional radio and television services. The cuts which have occurred, one must say, have been strategic cuts made by ABC management to make the point that they believe the
government should provide additional funding. But we in the government believe that the ABC should manage its affairs more effectively and that remains the objective of the government.

The ABC’s board is performing political stunts in the cuts they are undertaking. They are not cutting programs which do not attract much attention; they are cutting programs which they think will impact politically on the government. But this government has responsible fiscal policies, and it has provided adequate funding for the ABC to continue to maintain its services in the next three years and provide digital television services. So, far from accepting any of the criticism Senator Mackay is attempting to level at the government, I simply make the point again that this government has shown great responsibility in the way it has managed the economy. Consistent with that general policy, ABC funding has been maintained at the levels undertaken by the government.

Senator FORSHAW (New South Wales) (3.30 p.m.)—When assessing the performance of Minister Alston and this government with respect to the financing and management of the ABC, it is worthwhile looking at what Senator Alston put on the record in the years when the coalition was in opposition. I recall that, because I was a member of a Senate select committee inquiring into ABC management and operations, which reported in March 1995. This committee was chaired by Senator Alston. It is interesting to look at some of the recommendations of the majority report at that time. Recommendation 1 states:

The committee believes that the actions of government departments and agencies also have the potential to constitute interference with the program making integrity of the ABC.

Senator Alston at that time was concerned about the possibility of interference in the management of the ABC. If you want to look at interference in ABC management, have a look at the record of this minister over the last six years. This is a minister who has put his political cronies on the board of the ABC, even though in this report he recommended that making appointments to the board was a process that should be overseen by the parliament. This is a minister who supported the disgraced failure Jonathan Shier when he was the Managing Director of the ABC. So when it comes to interference, Senator Alston’s protestations of concern back in 1995 were just hollow words.

We go to the important issue of funding. What did the report of the committee, chaired by Senator Alston, say about funding? Recommendation 16 said:

Where the parliamentary requires the ABC to undertake new charter activities or to expand existing charter activities, it should provide funds sufficient to ensure that existing activities are not adversely affected.

That was Senator Alston’s view then. This government has, as previous governments have in this new technological age, required the ABC to undertake new ventures and get with the digital age and so on. Senator Alston in 1995 was saying the ABC should be given more funding for that. But what did this government do when it got into office and what has it continued to do since? It has denied the ABC the appropriate funding to undertake those activities. As Senator Mackay said, they took $66 million out of the ABC’s budget in the first year. Senator Alston had a proposal on the table that would have taken about $130 million out of the ABC’s budget at that time.

I remember Senator Alston in those days, when he was in opposition, telling us what a great service Radio Australia was. This government gutted Radio Australia. Senator Alston in this report talked about the importance of Australia Television, that new initia-
tive undertaken by the ABC. What happened after this government came to power? It sold off ATV. The ABC had to sell ATV in order to save funding. Let us go through a few further recommendations of Senator Alston’s report, called *Our ABC*. I refer to recommendation 22, in relation to the appointment of persons to the board:

Before the appointment of a person to the board, the proposed nominee should be required to appear before a joint parliamentary committee to enable the parliament to scrutinise the person’s credentials.

Did that ever happen? It didn’t happen with Michael Kroger. It didn’t happen with any of the appointments this government has made to the board. It goes on and on. I refer again to funding. This is what the report said about funding:

The committee, as does the ABC, supports the current triennial funding arrangements as a means of giving the organisation a greater degree of financial security, and certainly in medium term planning. The committee supports the maintenance of current funding levels in real terms and would support favourable consideration of any application for the provision of additional funds to ensure the viability of new joint parliamentary and ABC approved charter activities.

Senator Alston has failed singularly to carry out any one of those recommendations of the report by the committee he chaired—a report called *Our ABC*. Under this government, ABC has now come to stand for ‘Alston’s broadcasting corporation’.

**Senator SANTORO** (Queensland) (3.35 p.m.)—The government rejects utterly the major premise being put forward by the opposition, that somehow we have cut real funding for the ABC, our ABC. When I listen to the arguments put forward by senators opposite, I believe that they just do not understand numbers. There is something intrinsically wrong with their understanding of numbers. I will repeat in this place what I have said before and go through the numbers, particularly for those out there who are listening to the broadcast of this debate, so that they can be absolutely assured—

*Senator Forshaw*—Publish it.

*Senator SANTORO*—We will publish it. You are losing the argument, anyway. People need to understand what the real figures are. For the record, the ABC will receive a total appropriation of $742 million in 2003-04, plus $17 million for ABC Asia Pacific Television and funding for digital interference management. This total funding includes additional programming funding of $71.2 million over four years provided in the 2001-02 budget—and I stress that this is the first such additional programming funding that the ABC has received in 16 years. That is for the record, and it cannot be argued against.

The government has also committed to fully funding the ABC’s digital transmission and distribution costs. Over the next decade the cost of enabling the ABC’s digital television coverage to match its current analog services is expected to be over $600 million, again something that cannot be argued with. If you look at the situation in a triennial context, during the 2003-04 to 2005-06 triennium, the ABC will receive total Australian government funding in excess of $2.2 billion. This is a clear demonstration of the government’s commitment to the national broadcaster and to ensuring that all Australians have access to the ABC’s comprehensive services spanning television, radio and online, regardless of where they live.

There are also some other statistics that honourable senators opposite may be keen to listen to. The ABC says that in real terms its funding has been reduced by $5 million since 1995-96 and it cites the consumer price index as the mechanism that gives it the ability to come up with that figure. As I have said in this place previously, the CPI measures the
changes in the prices of goods and services that households buy and not those that businesses buy. Using the CPI to determine whether or not the ABC’s funding has diminished is not a valid index. When we compare the 1995-96 and 2003-04 prices of goods and services that the ABC buys, we see increases of well under one per cent a year. In other words, the ABC requires $504 million in 2003-04 to maintain its 1995-96 funding levels in real terms. In fact, the ABC’s 2003-04 appropriation is $591 million after excluding $151 million in transmission funding and loan funds that were not part of the ABC’s 1995-96 appropriation. By this far more appropriate calculation, far from having been reduced, the ABC’s real funding has actually increased 17.31 per cent in real terms between 1995-96 and 2003-04.

I know that senators opposite may say that we can get statistics and numbers to say anything but they are the facts. I have not heard any argument against that calculation since I put that proposition in this place. I am not going to hear any sensible argument because there simply is no sensible argument against it. If you want to do it, put it up and we will debate it more comprehensively at some other time.

When the ABC cries poor, we need to know precisely what its priorities are. Let me say that the cut in the program that people have been complaining about was a decision of the ABC board. It is the ABC board that makes day-to-day operational decisions, determines its spending and programming priorities and every other priority that it sets. That is something that again cannot be denied. To better understand its priorities let the ABC confirm whether it is spending $1.4 million a year employing 18 staff to work on the 15-minutes-a-week Media Watch program. Let’s hear why it has more than doubled its self-promotion advertising budget over the last four years from $4.1 million to $8.4 million. Let’s hear why it has built studio facilities at Ultimo that are the envy of every commercial operator in the country. Let’s hear why it has purchased underutilised digital outside broadcast vans in every state and territory. Let’s hear why it pays 116 of its staff clothing allowances averaging $3,721 a year, a total of more than $430,000 a year. Why are those priorities important when others are not, to the point where we see cuts in programs such as Behind the News that, as the minister said earlier today, are icons of broadcasting? We will keep questioning the ABC; we will keep asking it to be accountable. (Time expired)

Senator LUDWIG (Queensland) (3.40 p.m.)—I heard Senator Santoro struggle to make the case. The trouble that he has is that he goes to the detail without the result. The result is, and we can see it today, that there are cuts to the ABC as a consequence of the Howard government’s cumulative funding cuts over the last couple of years. The ABC has been forced to cut funding and programs because of the Howard government’s funding cuts. I did not hear you deny that the Howard government cut $66 million from the ABC’s base funding in its first two years in office. You also did not deny that, in the 2003-04 budget, the government effectively froze the ABC’s budget for the following three-year triennium and did not fully renew one-off regional funding initiatives from previous budgets, totalling in the order of $71.2 million. We did not hear those figures.

Senator Santo Santoro was taking the figures and claiming them to be the whole case but, in fact, they are not the whole case. What the good senator needs to be able to do is to look at the detail in a way that would allow the proper debate to go forward. Instead what we have is Senator Alston’s agenda, and I am disappointed that the coalition is going to support Senator Alston in this regard. The agenda is clear. What Senator
Alston wants to do is to stack the ABC board with conservatives and to attack ABC journalists with ridiculous claims of bias. He then wants to sully the reputations of highly respected journalists and defund the ABC to a point where it is forced to axe popular programs like *Behind the News*. We have already seen that.

He then wants to call for the ABC to introduce an independent complaints panel, which already exists, and to sully the reputation of the existing independent members of the ABC complaints panel. In addition, he wants to allow senior government figures to openly canvass advertising by and privatisation of the ABC. I heard that in coalition senators’ speeches today. In essence, that is what is behind some of these issues. They are the issues that are on Senator Alston’s agenda and he has been on about it for some time. He has not been clear and forthright with the public. What he has done is hide behind some coalition senators and allow them to have the argument. He does not come down here; he sends Senator Eggleston and other senators to promote the argument.

What Senator Eggleston says is that the ABC should manage its affairs. There is no doubt that the ABC is managing its affairs but it is managing them in a very difficult environment created by this coalition government—an environment that it should not and need not work in. The ABC and its board have been placed in this environment by the problems that the Howard government has given them. There is no doubt about it. What this is going to do is deny children the opportunity to continue to watch *Behind the News*. You really wonder why, now that the ABC has been forced to axe programming, the government has the gall to turn around and blame the ABC. Shame! Shame to turn around and blame them! You have put them under stress and you have ensured that they will be the ones you are then going to blame.

It is a shame. Just today it has been revealed in the *Business Review Weekly* that the ABC is being forced to pay $54 million to the private broadcasting firm Broadcast Australia for a digital signal that is watched by about one per cent of Australians. The minister’s failed digital television regime is sucking millions out of the budget. (Time expired)

Question agreed to.

COMMITTEES

Employment, Workplace Relations and Education References Committee

Report: Government Response

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (3.46 p.m.)—I present the government’s response to a report of the Employment, Workplace Relations and Education References Committee entitled *Small business employment*.

In accordance with the usual practice, I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

GOVERNMENT RESPONSE TO THE REPORT OF THE SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES COMMITTEE

SMALL BUSINESS EMPLOYMENT

August 2003

Introduction

The Senate referred the small business employment inquiry to the Employment, Workplace Relations and Education References Committee on 20 March 2002. The terms of reference for the inquiry covered the effect of regulation on small business; the special needs and circumstances of small business; the extent to which regulation inhibits growth or performance in the small business sector; and measures that would enhance the capacity of small business to employ more people.
The committee tabled its report on the inquiry in the Senate on 6 February 2003. The report makes 29 recommendations dealing with the relationship between government and the small business sector; employment; skills development; and reducing the burden of excessive regulation. Government members of the committee were in general agreement with the report’s findings but expressed reservations, in particular in relation to the report’s treatment of unfair dismissal and the Government’s achievements on behalf of small business over the past six years. This response addresses the Government Senators’ reservations then deals with each recommendation in detail.

Small business is a dynamic driver of the economy, a vital source of enterprise, innovation and jobs. Australia’s 1.1 million small businesses are our biggest employer, generating 3.3 million jobs or 47% of private sector non-agricultural employment. The sector generates around 30% of Australia’s total economic activity and 47,000 new small businesses were established in 2001/2002.

Response to the Government Senators’ Reservations

The Government strongly supports the sentiments expressed by Government Senators in relation to the report’s findings and recommendations. Since coming to office in 1996, this Government has given a high priority to small business issues and delivered wide-ranging reforms across key portfolios—including tax reform, fair trading reform and reform leading to more flexible workplaces—against a background of sound economic management delivering low interest rates and low inflation.

The Government has provided a voice for small business by appointing a Minister for Small Business, establishing a Commonwealth Office of Small Business (OSB), and supporting a variety of consultative mechanisms—including the National Small Business Forum, which twice a year draws together representatives of peak bodies from around Australia to meet with the Minister. These mechanisms are significantly reinforced by measures introduced by this Government requiring the production of regulation impact statements (RISs) for new policy proposals, including an assessment of the possible regulatory impacts on small business, and the assessment by OSB of Cabinet submissions that may impact on small business.

The Government believes that a workplace relations environment characterised by freedom and fairness is one of the primary keys to achieving prosperity and employment growth. In this regard, workplace relations reform can be seen as one of the key drivers of job creation.

In particular, the Government remains committed to reshaping the workplace relations system to better suit the specific needs of small business. Research by the Melbourne Institute of Applied Economic and Social Research, released on 29 October 2002, estimated the cost to small and medium sized businesses of unfair dismissal laws at $1.3 billion each year. The Government will continue to push for a total exemption for small businesses from the unfair dismissal laws, to alleviate this burden.

This measure will add to the raft of workplace relations initiatives this Government has introduced, including legislation to:

- make individual and collective agreements easier for business
- stop unprotected industrial action
- simplify awards.

Recommendation 1

The committee recommends that governments consider appropriate ways of developing a better understanding of microbusiness and home based business and their potential.

(Response to the Government Senators’ Reservations, page 20)

Response

The Government acknowledges the important contribution of micro and home based businesses to the Australian economy. In 1996 the Commonwealth Government established the Micro Business Consultative Group to report on options for development of the micro business sector in Australia. The group reported in 1998, outlining a range of issues in the areas of regulatory reform, taxation reform, fair trading, information, information technology, training and profile. Subsequent reforms in those areas for which the Commonwealth Government has responsibility have
substantively addressed the issues raised in that report.

On 6 March 2003, the Minister for Small Business and Tourism, the Hon. Joe Hockey, MP, hosted a summit for home based businesses to examine their needs and characteristics and raise awareness of this small business group. The summit recognised the dynamic nature of home based businesses, their rapid growth and their growing significance to the Australian economy in terms of activity, employment and income. Further forums to explore specific issues raised during the summit will be held throughout 2003.

The exporting potential of small businesses was a key focus of Austrade’s 2002 report *Knowing and Growing the Exporter Community*. Austrade’s research found that while small to medium sized businesses (SMEs) made up 97 per cent of the total Australian export community only 4 per cent of SMEs were actually exporting. The research also found that the next generation of exporters would be small in size, have been in business only a few years, be located in small towns as well as capital cities, adopt new ways of ‘going international’ and be knowledge based.

As a result of this research the Government has identified a pool of untapped export potential among Australian small businesses, especially those from non-traditional export sectors. To assist these small businesses to achieve their full potential, the Government has committed to doubling the number of Australian exporters by 2006. More small businesses engaged in exporting means greater opportunities for job creation. As many regional and rural communities depend on small business for the strength of their economies, a greater export focus will also bring benefits to the regions.

**Recommendation 2**

The committee recommends that the Commonwealth Government resumes the Business Longitudinal Survey, in close consultation with the small business community.

(p. 32)

**Response**

The ABS conducted a Business Longitudinal Survey from 1994–95 to 1998–99 (inclusive) with the support of the Small Business Research Programme (SBRP). A large proportion of the funding for that programme was for the survey, which tracked about 6000 firms over four years to provide data to explore the relationships between firm behaviour and firm performance. The Commonwealth Government established the SBRP to fill particular gaps in information relevant to policy making for the small business sector at that time.

Through the ABS, the Government is planning to develop a new business longitudinal database using a combination of administrative data and existing ABS survey data. The primary administrative data source will be the Australian Business Register (ABR). The Australian Business Number (ABN), which is the business identifier used in the ABR, will be used to link relevant datasets which also use the ABN as a key identifier. The ABS will commence development of the database from July 2003, and will undertake an extensive consultation process in the early stages of the project. This will enable the identification of any information requirements which cannot be satisfied using existing data sources, and for which data may be supplemented from additional survey activity.

The database will be developed over the three years 2003–04, 2004–05 and 2005–06. While the final database will be available at the end of the project, data for specific components may be available at stages during the development period.

The ABS also produces a wide range of statistics on small business using data from existing ABS surveys. Major publications include *Small Business in Australia* (Catalogue 1321.0), which has provided a range of statistics relating to small business drawn mainly from ABS collections that present statistics classified by employer size. These have included the Employment and Earnings Survey, the annual Economic Activity Survey and periodic Service Industries Surveys. It also presents some data from external sources. Another major publication is *Characteristics of Small Business, Australia* (Catalogue 8127.0), which presents data collected as a supplementary topic in the ABS Monthly Labour Force Survey (MLFS). Data on characteristics of small business owners are collected each year in the June MLFS.
While it is important to have accurate and timely data on the small business sector, government is not the only source of such information. A number of tertiary institutions and private sector organisations also carry out small business surveys on a wide variety of topics.

In addition, the Government is mindful of the compliance burden for small business associated with statistical collections. The Small Business Deregulation Task Force, in its report produced in 1996, recommended a reduction in the reporting load associated with requests for statistical information. The Government responded with a range of initiatives, including a target of reducing business’s reporting load by 20 per cent. The ABS has reduced its overall reporting load by around 40 per cent by introducing a range of initiatives including ceasing some statistical collections, reducing the frequency of other collections, reducing the size of the sample for a number of surveys and substituting administrative data for statistical collections. Improved management of contact with businesses has also been a high priority for the ABS and has resulted in the initiation of projects aimed at providing better infrastructure and business processes.

A central statistical clearing house for all business based statistical collections of Commonwealth departments and agencies was also established in 1996. Operated by the ABS, its primary goal is to ensure that surveys impose the minimum load on business respondents and that the data collected are fit for their intended uses.

The Australian Taxation Office (ATO) undertakes regular surveys involving small business and different parts of the small business community, both directly and through external consultants. In addition to this, the ATO conducts ad hoc research. For example, a small business communications profiling research project was recently commissioned. This research project will explore communication issues such as:

- communication preferences and information needs
- role of tax professionals/intermediaries
- record keeping practices
- capacity to deal electronically and levels of computerisation
- perceptions
- lodgement experience
- attitudes/behaviours.

Having regard to the privacy implications associated with data transfer, the ATO also shares non-identifiable information and data regarding the small business community, for example by contributing data to the Australian Bureau of Statistics (ABS) for survey and statistical purposes.

**Recommendation 3**

The committee considers that governments should promote awareness among the small business community of avenues open to them to improve business performance and to enhance their attractiveness as employers through improving the quality of jobs without necessarily adding to costs.

(p. 35)

**Response**

The Government agrees with this recommendation and notes that it has effectively been implemented. The Government will soon release a comprehensive guide to e-Business which is designed to outline how getting online can improve the performance of companies. The non-technical guide will focus on the business process and has been designed to meet the needs of small companies with 1-20 employees. It will assist companies to maximise their return on their investment in getting online and undertaking e-Business activities. The Government currently provides small business with information on improving business performance, including links to services provided by other levels of government and industry associations, through the online Business Entry Point (BEP). The Government actively promotes the BEP through its small business assistance programmes and those of other levels of government. The Government considers that a more extensive awareness campaign would be expensive and unlikely to deliver substantial benefits, given existing concerns within the small business community about information overload.

In May 2002 the Government announced a new $60 million Small Business Assistance programme which provides tailored advice and skills development opportunities for small business in
those areas not already supported by similar state government programmes. As part of that wider programme, the Small Business Enterprise Culture Programme (SBECP) aims to develop and enhance the business skills of small business owner-managers and demonstrate the contribution that such skills can make to business viability and growth.

In addition, a range of initiatives announced in the Government’s $3 billion Innovation Statement, Backing Australia’s Ability, aim to assist small business in gaining access to global research and technologies, adopting innovative practices and enhancing business planning and management skills. These programmes include the Commercialising Emerging Technologies programme, which has funding of $70 million over six years to enhance small start-up company commercialisation prospects by supporting activities such as business planning and management skills development. This has assisted more than 700 firms since 1999. The Innovation Access Programme—Industry is designed to promote industry innovation and competitiveness by increasing access to global research and technologies, and adoption of innovative practices by firms, particularly SMEs.

Small businesses can also improve their business performance and enhance their attractiveness as employers through exporting. Austrade’s discussion paper, Why Australia Needs Exports: The Economic Case for Exporting, found that exporting firms make better employers than non-exporting firms. Austrade’s research found that exporters, on average, outperform non-exporters in terms of wages and salaries, employment conditions, occupational health and safety, and employment status. The Government, through its Exporting for the Future programme, aims to enhance community understanding of the benefits of trade as well as to increase the number of new exporters by raising awareness of overseas markets and communicating specific opportunities to current and potential exporters.

The Government has also allocated funding of $21.5 million over four years to the TradeStart Network, which seeks to raise awareness of exporting, ensure businesses outside the major metropolitan centres have access to Austrade’s export advisory services, and maximise the benefits of trade for local communities. From July 2002 Austrade’s New Exporter Development programme has been delivered through the TradeStart network and provides a range of free services to help Australian small businesses to develop their businesses overseas and make their first export sales.

The Government supports the committee’s view that there are ways small businesses can enhance their attractiveness as employers, with consequent positive impact on overall employment growth, through improving the quality of jobs, without necessarily adding to costs. The Government believes there is scope within existing small business assistance programmes to provide practical advice on attracting and retaining high quality staff.

One of the most effective methods of improving the quality of jobs and enhancing the attractiveness of small businesses as employers, and one that is currently under-utilised by small businesses, is through workplace agreements. Formal workplace agreements allow employees and employers to replace inflexible award arrangements with arrangements that are tailored to the specific circumstances of businesses and their employees. Substantial opportunities exist to establish more flexible and productive workplace relations arrangements that better meet businesses’ needs and the work, family and lifestyle needs of employees.

Most small businesses and their employees would be able to make formal agreements under either Commonwealth or state workplace relations laws. A wide range of information is available on how to make formal agreements, including from the relevant industrial tribunals and government departments. The Government is putting arrangements in place to provide face-to-face help with agreement-making under Commonwealth law, particularly to assist small businesses. Many businesses would also be able to make Commonwealth individual agreements known as Australian Workplace Agreements (AWAs) directly with their employees. The Office of the Employment Advocate (OEA) provides a wide range of easily accessible information, advice and assistance on the making of AWAs. The OEA also has a project, under its Better Work and Management Practices
project, which aims to inform SMEs about the benefits of performance pay and ways of introducing performance pay through workplace agreements.

In addition, small business employees can access training that leads to nationally recognised qualifications through the range of nationally recognised training packages which now collectively cover 82 per cent of the workforce. More particularly, in the Business Services Training Package, the Certificate IV in Business (Small Business Management) was designed to address the needs of small business proprietors, and a number of units were developed to help people intending to start up small businesses.

The Australian National Training Authority (ANTA) has recognised that there is a need to bring this set of resources to the notice of organisations which have strong links to small business through provision of advice and training, but which don’t necessarily know and understand the vocational education and training (VET) system or the benefits of nationally recognised training. Such organisations are well placed to help SMEs to adopt skills development as a business improvement tool because their staff are in contact with businesses at times when they are seeking help to establish or grow their businesses.

ANTA is currently negotiating to fund a trial which will support ‘linkers’ in such business support organisations. The ‘linkers’ would work with these organisations’ staff, equipping them to help SME operators identify critical skills needs for themselves and their employees, develop training responses and source training from a wide range of providers. It is expected the trial will be in place by July 2003 and it will provide a useful model for raising small business awareness of avenues to improving business performance.

In 2002 ANTA also produced a ten part television series with the Australian Broadcasting Corporation that illustrates the contribution that small business mentors can make. The series ‘Eight Days a Week’ looked at real businesses and the decisions their owners have to make. It aired from December 2002 to February 2003 and has been backed up by a website with tools and resources. The videos are available for sale.

**Recommendation 4**

The committee recommends that the Small Business Ministers Council commissions research into measures to assist small business to become employment ready and to enhance its capacity to recruit appropriate employees including through identifying:

- the attributes and skills that small business needs in its employees;
- ways in which the Job Network could better meet the recruitment needs of small business; and
- tools to assist small business make more informed decisions about employment arrangements, including the basis of employment.

This research should include consideration of how the competency standards and key performance indicators developed by the Industry Training Advisory Bodies could be more effectively used by small business in recruitment, training and performance management.

(p. 48)

**Response**

The Small Business Ministers’ Council (SBMC) is a Commonwealth, State and Territory body. It does not received independent funding which would enable it to commission research of the kind recommended by the Committee.

However, the Commonwealth, through ANTA, is currently undertaking an evaluation of national strategic planning and industry advisory arrangements for VET. The evaluation will address aspects of the issues the committee wishes to have investigated.

Face-to-face assistance with decision making on employment issues is also available from other sources, including state government bodies and private sector advisors.

The Government has also simplified employers’ access to information about the Job Network and their local providers. An employer-specific telephone number is available, and information for employers is provided on the Government’s workplace website, www.workplace.gov.au. To improve understanding between Job Network
providers and small business employers, on 17 February 2003 the Minister for Employment Services, the Hon. Mal Brough MP, launched an initiative developed by the Government with Restaurant and Catering Australia and the employment services industry peak body, the National Employment Services Association. The initiative provides a streamlined vacancy lodgement process for employers and increased marketing of Job Network services to restaurant and catering businesses. As well as increased understanding, the initiative intends to develop industry specific information on the Government’s JobSearch website, to publicise opportunities, information and entry requirements for the industry. The Government will identify other industries to engage in similar projects.

From July 2003 the Government will provide Job Placement services, which are employer focused recruitment services. Job Placement organisations will canvas and list job vacancies and fill them on behalf of employers.

The Department of Employment and Workplace Relations operates the New Enterprise Incentive Scheme (NEIS) that helps eligible unemployed people to become self-supporting by establishing and running their own viable businesses. NEIS assistance includes training in small business management, business skills and business plan development, and income maintenance and other support during the first year of business operation. Nearly 7000 people are able to join NEIS each year.

Prospective NEIS participants earn the nationally recognised qualification Certificate IV in Business (Small Business Management). Competencies include the development of a financial plan which identifies the financial requirements of the business. Award enterprise agreements and relevant industrial instruments, national, state/territory and local government legislative requirements affecting business operation, especially in regard to Occupational Health and Safety and environment issues, EEO, workplace relations and anti-discrimination are also covered. Relevant industry codes of practice are also included in the training. These competencies and skills help the NEIS participant when making employment related decisions affecting the viability of their business.

Through the New Apprenticeships Incentives Programme the Commonwealth Government provides assistance to employers to help reduce the real cost of training and employing apprentices. The amount of incentives provided for each new apprentice is determined by a number of factors including the level of the qualification attained and individual characteristics of the person being trained. The May 2002 ANTA report of the review of group training found that the majority of firms utilising the services of Group Training Organisations (GTOs) were SMEs.

The group training industry is a key player in the new apprenticeships market for small business. The capacity of GTOs to rotate new apprentices through several host employers has meant that many SMEs, otherwise unable to employ a new apprentice in their own right, have been able to participate in skilling the Australian workforce. This rotation also offers the new apprentice a wider range of experience and potential skill development opportunities than one small employer alone could provide, therefore making work in the small business sector a more attractive option.

The national training system provides credible national qualifications linked to industry requirements, which has potential to simplify staff selection and lessen employment risk for all employers.

ANTA has also produced a tool, Successful Recruitment for Small Business, which provides a guide to the selection process and tips for successful recruitment of apprentices and trainees, in both online and print materials formats. The materials are widely available on websites for small business.

In addition, the national consultations around the development of the next national VET strategy have emphasised a need to capitalise fully on the potential of training packages to be used as a business tool in areas such as work redesign, recruitment and performance management.

**Recommendation 5**

The committee recommends that the Small Business Ministers Council develops a national framework for small business
support, with each tier of government having agreed areas of responsibility and more formalised information sharing arrangements. Within the framework, the Council should develop a national strategy with identified priorities for small business assistance based on a thorough needs analysis and evaluation of the effectiveness of current programs.

Response
The Government is very conscious of the need to reduce duplication in small business support services and the confusion felt by small business when faced with a myriad of different programmes and/or services. The SBMC has delivered significant outcomes in this area. The National Executive of Small Business Agencies (NESBA), a group of officials representing Commonwealth, state and territory small business government agencies, meets on a regular basis to discuss areas of common interest. Currently they meet twice yearly to share information on small business programmes in their respective jurisdictions.

During 2001, NESBA prepared a report for consideration by the SBMC evaluating small business assistance programmes, principally in terms of duplication between Commonwealth and state and territory governments. The SBMC endorsed a set of recommendations designed to remove duplication in the development and implementation of small business assistance programmes.

As part of this process, NESBA developed a compendium of programmes, products and services. The compendium provided the basis for an information sharing mechanism designed to include programmes under development and meet the requirements of the online Programme Information Sharing Mechanism (PRISM). In 2001, the SBMC agreed to the development of PRISM as a tool for sharing programme information.

A set of guidelines has also been developed to reflect best practice in small business services design and delivery. The SBMC agreed to adopt these two information tools as appropriate to drive better outcomes for small businesses that use business programmes from government. This promotes a more cohesive approach to service delivery at the local level.

Many agencies participate in a formalised whole-of-government programme that exists in most states and territories. This programme draws together government agencies and departments from Commonwealth, state and local government that have compliance or regulatory roles with small business. It provides an existing small business support framework, the aim of which is to:

- facilitate the more effective and efficient delivery of government services to the small business sector
- assist agencies to learn from each other and improve government understanding of the issues facing small business
- maximise resources and reduce duplication in service delivery to small business.

This framework would provide a valuable resource for the development and implementation of needs analysis and evaluation strategies.

Recommendation 6
The committee recommends that the Commonwealth government examines the feasibility of developing a virtual small business department with more interactive support and clearer, simpler information delivery.

Response
The Commonwealth Government is committed to the Business Entry Point (BEP) as the online service delivery vehicle for business, especially small business. BEP is a cooperative initiative of the Commonwealth, state and territory governments that brings together business information and services at a single point. It allows business people to access current information on a wide range of government assistance programmes and services; make initial business registrations online and undertake a number of transactions; and submit tenders for some government contracts. As such the BEP acts as a business portal, an aggregator of content and a transaction conduit pertaining to the various levels of government.

The site is continually being refined. The BEP website was redeveloped in August 2001 in
response to user testing and client feedback. The
redeveloped site incorporated new personalisation
options and performance enhancements in terms
of meeting web accessibility guidelines.
Work commenced in May 2002 to further
improve the website and to fully incorporate other
projects, such as content syndication and the
Business Resource Facility (BRF). Content
syndication is the process by which relevant and
essential government information is made
available for use on third-party websites. The
BRF is a Government initiative, established in
September 2001, to enhance small business’s
access to government. As an extension of the BEP
initiative, the BRF focused on expanding the
discovery of online information and services
relevant to business from all levels of
government. A redeveloped site was launched in
October 2002 after direct input from small busi-
ness. The redevelopement included making the
information and the language used more relevant
to business.

In terms of interactive support for small business,
the OSB, along with the National Office for the
Information Economy, has undertaken a review of
Government operations providing telephone hot-
line services to the business sector. Business hot-
lines have been reviewed in order to improve
access to, and make better use of, all forms of
information delivery to business—be it via tele-
phone, Internet or post, or face-to-face. The Re-
view outcomes can be viewed at

Recommendation 7
The committee recommends that the Small
Business Ministers Council undertakes a
project to trial the feasibility of
introducing one-stop shops of government
information and assistance for small
business, with an evaluation of the project to
be conducted after the first year.

Response
The SBMC’s objectives are to provide a forum
for ministers to discuss small business issues of
mutual interest; promote a national, consistent
and coordinated approach to small business pol-
icy and development; and, where appropriate,
provide the means to achieve integrated action by
governments on small business issues. Its role
involves facilitating consultation and cooperation
between governments, developing policy jointly
and carrying out joint action in resolution of small
business issues that arise between governments.
The SBMC’s role does not extend to undertaking
projects of this nature.

Since 1 July 2001, the Commonwealth has pro-
vided funding for assistance officers to deliver
face-to-face referral services to small businesses
on a regional basis, in collaboration with other
local service providers and business advisers.
Initially delivered through the Small Business
Assistance Officer project, in January 2003 this
service adopted a new delivery mechanism, called
Small Business Answers. Small Business An-
wswers continues to provide general advice, infor-
mation and assistance on issues of relevance to
small businesses, in their local regions, including
in relation to programmes and services offered by
the Commonwealth Government. The programme
particularly focuses on regional areas not already
served by existing advisory bodies.

On 1 August 2002, the Government launched the
Commonwealth Regional Information Service
(CRIS), the Commonwealth Government’s in-
formation access service for country people. This
programme provides people living outside capital
cities with information about Commonwealth
Government programmes, agencies and services.
CRIS offers four major services—a free tele-
phone information line; an up-to-date guide to
 Commonwealth Government services and pro-
grammes, Commonwealth Regional Information
Directory; a CRIS shopfront which visits regional
shows and field days; and CRIS community in-
formation stands, located with regional commu-
nity groups as local sources of information.

The BEP also provides a one-stop shop for small
business, available online every day at
www.business.gov.au. It provides businesses with
access to up-to-date information on government
assistance programmes and services, starting up
and closing down a business, and managing and
expanding a business, particularly in relation to
taxation, licensing and legislation. Businesses can
also process a range of transactions online, in-
cluding registrations, licence applications and government payments.

In addition, the Government has a commitment to rural businesses through the Regional and Remote Programme. As part of the programme, the ATO contracts community resource centres in 180 towns around Australia to provide local access to tax information. These centres have a role in raising business awareness of ATO publications and services and promoting opportunities to access information online. In utilising established community based resource centres, rather than creating new infrastructure, the ATO is supporting one-stop shop delivery of services in rural communities. The programme also supports delivery of tax information through the Small Business Answers Programme. A portal page has been developed on the ATOassist website as a tool to support these intermediaries in accessing tax information.

Recommendation 8
The committee recommends that the Small Business Ministers Council develops a national small business support programme, incorporating Commonwealth and state and territory programs, within the context of a national framework and with a clear and distinctive national brand.

(p. 69)

Response
The Government agrees in principle to this recommendation. The Government will seek to put the issues of a national framework for, and national branding of, small business support programmes forward for consideration by a meeting of the SBMC as soon as practicable. However, it should be noted that Small Business Answers is aimed at a national framework with providers expected to collaborate and/or co-deliver a whole suite of support services with other local service providers. AusIndustry, as the primary provider of applicable Commonwealth small business programmes, has indicated its support for involvement in any resulting national framework and national branding.

Recommendation 9
The committee recommends that the Small Business Ministers Council considers options to improve the capacity of small business to put its case to government and for individual small businesses to have improved representation in their dealings with government and big business.

(p. 73)

Response
Through a variety of mechanisms, the Commonwealth already provides small businesses and their representatives with the opportunity to formally articulate their views and encourage meaningful dialogue between small business and the highest levels of government.

The SBMC was established in 1999 under a Council of Australian Governments (COAG) agreement. The SBMC provides a forum for ministers with responsibility for small business matters to discuss policy approaches and promote consistent and coordinated support services. In March 2000, the SBMC endorsed a paper on consultation with small business, Giving Small Business a Voice—Achieving Best Practice Consultation with Small Business.

The National Small Business Forum is made up of senior representatives from 34 peak industry associations representing small business. The forum brings the country's peak small business lobby groups, representative organisations, the Small Business Minister and high level officials together to discuss key issues of concern. The forum meets twice a year and is an effective mechanism for communication between key small business representatives and the Government.

The Small Business Consultative Committee enables small business representatives to express to the Minister their concerns on a full range of issues. The committee was established in 1998. In July 2001, the Government extended the terms of reference of the committee to provide advice on a wider range of taxation and small business matters. The membership of the committee comprises actual small business operators from around the country as well as representatives of groups representing small business interests.

Since 24 September 2001, Commonwealth Government departments have been required to flag Cabinet submissions with a potential impact on
small business. These are forwarded to the OSB for assessment prior to examination by Cabinet. Through this role, the OSB ensures that small business issues are given appropriate consideration in Cabinet deliberations concerning such policy proposals.

**Recommendation 10**

The committee recommends that the Commonwealth Government examines the feasibility of options to improve small business access to finance, including improved information on finance options and pathways and an income contingent loan scheme for small business modelled on Higher Education Contribution Scheme (HECS).

(p. 78)

**Response**

The Commonwealth Government is concerned to ensure that small businesses have the best possible access to commercial finance. However, the Government does not agree that Commonwealth funds should be used to finance small business start-up costs.

The Government believes the most efficient and effective means of addressing access to finance by small business is ensuring the market for finance operates competitively. Sound economic management, including the repayment of public sector debt, has contributed to an environment where interest rates are at historical lows, inflation is low and growth is strong.

The Government has delivered substantial reforms of the finance sector to ensure that small business has access to finance on fair and equitable terms. The many reforms implemented in response to the Financial System Inquiry Final Report (Wallis report) have delivered an environment in which greater financial sector innovation, competition and efficiency thrive while maintaining financial sector stability, prudence and safety.

In addition, the Government has responded to particular issues identified in the equity capital market. In 1999, the Government introduced changes to the Corporations Law which made capital raising easier for small businesses. These changes enabled businesses to raise up to $5 million using an offer information statement (rather than a prospectus); up to $2 million from up to 20 private investors; and amounts of less than $500,000 from sophisticated investors such as individual 'business angels' without a prospectus or information statement.

The ABS, in collaboration with the Departments of Industry, Tourism and Resources and Communication, Information Technology and the Arts, has undertaken an annual survey of venture capital managers over the past three financial years. The survey findings are used in developing and evaluating venture capital policies and programmes as well as providing valuable feedback to the industry on its performance.

Innovative SMEs with high growth potential have higher associated risks, and hence greater difficulty in obtaining equity capital. The Government has introduced a number of initiatives to assist innovative small businesses to raise equity capital and commercialise new ideas.

The Government recently made changes to Australian taxation law to allow the establishment of venture capital limited partnerships (VCLPs) with flow-through tax treatment and to exempt certain classes of foreign investors from tax on the capital gains on the sales of investments made by VCLPs. The Pooled Development Funds programme, which aims to develop and demonstrate the potential of the market for providing patient equity capital (including venture capital) to Australian SMEs, has raised $668 million and invested $496 million in the ten years since its inception. The Innovation Investment Fund was established in 1998 to promote the commercialisation of Australian research and development by supporting the provision of early stage capital to new technology based firms. In total, the programme has contributed $358.4 million of early stage capital, of which the Commonwealth has contributed $220.7 million. Similarly the Pre-seed Fund, established in 2001 to encourage universities and public sector research agencies to develop their discoveries and create new business opportunities, will provide a pool of over $100 million to be managed by private sector fund managers.

In addition there is a wide range of private sector intermediaries in the finance market, providing a
diverse range of mediation services regarding finance options to small business. A number of private sector 'infomediaries', such as Cannex, provide readily available advice on where small businesses can access the best deals. On 8 January 2003, the Government was pleased to acknowledge the work being undertaken by the Australian Bankers' Association (ABA) to help small businesses better understand and compare the many different banking products. The Commonwealth Government will continue to work with the ABA and small business representatives as the ABA progresses this initiative. However, it is not the Government’s policy to duplicate services already provided competitively in the marketplace.

The Higher Education Contribution Scheme (HECS) was introduced to ensure that students contribute to the cost of their higher education. It is considered reasonable that students who directly benefit from higher education should pay part of the cost of their studies, while the Commonwealth pays the major part of the costs involved. Small business start-up costs are in no way analogous to this situation.

Recommendation 11

The committee recommends that the Small Business Ministers Council considers the following initiatives to foster enterprise development in Indigenous communities:

- financial and administrative support for an Indigenous small business association;
- consideration of ways of adjusting small business assistance programs to better meet the needs of Indigenous people; and
- the development, in conjunction with ATSIC, of guidelines to assist Commonwealth and state and territory agencies proposing regulatory change to better accommodate the information needs of Indigenous entrepreneurs.

The Committee also recommends that the Commonwealth discuss with ATSIC the need for any special provision under the Small Business Answers programme for advisers to work with Indigenous business people.

Response

The Government supports the development of Indigenous business activity. The strong link between job creation and innovation and small business in Indigenous communities has long been established and recognised.

In recent years the SBMC has extensively considered issues associated with improving Indigenous economic outcomes. At the SBMC meeting held on 23 November 2000, ministers endorsed the development of a strategy to improve access by Indigenous Australians to both mainstream and targeted small business assistance programmes, with the aim of increasing the number of Indigenous Australians starting and staying in business.

On 19 December 2000, the Prime Minister, the Hon. John Howard, MP, wrote to the SBMC on behalf of COAG requesting that, over the subsequent 12 months, the SBMC develop action plans, performance monitoring strategies and benchmarks to assist in improving the economic outcomes of Indigenous Australians.

The SBMC convened a national working party to report to the SBMC’s standing committee and to develop an action plan. The SBMC Standing Committee of Officials endorsed the action plan at its 29 June 2001 meeting and made a range of specific recommendations. Since then, the working party has addressed each recommendation.

The Commonwealth provides considerable support for Indigenous small business development. The Indigenous Small Business Fund, funds Indigenous organisations to provide business support to Indigenous business people. The fund also provides access to funding to Indigenous individuals to support the development of business plans.

Funding has been set aside in the 2003-04 Budget for an Indigenous Capital Assistance scheme. The new element of the Indigenous Employment Policy (IEP) will increase employment opportunities, including self-employment, for Aboriginal and Torres Strait Islander people by engaging the private financial sector to help to kick-start Indigenous businesses. The scheme will promote economic independence for Indigenous people by encouraging the private financial sector to provide business and financial advice prior to and
during the early stages of a loan period. Additional business advice provided through existing Indigenous business support programmes may also be packaged into the support.

In addition, ATSIC’s Business Development Programme assists Aboriginal and Torres Strait Islander people to acquire, establish and develop commercially viable enterprises. Also, a number of the projects funded under the SBECP support Indigenous small businesses.

There is scope for the issues raised by this recommendation to be pursued through existing consultative and review mechanisms, such as the COAG whole-of-government approach under the framework for Aboriginal reconciliation. The Indigenous Business Review, a review of strategies to develop an environment that generates more viable businesses for Indigenous Australians, commenced on 2 April 2003. The review is under the management of the Office of Aboriginal and Torres Strait Islander Affairs, within the Department of Immigration and Multicultural and Indigenous Affairs. It will examine support for Indigenous businesses across the non-government and government sectors, including the willingness or capacity of the private sector to assist. It will also determine the need for government programmes to address any failure of the private sector; and identify how government programmes can better facilitate sustained Indigenous participation in mainstream business.

Recommendation 12

The committee recommends that the Small Business Ministers Council examines the feasibility of introducing a small business training and accreditation programme with the following components:

- a start-up kit, including a checklist of the skills required to run a business, contact details for training course providers, and advice on regulation requirements to be provided to all those registering a new business;

- a system of accreditation in business management for those who have successfully completed an approved business management skills course and are able to demonstrate appropriate competencies; and

- an analysis of the availability of training programs for start-ups across Australia against current and future needs, with a view to developing an expanded range of opportunities if required.

Consideration should be given to the introduction of a mandatory licensing regime once the voluntary programme has been in operation for two years.

Response

The Government does not consider the SBMC the appropriate vehicle for implementing such a scheme, nor is it clear that such a centralised approach is warranted.

A wide range of education providers deliver courses aimed at developing small business skills. This existing network reflects the national distribution of the 1.1 million Australian small businesses. The need to prove commercial viability and management skills in order to gain finance from lending organisations acts as an incentive to obtain training.

In terms of certification, the National Training Framework already provides a system for certification of skills. Individuals who can demonstrate competency can achieve recognition against defined business skills competencies. A wide range of relevant competencies is covered by the Business Services Training Package and in the majority of other training packages which collectively cover 82 per cent of the workforce.

The Government also provides funding to foster the growth of small business by developing the business skills of small business owner-managers under the $60 million Small Business Assistance Programme (SBAP).

SBAP helps small businesses grow and prosper by providing funding for a range of activities including the establishment of small business incubators, skills development and mentoring projects for owners and operators, and advisory services for small business on relevant government programmes and initiatives. The SBECP component of SBAP has funded 168 projects over 4 years at a cost of $9.2 million—all aimed at small business training.
The Government, through the ATO, maintains relationships with a range of education providers and small business intermediaries—discussed in more detail under Recommendation 23—to ensure that information regarding tax obligations is built into their programmes. This also involves building in or offering modules from the ATO developed BizStart programme, aimed at new and intending small businesses, or more specialised packages through the Tax Education and Seminars programme.

In relation to their tax obligations, the ATO provides start up kits to new ABN applicants. The ABN is the one constant key event in the registration process for small businesses. The ATO, through its Small Business Alliances and Information Programme, its links to the formalised whole-of-government networks and relationships with small business intermediaries, can contribute to the development and implementation of an appropriate and comprehensive start-up kit on receipt of the application for an ABN.

The Office of Small Business has also developed a Compendium of Commonwealth Government Initiatives and Contacts for Small Business. Also in recognition of longstanding concerns about the quality of some of Australia’s tourism product, the Commonwealth provided seed funding for the establishment of a national business accreditation framework run by the industry. This framework, which is overseen by the Australian Tourism Accreditation Association, identifies a range of generic business standards that are suitable for all tourism businesses to adopt and involves a complaints and auditing process. Programmes rolled out under this framework, which are funded by stakeholders such as industry and state governments, are operating in most states and territories.

The Government is committed to reducing the regulatory burden faced by small business. Introducing a mandatory licensing regime for small businesses would impose an unnecessary additional regulatory burden on them.

Recommendation 13
The committee recommends that the Commonwealth Government supports the establishment of a professional development programme for incubator managers across Australia.

Response
The Government agrees, in principle, with this recommendation and considers that there are potential benefits to be gained from such a professional development programme. However, the Government believes that the industry itself is best placed to develop such a programme and also notes the widespread availability of more general professional development programmes provided by the education system and the private sector.

Recommendation 14
The committee recommends that the Commonwealth Government undertakes a feasibility study of the establishment of a national mentor programme that would include training, accreditation and support for business mentors across Australia. The study should also examine the scope for an online advisory and mentoring service. A pilot study should form part of the feasibility study.

Response
In the 2002 Budget the Government provided funding for three years to Mentor Resources of Tasmania to continue to match volunteer mentors to small businesses and to enable this initiative to be trialled elsewhere in Australia. The New Enterprise Incentive Scheme (NEIS) operated by the Department of Employment and Workplace Relations provides income support equivalent to the adult rate of Newstart Allowance along with mentor support in the first year of business operation. The role of the mentor is to provide business advice and counselling to participants during the first year of business operation to maximise the potential success of their businesses.

Recommendation 15
The committee recommends that the Small Business Ministers Council commissions a needs analysis of training programs targeting established small business and an assessment of the extent to which the current range of
training programs meets the needs. This should occur in conjunction with the development of the integrated national framework for small business support recommended in Chapter 4 and the analysis of training programs for start-ups.

Response

The Government does not believe the SBMC is an appropriate body to conduct such a needs analysis. The SBMC does not receive funding to conduct a needs analysis of training programmes. In addition, all Commonwealth training programmes are required to undergo an evaluation process to secure ongoing funding. These evaluations take into account the effectiveness, efficiency and appropriateness of each programme to the needs of the clients—in this case, small business and the local community.

The Government notes that research indicates small business people want small bites of training which are ‘just in time’ and meet immediate business needs, and they access a range of training which is outside the nationally recognised training framework. However it is important to note that efforts are being made to ensure nationally recognised training meets small business needs. One of the annual national priorities for the VET system for 2003, is to ‘refine training packages and their implementation to improve their quality and enhance their flexibility to meet clients’ needs, particularly for individuals and small business’. In effect, a training needs analysis is undertaken during the scoping and consultation stages of training package development and the needs of small business are taken into account in this process. Having said that, it is acknowledged that small business needs are diverse and there is no ‘one size fits all’. ANTAs ‘linkers’ trial, also referred to in the response to Recommendation 3, is one way being piloted to better identify and meet the needs of small business.

Recommendation 16

The committee recommends that the Commonwealth government undertakes a feasibility study of a programme to foster the establishment of several centres of excellence in business development for the small business sector, with a focus on the needs of high growth business. The study should examine international experiences with this approach and ways in which any such centres could be integrated with the broader structure of small business development support.

Response

The Government considers that while this recommendation has merit, it would be necessary to develop a delivery mechanism which takes account of the physical dispersion of small businesses and the diversity of firms in the sector being targeted, and can be incorporated into the full schedules of potential candidates for development.

State governments would need to be involved in implementing this recommendation, and, given other priorities for the small business sector, its implementation would be subject to available funding.

Recommendation 17

The committee recommends that the Commonwealth Government undertakes a follow-up to the Bell Task Force survey of the time and money that small business spends on compliance related matters. The committee also recommends that the Commonwealth Government, in consultation with state and territory governments, develops a consistent methodology for measuring the compliance burden of government regulations. It also recommends that the Commonwealth proposes to the OECD that it undertakes regular reviews of the effect of compliance on small and medium enterprise, with Australian participation, as a further means of tracking changes in the regulatory burden over time.

Response

There are a number of government initiatives that have made a positive contribution toward reducing compliance costs and red tape for small business. Under the April 1995 National Competition Policy agreements, each government undertook to
review legislation that restricts competition, and to systematically review legislation at least every ten years. These periodic reviews provide opportunities to ensure that unnecessary compliance costs are kept to a minimum. In addition, it is a requirement that Regulation Impact Statements (RISs) for reviews of existing regulations or proposals for new or amended regulations include analyses of compliance costs. There is evidence that many of the reforms that have been implemented have streamlined and simplified regulatory requirements, and in some cases resulted in greater harmonisation between jurisdictions.

The Organisation for Economic Cooperation and Development (OECD) methodology for measuring the compliance burden of government regulations is the most comprehensive work of this nature. The report on the findings of the OECD, titled Businesses' Views on Red Tape, was published in 2001. The survey was a very major undertaking, involving a significant resource commitment on the part of business groups and industry associations in the design and implementation of the survey. For these reasons, the survey is not a feature of the OECD's ongoing work programme.

Recommendation 18

The committee recommends that the Commonwealth Government maintains and publishes an annual consolidated register of regulatory changes with a summary of their objectives and impact on business as a tool to monitor the growing body of regulation. State and territory and local governments should consider a similar mechanism.

Response

The Commonwealth sees merit in arrangements that provide public information regarding regulatory changes that may impact upon business and already addresses this objective through a number of mechanisms.

The BEP is an online government resource for the Australian business community that provides information regarding existing taxation and licensing regulation.

Regulatory plans, prepared by agencies and coordinated by the OSB, aim to provide stakeholders with access to information about changes to Commonwealth business regulation. These may be accessed through the website of the OSB at www.industry.gov.au/annualregulatoryplans.

All Commonwealth primary legislation, including RISs which are published as part of explanatory material and statutory rules, are accessible electronically via SCALEplus and the legislative instruments databases on the website of the Attorney General’s Department. A proposed register for subordinate legislative instruments is a key element of the Legislative Instruments Bill 2003.

Recommendation 19

The committee recommends that all levels of government introduce rolling programs of regulatory review to assess whether existing regulations are continuing to achieve their objectives as simply and efficiently as possible and to identify the need for any changes to regulations or administrative requirements.

Response

The Commonwealth agrees that it is important that systematic processes are in place for the regular review of existing regulations, and has addressed this issue comprehensively.

Under the April 1995 Competition Principles Agreement, all Australian governments made a commitment to review and, in the absence of offsetting public benefits, reform legislation which potentially restricts competition. Some 1800 reviews have been carried out since 1996. In the case of the Commonwealth, the reviews have been focused on competition issues, but have involved a broader examination of the effectiveness and efficiency of regulatory regimes. The OECD has highlighted the Australian national legislation review programme as an example of good practice in such review processes.

Furthermore, the requirement that legislation, once reviewed, must be systematically reviewed again at least once every ten years provides opportunities to assess whether existing regulations are continuing to achieve their objectives and identify any need for change.
Moreover, RISs for proposed new or amended regulations must specifically address how regulations will be monitored and reviewed. They must also specifically address how each proposed policy option will affect existing regulations.

**Recommendation 20**

The committee recommends that the Productivity Commission be asked to report to the Council of Australian Governments (COAG) on the most appropriate body to monitor and manage a continuing programme of cross-jurisdictional regulatory review and coordinate the rolling programs of regulatory review to be undertaken by all tiers of government.

(p. 119)

**Response**

As noted in the report there are a number of Commonwealth and state bodies that already play a role in regulatory reform and review. There are also in place mechanisms by which these bodies report to one another on current and potential regulatory reform that will have an impact across jurisdictions.

All jurisdictions have in place procedures to review legislation every ten years and there is also the requirement to undertake RISs when reviewing or developing legislation. In light of this, it is considered that at this stage there is little need for the Productivity Commission to report to COAG on the most appropriate body to monitor and manage regulatory review.

**Recommendation 21**

The committee recommends that the Commonwealth and state and territory governments introduce a range of initiatives to assist small business to identify, understand and implement new and existing regulatory requirements, and has addressed this.

The BEP is an online government resource for the Australian business community. It provides businesses with a wide range of services and information about start-up, taxation, licensing and legislation, as well as significant transactions such as taxation compliance and licence applications.

The BEP enables businesses to comply with government requirements simply and conveniently by providing free online access to essential information and services. The BEP is coordinated by the Department of Industry, Tourism and Resources with the support and active participation of all state and territory governments.

Information and advice regarding business regulation issues can be sought through the Small Business Answers Programme, which is designed to provide advisory services for small business to access Commonwealth Government programmes and information in regions where there is a need for such a service.

In relation to taxation obligations, the ATO has developed an extensive network of contacts for the implementation of information programmes for small business, which is outlined in response to Recommendation 23. Working with these organisations helps the ATO to better understand the needs of micro and home based businesses and better target its information programmes.

**Recommendation 22**

The committee recommends that:

- the Commonwealth Government reports to Parliament at the end of 2003 on the take-up of the Simplified Taxation System (STS) across the small business sector and on the extent to which the STS has reduced the compliance burden of participating businesses; and

- in the event that there is not both a significant take-up of the STS and evidence that the STS is producing the benefits expected in terms of reduced compliance burden, the Government should examine other measures to reduce the compliance burden of the taxation system on small business.
The Simplified Taxation System (STS) was intended to assist very small businesses. It was designed to reduce compliance costs by providing simpler rules for determining income and deductions, and provide simpler capital allowances and trading stock requirements. Further, the STS assists many small business owners by actually reducing the tax they are liable to pay.

As at 17 April 2003, about 14 per cent of all eligible taxpayers that had lodged their 2002 tax returns had elected to enter the STS.

A review of the take-up of the STS at the end of 2003 may provide some preliminary results, once the 2002 year lodgment and processing cycle is complete. However, the STS is still developing in line with original expectations. Take-up was always expected to continue over a number of years.

The Review of Business Taxation anticipated that, in a mature system, around 60 per cent of eligible businesses would take up the STS. The ATO estimates that it will take two to three years after implementation to reach maturity because:

- businesses need to prepare for the transition to the STS in the year prior to entry
- most small businesses use tax agents to prepare their tax returns and it is only since July 2002 that interest in the STS among tax agents has increased.

The STS is still developing in ways that will influence its take-up. For example, in March 2003 the Government altered the entry requirements for fuel retailers in such a way that most fuel retailers became eligible to enter the STS, with effect from 1 July 2001.

Another example of the continuing development of the STS is the announcement that the Government will, with effect from 1 July 2001, provide rollover relief in the STS where there is a partial change in the ownership of depreciating assets by a partnership, when a partner is added or removed.

Recommendation 23

The committee recommends a follow-up education and assistance programme for the New Tax System to ensure that all small businesses, particularly in regional areas, are aware of the requirements and have access to appropriate assistance. The programme should be developed in conjunction and consultation with the various accountancy organisations, Area Consultative Committees and Business Enterprise Centres from regional areas and other members of the small business network.

(p. 131)

Response

Through the ATO, the Government has a significant, ongoing commitment to assisting and educating small business taxpayers. Over the last two and a half years the ATO has undertaken an extensive help and education campaign across the country to help small businesses understand and meet their obligations under the New Tax System. For example the ATO has carried out well over 400,000 advisory visits around Australia since the introduction of the New Tax System. ATO’s commitment to assisting small businesses is an integral part of its activities and will continue into the future.

The results of a recent survey commissioned by the ATO indicate that:

- 97 per cent of businesses surveyed have a high level of confidence that they complete their Business Activity Statement (BAS) correctly
- very few consider the BAS process to be hard
- businesses are becoming increasingly comfortable with the BAS process (55 per cent rated the process as ‘easy’)
- overall 84 per cent of businesses consider they are coping well with BAS requirements and three out of four now regard it as routine.

The Small Business Change Programme initiated by the Government comprises several projects also designed to make it easier, cheaper and more personalised for small businesses to meet their tax obligations. These projects involve working with the small business community to:

- improve relationship management through a small business portal, improved information
products and services and a premium phone service

- improve record keeping.

The Government’s primary focus is to help small business people and educate them about their obligations, both through their tax agents and industry associations and by providing them with information directly. A particular focus is on providing education products for new and intending business owners to help them start out on a sound basis.

The range of products and services that the ATO provides to support new and existing businesses with record keeping and other tax related issues includes E-record, a free electronic record keeping tool designed to help business owners complete activity statements and decide whether they are eligible for and will benefit from the STS. There is also a registered software facility to help business owners find accounting software packages that meet their needs, and a range of printed electronic information products.

This year the ATO will undertake some 50,000 advisory visits in response to requests from new and existing business owners seeking help with basic tax knowledge and record keeping. These visits are done in the business premises so as to reduce the burden on small business. As well, a further 10,000 ‘high risk’ new goods and services tax (GST) registrants will be offered one-on-one assistance from the ATO staff. These visits ensure that people who are new to the business environment are aware of, and can meet, their tax obligations. ATO officers also attend farm field days, expos, trade shows and the like on a regular basis to answer questions from the public. Many of these events are in regional areas. Business operators can also visit ATOaccess centres to speak directly to enquiry staff.

The Business Tax Infoline expects to handle around 6.8 million phone calls in the 2002–03 income year, and there is a wide range of information and help services available from the ATO website.

As mentioned under Recommendation 12, the ATO offers information services through extensive relationships with all branches of the business community, including:

- educational institutions
- industry associations through the ATO’s Industry Partnerships programme
- unions
- financial institutions
- tax practitioners
- local government
- chambers of commerce
- state government business assistance programmes (such as the Small Business Development Corporation in Western Australia or the Centre for Innovation Business and Manufacturing in South Australia)
- Business Enterprise Centres
- business incubators
- New Enterprise Incentive Scheme providers
- Small Business Assistance Officers (through the Small Business Answers Programme)
- business information centres
- Indigenous communities
- rural transaction centres
- regional development boards
- area consultative committees
- software developers.

For example, in Western Australia ATO officers are outposted to the state government’s Small Business Development Corporation. Through this arrangement, small business people are able to obtain the information they need from a single location.

The Government also has a commitment to rural businesses through the ATO’s Regional and Remote Programme. As part of the programme, the ATO contracts community resource centres in 180 towns around Australia to provide local access to tax information. These centres have a role in raising business awareness of ATO publications and services and promoting opportunities to access information online. In utilising established community based resource centres, rather than creating new infrastructure, the ATO is supporting one-stop shop delivery of services in rural communities. The programme also supports delivery of tax information through the Small Business
Answers Programme. A portal page has been developed on the ATOassist website as a tool to support these intermediaries in accessing tax information.

In addition to these help services, around 3000 field staff conduct an extensive audit programme in the small business area. Around one in ten micro businesses can expect to be contacted as part of the programme this year, with a particular focus on GST and income tax matters. This programme will also check employer obligations such as pay as you go withholding, fringe benefits tax and superannuation contributions. Recently the ATO has commenced a campaign of ‘walk-ins’. Through this campaign around 16000 small businesses will be visited this financial year. Through walk-ins, the ATO checks the registration details of small businesses visited as well as answering any questions the business operator may have.

The Government has a comprehensive programme to remind small businesses to lodge their activity statements and tax returns, pay on time and meet their obligations. Businesses having difficulty meeting these obligations can seek extra time, with requests considered on a case-by-case basis. The Government will continue to help small businesses meet their obligations by providing assistance through a variety of channels.

As part of the Commonwealth Government’s tax reform programme, funding was provided to establish a network of GST Signpost Officers to assist small business in regional Australia to understand the ramifications of the introduction of the GST. At the conclusion of that programme, a broader referral service was established, now provided as Small Business Answers. This provides a local referral service to assist small business operators to find the most appropriate sources of advice or assistance on a range of Commonwealth, state and local government issues, including taxation. The Small Business Answers programme particularly focuses on regional areas not already served by advisory bodies.

Recommendation 24
The committee recommends that the Commonwealth and state and territory governments develop a range of strategies, including software tools, information materials and training programs to assist small business to identify and understand their employment-related obligations.

Response
The Government shares the committee’s concern that small businesses are able to identify and meet their employment obligations and already provides information materials in a range of formats, as well as training, to assist them to do so.

The BEP provides access to information about employment related obligations, including links to state government services and resources. In addition, the Government has funded a number of publications including Unravelling the threads: who is or is not an employee?—produced by the OSB and Hiring or firing: are you complying?—produced by the Department of Employment and Workplace Relations.

The Office of the Employment Advocate provides a range of materials, through a website, to assist employers understand their rights and obligations in relation to union right of entry to the workplace, freedom of association, strike pay, and coercion and duress in relation to agreement making.

In addition to publications and online information, the Department of Employment and Workplace Relations also provides a telephone information service on employer and employee rights and obligations under federal employment law, WageLine, and has run seminars on aspects of federal employment law.

Government policy is to avoid duplicating services that are provided by the private sector. The Government also believes that other organisations, particularly industry associations, play an important role in educating their small business members on their employment-related obligations.

Recommendation 25
The committee recommends that the Commonwealth and state and territory governments develop a range of suitable, free of charge, information materials and training programs on unfair dismissal legislation for small business.
materials should be disseminated widely, including through the small business network. The committee also recommends that the Commonwealth Government introduces a simplified process for considering unfair dismissal claims.

(p. 137)

**Response**

The Government believes that unfair dismissal laws provide a major employment disincentive for small businesses. It is the Government’s policy that small businesses should be exempted from unfair dismissal legislation. Although the Government disseminates a wide range of information and training on complying with unfair dismissal laws, it does not believe that such information and training can fully address the problems inherent in the existing legislative arrangements, in particular the costs of defending claims and the complexity of the process.

The information the Government disseminates includes the booklet *Hiring or firing: are you complying?*, which aims to help businesses, and small businesses in particular, understand their federal employment obligations and deal with key issues relating to the employment relationship. In addition, the Government produces a brochure on federal time and wages records and payslips obligations, produces a fact sheet on Commonwealth unfair dismissal and termination of employment laws, and has run seminars on Commonwealth hiring and firing obligations and on the termination provisions of the Commonwealth Workplace Relations Act.

The Government has actively legislated to introduce a simpler and fairer process for the consideration of unfair dismissal claims involving small businesses. Most recently, the Government introduced the Workplace Relations Amendment (Termination of Employment) Bill 2002, which would reduce the complexity of the interaction of federal and state unfair dismissal systems by expanding the operation of the federal scheme to cover all employees of constitutional companies. In addition, the Bill contains a range of initiatives that would reduce the burden of unfair dismissal laws on small businesses, including by providing for the Australian Industrial Relations Commission to dismiss unfair dismissal applications made against small businesses without holding a hearing, if it is satisfied that the applications are vexatious, frivolous or lacking in substance. The Government will continue its efforts to have this legislation passed through the Parliament and brought into law.

**Recommendation 26**

The committee recommends that the Commonwealth Government amends the Regulation Impact Statement (RIS) guidelines to require that agencies provide quantitative estimates of compliance costs, based on detailed proposals for implementation and administration. It also recommends that the Commonwealth Government commissions regular reviews of the accuracy of compliance estimates in the RISs for regulations with a major impact on business.

(p. 140)

**Response**

As noted above in relation to Recommendation 17, the preparation of RISs requires the provision of such information where appropriate. This recommendation is therefore consistent with current practice which requires consideration of quantitative costs where they are an important feature of the policy.

While the Office of Regulation Review continues to improve the general standard of analysis, there is an overriding requirement that the degree of detail and depth of analysis must be commensurate with the magnitude of the problem and with the size of the potential impact of the proposals. Accordingly, quantitative estimates of compliance costs will not always be appropriate and should not be mandatory.

While there may be merit in checking the accuracy of RIS compliance estimates by comparing them with observed impacts, it must be noted that the costs of conducting such evaluations, on any significant scale, are likely to be substantial. Further, the systematic review of legislation under the National Competition Policy agreements provides an ongoing opportunity for the review of RIS compliance estimates.
Recommendation 27

The committee also recommends that the Commonwealth and all state and territory governments review their current regulation impact assessment arrangements to ensure that they meet best practice standards with regards to minimising the compliance burden on small business.

(p. 141)

Response

The Commonwealth monitors the ongoing implementation of the RIS requirements and reports annually on compliance, including in relation to the adequacy of the analysis of compliance costs and small business impacts.

Further, most Australian jurisdictions that have implemented RIS processes have recently reviewed them, or are in the process of reviewing them. The Northern Territory is considering the introduction of RIS requirements, broadly based on the Commonwealth’s approach.

In addition, the Office of Regulation Review regularly meets with its state and territory counterparts to exchange information on regulatory best practice.

Recommendation 28

The committee recommends that the Commonwealth and the states and territories, in consultation with local government, develop national model legislation for home based business.

(p. 144)

Response

The issues raised by this recommendation were canvassed in the context of the home based business summit hosted by the Minister for Small Business and Tourism on 6 March 2003. Local government regulation was identified as having the most significant impact on home based businesses, particularly through local government licensing requirements and restrictions on business activity in residential areas. These matters fall outside Commonwealth jurisdiction. It is understood the Australian Local Government Association will also be considering and responding to issues arising within local government jurisdiction and address actions local governments might take to remove unnecessary impediments to home based businesses.

The Government supports the development and promotion of best practice guidelines for local government policies and regulations friendly to home based business. The aim of these guidelines would be to:

- raise awareness amongst local councils of the social and economic benefits of a vibrant home based business sector
- promote home based businesses as a means of providing sustainable local employment
- encourage a consistent and supportive approach to home based businesses across local government jurisdictions.

The Commonwealth Government will also refer the matter of developing national guidelines for the development of legislation for home based businesses to state and territory small business and planning ministers for their consideration.

Recommendation 29

The committee recommends that all states and territories develop model legislation for use by local governments in developing regulations within their jurisdictions.

(p. 144)

Response

The Government agrees in principle with the development of guidelines for use by local governments in developing regulations within their jurisdictions but notes the potential myriad of legal challenges to laws that could flow from the enactment of legislation.


ASIO, ASIS and DSD Committee Report: Government Response

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (3.46 p.m.)—I present the government’s response to a report of the Joint Committee on ASIO,
ASIS and DSD entitled Annual Report 2001-02. In accordance with the usual practice, I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

GOVERNMENT RESPONSE TO THE PARLIAMENTARY JOINT COMMITTEE ON ASIO, ASIS AND DSD—ANNUAL REPORT 2001-2002

Recommendation 1

That the Prime Minister create a position of efficiency adviser in the Office of the Inspector General of Intelligence and Security (IGIS). The efficiency adviser will:

• conduct performance audits of the Australian Intelligence Community; and

• report the findings of performance audits to the Prime Minister, the responsible Minister and the Committee.

Not Agreed. The Government considers that an efficiency adviser in the office of the IGIS would be inconsistent with the role of that office and second, that existing auditing and oversight mechanisms already ensure efficient and effective use of resources by Australia’s intelligence agencies.

The role proposed for the IGIS by Recommendation 1 would be inconsistent with that stipulated by The Inspector-General of Intelligence and Security Act 1986 in accordance with recommendations of the 1984 Royal Commission on Australia’s Security and Intelligence Agencies (RCASIA). The Royal Commissioner took the view that the management and allocation of resources was the prerogative of the intelligence agencies and the government and did not recommend a role for the IGIS that would interfere with this. Instead, the IGIS is intended to conduct oversight and review to ensure that intelligence agencies act legally and with propriety, comply with Ministerial guidelines and directives and respect human rights.

Further, each of the agencies already conduct their own internal audit programmes. In the case of DSD, this is supplemented by the audit and review activities of the Inspector-General of the Department of Defence. Each of the agencies is also subject to regular scrutiny by the Auditor-General.

While the Committee is not in a position to direct performance audits of agencies of the Australian Intelligence Community, it can consult with relevant agency heads at any time and make suggestions as it sees fit on matters which come under its oversight, in line with the Act. In addition, the performance of Australian intelligence agencies is subject to the scrutiny of the Secretaries Committee on National Security which reports annually to the National Security Committee of Cabinet on the activities of the Intelligence and Security Agencies.

Recommendation 2

That the Department of Defence ensure that annual financial statements are available for DSD so that they can be audited by the Committee as required by paragraph 29(1)(a) of the Intelligence Services Act 2001.

Not Agreed. Section 29 (1) (a) of the Intelligence Services Act 2001 requires the Committee to “review the administration and expenditure of ASIO, ASIS and DSD, including the annual financial statements of ASIO, ASIS and DSD.” DSD has prepared, and will continue to prepare, a report on its financial performance to the Committee to enable it to fulfil its review function. However, unlike ASIO and ASIS, DSD is not an independent entity, so its financial reporting includes attributed values for some items, such as military salaries, that are managed by other areas of the Department of Defence.

The Committee’s recommendation that DSD produce an annual financial statement that could be fully audited would entail, at a minimum, significant accounting systems-modification effort. It could necessitate the establishment of an independent treasury function in DSD. This would conflict with the existing governance arrangements within Defence and complicate the production of financial statements for the Department of Defence. At most, it could require the Government to establish DSD as an independent statutory agency, a move the Government does not favour.
The preferred approach of the Government is for the Australian National Audit Office to undertake an independent review of DSD performance, offering a ‘completeness and presentational view’ as opposed to a true and correct audit opinion.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.47 p.m.)—by leave—I move:

That the Senate take note of the document.

The government response to the Parliamentary Joint Committee on ASIO, ASIS and DSD annual report for 2001-02 is quite short but it is worth noting, particularly in the context of that committee holding public hearings tomorrow in its inquiry into the accuracy of intelligence information relating to the Iraq conflict. The recommendation from the annual report which the government is responding to is that the Prime Minister create a position of efficiency adviser in the Office of the Inspector-General of Intelligence and Security. The efficiency adviser would conduct performance audits of the Australian intelligence community and report the findings of those audits to the Prime Minister, the responsible minister and the committee. Without going into the background of the report and why the committee felt that was a good idea, it obviously did. As far as I am aware, the recommendation was a unanimous one—I am certain it was, because the government has the numbers on this particular committee—so clearly government members also believed that we need an efficiency adviser to conduct performance audits of the Australian intelligence community and report on those findings.

Unfortunately, this response shows that the government does not agree with that recommendation. It gives a number of reasons for that. For example, it says that the role proposed would be inconsistent with that stipulated by the Inspector-General of Intelligence and Security Act, that management and allocation of resources is the prerogative of the intelligence agencies and the government and did not recommend a role for the inspector-general that would interfere with this. That is simply a way of saying that back in 1984 we did not think this was necessary. The committee now—or in 2002, 18 years later—believes that it is necessary and that performance audits of the various aspects of the Australian intelligence community are necessary.

Given what has happened—just the things we have seen in public, let alone the things we have not seen publicly—in relation to various aspects of our intelligence community in the last six to 12 months, it is no surprise that the government does not want anybody conducting performance audits and reporting them to people—such as the relevant committee—other than the Prime Minister. That is just another example of the preference of the government to allow these agencies to operate in a way that gives the government maximum flexibility in shaping messages to suit its desires without having to worry about public scrutiny of the accuracy, the adequacy or even the nature of that information.

That is the concern I have and the Democrats have in relation to the inquiry that is currently under way. Whilst it is important that there be a parliamentary inquiry, it must be noted that the committee that is undertaking the inquiry—the Parliamentary Joint Committee on ASIO, ASIS and DSD, the committee to which this response from the government relates—is controlled not only by the government. The relevant government ministers can control whether or not agencies appear before it and whether or not they are able to answer particular questions or provide specific information. It is also a committee that, certainly in relation to the intelligence agencies, tends to meet in secret rather than in public.
That is in contrast to the inquiries we have seen in the US and particularly in the United Kingdom. I am not talking about the current judicial inquiry into the unfortunate death of the British weapons expert; I am talking about other inquiries into intelligence agencies—such as the one that person was unfortunately called before, leading in part to tragic consequences. That committee not only was very public but also had witnesses from a huge range of areas, including government politicians, staffers and representatives of intelligence agencies. All of it was conducted in the public arena. I believe it conducted some private meetings as well but clearly a lot of information about the workings of the intelligence agencies, not to mention the workings of ministerial offices and particular bureaucrats, could be thoroughly scrutinised by parliamentarians—and parliamentarians across the board, I might add. That, again, is unlike the committee in Australia, which only has Labor and Liberal politicians. The one in the UK also contains representatives from the third main party in the UK, the Liberal Democrats.

More importantly even than that, it was conducted publicly. The concern we have about the inquiry which starts its hearings here tomorrow is that, whilst tomorrow’s hearing will be public, I understand that the committee is yet to receive submissions from the intelligence agencies and I would be astonished—I hope I am proven wrong—if the committee would hold public hearings questioning those intelligence agencies. I would bet my bottom dollar that the submissions that the intelligence agencies put in to the committee will be vetted by the minister first. Quite frankly, when all that is in place, I almost wonder why the government objected to this form of inquiry. I guess it is just a knee-jerk response—the government does not want any scrutiny at all of what it is doing. That is why it is continuing to attack and trying to weaken the Senate overall.

But when you have a committee that the government controls, when the minister can vet witnesses and can prevent answers from being given on certain areas, and when ministers can vet submissions from various agencies before they even put them in, then you really have to wonder what the government is afraid anybody is going to find out. If it does not want anybody to find out, it is pretty certainly going to be able to stop it happening. Even if the government does have a weak moment and decides to provide some information to the committee, it will inevitably insist that it be done in camera so that it cannot be made available to the public. Those are the weaknesses of that particular inquiry. I call again on that committee and the Labor members on it in particular, even though they do not have the numbers, to do all they can to ensure that, wherever possible, information is provided to the public and hearings are conducted in the public arena so that we can get a little more confidence in the integrity, efficiency and ability of our intelligence agencies. We need to recognise how much they are vulnerable to being misused politically, as many allegations suggest, and as is very much being suggested in the UK.

This response from the government, whilst only a small matter in the grand scheme of things, just gives one more example of where a very straightforward recommendation of appointing a person to conduct performance audits across the Australian intelligence community is refused by the Australian government. I do not think it is any surprise that that recommendation—a cross-party recommendation, I would assume—has been rejected by the government. It is a government that is more and more clearly reaching previously unplumbed depths of deceit of the Australian people in a
whole range of areas. Whilst everybody always makes vaguely sarcastic comments about the honesty of politicians, I think there is still a belief in the community that there should be some basic standard of honesty, openness and accuracy in relation to public matters, particularly important public matters like security issues. If the level of public cynicism gets up to the level that matches the degree of dishonesty that seems to be permeating just about every aspect of this government, then we are really going to have major damage done to the credibility of our whole democratic system.

Whilst there may be a credibility issue for the government of the day in terms of its difficulties with the truth, I think that does more than just damage the government’s credibility; it damages the credibility of parliamentary institutions, of all politicians and of democratic processes in general. That is the whole idea of having scrutiny by a parliamentary committee such as this and by the Senate chamber. That is why we need to resist moves to try to weaken any of the powers of the Senate which the current Prime Minister is trying to do. In the areas of national security and the safety of our community into the future, as well as some prospect of effective scrutiny of the operations of intelligence agencies that need to have some degree of accountability, it is important that we try to ensure that that can be done as effectively as possible. I am not against the intelligence community at all. In fact, my view has changed a bit in the last two or three years to thinking that we probably should be putting a lot more resources into those intelligence agencies. That seems to me where a lot of the battles have to be fought in relation to terrorism, organised crime and other things like that. But we also have to ensure that those agencies operate accountably and as much as possible with public scrutiny, and certainly that they are not able to be politically manipulated by the government of the day for short-term advantage.

Question agreed to.

DOCUMENTS

Conference of Australian and Pacific Presiding Officers and Clerks

The DEPUTY PRESIDENT (3.57 p.m.)—I present the report of the Australian and Pacific presiding officers and clerks to the 34th conference which took place at Nuku’alofa, Tonga from 28 June to 5 July 2003.

FISHERIES, FORESTRY AND CONSERVATION: ILLEGAL FISHING

Return to Order

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (3.57 p.m.)—I table a response to Senator Bartlett’s notice of motion of Wednesday, 20 August 2003.

FINANCIAL SERVICES REFORM AMENDMENT BILL 2003

Report of Senate Economics Legislation Committee

Senator FERRIS (South Australia) (3.57 p.m.)—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I present the report of the committee on the provisions of the Financial Services Reform Amendment Bill 2003, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator FERRIS (South Australia) (3.58 p.m.)—At the request of the Chair of the
Legal and Constitutional Legislation Committee, Senator Payne, I present additional information received by the committee relating to hearings on the budget estimates for 2003-04.

COMMITTEES

Membership

The DEPUTY PRESIDENT—The President has received letters from party leaders seeking variations to the membership of certain committees.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (3.58 p.m.)—by leave—I move:

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

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

Appointed—

Participating member: Senator Moore

Substitute members: Senators Allison and O’Brien to replace Senators Bartlett and Mackay for the committee’s inquiry into the provisions of the Fuel Quality Standards Amendment Bill 2003

Finance and Public Administration References Committee—

Appointed—Substitute member: Senator Brandis to replace Senator Heffernan for the committee’s inquiry into staff employed under the Members of Parliament (Staff) Act 1984 on 2 September and 3 September 2003

Foreign Affairs, Defence and Trade Legislation Committee—

Appointed—Substitute member: Senator Allison to replace Senator Ridgeway for the committee’s inquiry into the provisions of the Non-Proliferation Legislation Amendment Bill 2003

Rural and Regional Affairs and Transport Legislation Committee—

Appointed—Substitute member: Senator Sandy Macdonald to replace Senator Colbeck for the committee’s inquiry into the application and expenditure of funds by Australian Wool Innovation Ltd on 28 August 2003.

TELSTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) BILL 2003

First Reading

Bill received from the House of Representatives.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (3.59 p.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (3.59 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

TELSTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) BILL 2003

The Telstra (Transition to Full Private Ownership) Bill 2003 amends the Telstra Corporation Act 1991 to repeal the provisions that require the Commonwealth to retain 50.1 per cent of its equity in Telstra Corporation Limited. The bill includes provisions for a framework for future, regular and independent reviews of the adequacy of regional telecommunications services.

The bill also amends the Telecommunications Act 1997 to enable the Minister for Communications,
Information Technology and the Arts and the Australian Communications Authority to establish administrative arrangements for the setting of a condition of licence on Telstra for the preparation of local presence plans.

It has been longstanding Government policy that Telstra should be transferred to full private ownership, subject to an effective regulatory framework that protects consumers and promotes competition. The Government’s reform of the telecommunications sector has encouraged greater competition and given Australians access to a wide range of high quality, innovative, and low cost telecommunications services.

While the Government is moving to establish the legislation immediately, it has undertaken not to proceed with any further sale of Telstra until it is fully satisfied that arrangements are in place to deliver adequate telecommunications services to all Australians, including maintaining the improvements to existing services. The independent Regional Telecommunications Inquiry Report, released in 2002, found that the Government had addressed consumer concerns identified by the independent Telecommunications Services Inquiry conducted in 2000.

The bill provides for the timing of the sale to remain open. The Government, however, will be seeking to maximise the returns from the sale of its remaining holdings. The bill retains for the Commonwealth flexibility to develop detailed arrangements for the sale process, which will protect and maximise the Commonwealth’s interests. The provisions to facilitate the sale are broadly defined to allow not only conventional single tranche sales, but sales effected through a number of tranches, or the use of other market instruments, such as hybrid securities, and authorise any borrowings by Government arising from the sale of such securities.

The bill has also been developed in such a manner so that specific obligations that apply to Telstra as a result of its status as a Government Business Enterprise and a Commonwealth-controlled company can be removed as the Government divests its holdings in Telstra. Changes in Telstra’s ownership status, however, will not affect the Government’s ability to protect the interests of consumers, competitors and the public generally. Consumer regulatory safeguards such as the universal service obligation, the customer service guarantee, price controls, network reliability framework, and the Telecommunications Industry Ombudsman, will be maintained into the future.

The bill will also provide additional safeguards for customers in regional Australia.

The first is the ability of the Minister for Communications, Information Technology and the Arts to impose a licence condition requiring Telstra to prepare and implement local presence plans, outlining proposed activities in regional Australia. A provision will be added to the Telecommunications Act to enable the Minister or the Australian Communications Authority to establish administrative arrangements for the implementation and monitoring of these plans. This responds to a recommendation in the Regional Telecommunications Inquiry report.

The bill also provides for establishment of a Regional Telecommunications Independent Review Committee to review telecommunications services in regional Australia within five years of the commencement of the bill.

The bill will provide for the Minister to establish a committee comprising a Chair and at least two other members, with experience or knowledge of matters affecting regional Australia or telecommunications. The Committee will conduct its reviews at intervals of no more than five years after the previous review. The Committee will review the adequacy of telecommunications services in regional, rural and remote Australia, and report its findings to the Minister.

The Government’s policy on foreign ownership of Telstra is unchanged. Telstra will continue to remain an Australian owned and controlled corporation. The maximum aggregate foreign ownership allowed in Telstra will remain at 35 per cent. The maximum individual foreign ownership will remain at 5 per cent.

The bill has been developed in such a manner so that various directions and reporting provisions associated with majority public ownership can be repealed as the Government proceeds with its divestment of Telstra. When the Government’s holdings have fallen below 50 per cent, various
provisions relating to Telstra’s status as a Government Business Enterprise will be repealed. This includes, for example, the Minister’s directions power. When the Government’s holdings have fallen below 15 per cent, certain additional reporting requirements that apply to Telstra, because of its status as a Government Business Enterprise, will be repealed.

While the Government actively supports privatisation of Telstra and the need to continue to protect the rights of customers, it is also aware of the need to protect the rights of Telstra’s employees, and members of the community that have outstanding disputes with Telstra. The bill sets out transitional provisions that will:

a. require Telstra to continue to deal with any requests under the Freedom of Information Act 1982 and related subordinate legislation for access to a document in the possession of Telstra that have not been finally disposed of when Telstra ceases to be Commonwealth controlled and preserve the rights of persons making such requests under the Administrative Appeals Tribunal Act 1975;

b. enable the Commonwealth Ombudsman to continue to investigate any complaints in relation to action taken by Telstra that have not been finally disposed of when Telstra ceases to be Commonwealth controlled;

c. preserve the operation, in respect of events occurring prior to Telstra ceasing to be Commonwealth controlled, of the Crimes (Superannuation Benefits) Act 1989 and Director of Public Prosecutions Act 1983;

d. preserve the accrued long service leave benefits of Telstra employees earned under the Long Service Leave (Commonwealth Employees) Act 1976 and related subordinate legislation;

e. preserve, for up to 12 months, the rights of female Telstra employees to access provisions under the Maternity Leave (Commonwealth Employees) Act 1973 and related subordinate legislation;

f. ensure that from the cessation of Commonwealth control, Telstra’s liability in respect of injuries suffered by employees prior to 1 July 1989 continues under section 128A of the Safety, Rehabilitation and Compensation Act 1988; and

g. remove Telstra from the operation of the Occupational Health and Safety (Commonwealth Employment) Act 1991 from the cessation of Commonwealth control.

To sum up, this legislation is part of a package that delivers on the Government’s election commitments to ensure that Australia’s telecommunications system combines the best elements of competition and customer service. It also provides an opportunity for Australians to invest further in Telstra, and allows Government to focus on regulating the telecommunications industry. It supports maintenance of service quality, and protection of existing consumer rights, regardless of Telstra’s ownership.

Debate (on motion by Senator Mackay) adjourned.

STATE ELECTIONS (ONE VOTE, ONE VALUE) BILL 2001 [2002]

Second Reading

Debate resumed from 7 August 2001, on motion by Senator Murray:

That this bill be now read a second time.

Senator Bartlett (Queensland—Leader of the Australian Democrats) (4.00 p.m.)—The State Elections (One Vote, One Value) Bill 2001 [2002] was introduced by my Democrat colleague Senator Andrew Murray, from Western Australia. It seeks to ensure the usually widely accepted democratic principle these days of one vote, one value across all of the state upper and lower houses of parliament. Representation is one of the central features of a parliamentary democracy, yet we still have a situation in Australia, specifically in the state of Western Australia, where the basic principle of one vote, one value is not being implemented—and not because of the current state government’s lack of trying.
The increasing recognition of the need for one vote, one value that has developed over time is in part due to many factors that are demanding fairer representation of groups and identities such as those based on gender, race, ethnicity, sexuality and disability that in decades gone by were discounted but are now shouting more than ever to be heard. There are other ways—indeed, better ways—of doing that than simply one vote, one value, but that is a basic principle. The voting system that is then used is even more important. That is why the Democrats also have a strong and long record in relation to promoting proportional representation, which is clearly the best system for providing fairer representation of people across a range of views and backgrounds in the Australian community. That system works most effectively if it is done in conjunction with one vote, one value.

There is, of course, an issue there to mention in relation to the composition of this chamber and the different vote values from different states. This bill does not address that—basically because it cannot, because that current structure is in the Australian Constitution—but it can address it in relation to state parliaments. Obviously, whilst most state parliaments have introduced appropriate reform over the years to ensure one vote, one value, that has not happened in Western Australia and it continues to be frustrated.

For elections to be regarded as democratic, they must satisfy at least three criteria: they must be fair, they must be free and they must be periodic or regular. In focusing on the first criterion of fairness, an electoral system is considered to be fair if all eligible citizens are entitled to vote and cast one vote only per house at an election. The concept of one vote, one value goes to the very heart of equal suffrage. Every Australian parliament has now legislated for that and for the principle of relative electoral equality, except for both of the houses of Western Australia, which has the only remaining major and significant malapportionment.

WA’s electoral history records a very slow and incomplete process of democratisation. In fact, women only got the right to vote in 1899; Aborigines had to wait until 1949 to get a voting entitlement; and, of course, the voting age was only lowered to 18 in 1973 both in WA and federally. It was not until 1962 that Aborigines were also given the right to vote in the Legislative Assembly elections in WA. WA’s electoral system is a clear case study in electoral inequality. At the most recent WA state election in February 2001, the metropolitan average was 25,860 electors per district, while the non-metropolitan average was 13,409. So non-metropolitan voters had about twice the voting power of those in the Perth metropolitan area.

There are further extremes within that system, with one district, the district of Eyre, having the lowest number of electors, at 9,415, while the district of Wanneroo had the greatest, with 37,720—a ratio of about four to one. In the Legislative Assembly, non-metropolitan electorates account for 26 per cent of voters but over 40 per cent of the seats. We all recognise that it is impossible to get every seat with exactly the same number of people in it, because of population variations, but it is widely recognised and all parliaments including this one have adopted formulas to ensure relative equality over a period of time. In the Legislative Council in Western Australia, the upper house, the malapportionment is even more pronounced. The north metropolitan region has 360,000 electors and the mining and pastoral region has 66,900 electors—a massive discrepancy. These are, of course, multimember electorates, but nonetheless the number of electors within those electorates is clearly hugely disparate.
It is worth noting the efforts of the state Labor Party in WA to try to reform this situation. In 2001, the state Labor government introduced two bills which sought to repeal the current malapportionment and provide new mechanisms for drawing district and regional boundaries. As is the case elsewhere, including here in the federal system, electoral districts were to be redrawn to ensure that voter enrolment in each district was no more than 10 per cent above or below the average. If enacted, it would have meant that the voting power of all Western Australians would have been equal—or as reasonably close to equal as is feasible—and it would have meant that a smaller proportion of Legislative Assembly members would have represented the non-metropolitan areas of the state. These bills were modified by the state Labor government due to political necessity—which means to get the numbers to get support in the upper house—so a modified form of one vote, one value was then proposed for the Legislative Assembly, whilst the Legislative Council and its even greater malapportionment was essentially left unaltered.

Those two bills, as amended, passed through both houses of the parliament in 2001, with an absolute majority in the Legislative Assembly but with only a simple majority of 17 members of the Legislative Council—17 votes to 16. The Legislative Council has 34 members and, together, the ALP and the Greens WA have 18 members out of the 34, but one of those was the President and, unlike this chamber, the WA President does not get a vote. They get only a casting vote, not a deliberative vote. Therefore, the President was unable to vote and unable to provide an absolute majority technically, even though they clearly had the numbers. This contravened an aspect of the existing act which required that bills relating to redistributions be amended only by an absolute majority. That issue, as senators would probably know, was confirmed in the Supreme Court.

After the Supreme Court judgment was handed down, the WA government persevered in trying to alter the constitution of WA to allow the President of the Legislative Council a deliberative vote, which would have meant that the ALP, together with the support of the Greens, would have had the 18 deliberative votes required to pass its reform of electoral legislation. For reasons that perhaps Senator Brown might elaborate on later—it has astonished me ever since—the Greens did not support that idea; hence, the opportunity for electoral reform, at least in the lower house of Western Australia, was lost.

The opportunity for reform in the upper house had been lost previously because of the inability of the Labor government to get the support of others in the upper house for reforming the upper house. I am not quite sure why people in the upper house who were elected under the old system did not want to support the change in the system, but that is what happened. I find that a great disappointment, because it really is, as I said, the last state in Australia that has those significant problems of malapportionment. I come from Queensland and, as many senators would know, Queensland was most famous for that for many years. A malapportionment was introduced by the Labor Party but was successfully modified, using the same principle, by the National Party to assist them in maintaining power in that state for a long period of time. It became notorious around the nation, and that notoriety was, in part, responsible for helping drive the willingness and the recognition of the necessity in other states to ensure proper electoral reform and proper, fair and equal electoral representation in both lower houses and upper houses. Of course, Queensland does not
have an upper house, so there was no prospect to reform that. But that was another debate.

The upshot is that Western Australia is clearly the only state with that massive malapportionment, and that is something that this bill seeks to address. It is quite clear. Some may argue about this being an interference in state matters, but personally I am not someone who worries terribly much about the concept of state rights. I think that, if we have the power to do good, we should do it. Ideally, it is better to get the states to do it when they are willing to do it cooperatively, but frankly it is now 2003 and we still have malapportionment—it has been going on for over a century—so I think the time for trying to get cooperation is perhaps past, and we might need to try to use the powers that we do have. There is no doubt that we do have the powers, as was stressed by my Democrat colleague when he first introduced the bill. Australia has committed to trying to ensure the right to vote and to be elected at genuine periodic elections by universal and equal suffrage. The situation in WA is clearly not equal suffrage; it is not even close. There is a continuing attempt by WA conservatives to frustrate that equal suffrage, mirroring the efforts of their colleagues in Queensland in trying, for a long period of time, to frustrate equal suffrage.

I am sure that others in this chamber who want to put a spike in this legislation will draw on the situation that the Senate itself faces and point to the fact that we have different representation from different states that returns an equal number of senators. I concur with that concern but, as I said, that can only be changed by a referendum relating to the Constitution of Australia. Of course, we have already done that equal representation in the House of Representatives, and the lower house in the WA cannot even achieve that because of the current political situation in Western Australia.

So it is an important principle that needs to be pursued, and I would have to say again that, since the 1960s, the ALP has had a strong record on this principle of one vote, one value. As I said before, the principle of equal suffrage is one that Australia as a nation has signed up to. Many other countries, including the UK, India, France, the United States and Canada, recognise that it is now an essential feature in representative democracies. It is time to bring the whole of the Australian electoral system in line with this. The US Supreme Court, as far back as 1964, gave specific support to this principle. The federal Labor Party first introduced legislation in the federal parliament back in 1972-73—

Senator Kemp—Would you change the Senate numbers?

Senator BARTLETT—I somehow knew you would try to bring up that point; I cannot imagine why. I have already addressed your interjection twice before you interjected. You cannot expect me to say everything three times just because you were not listening when I said it the first two times.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! Senator Bartlett.

Senator BARTLETT—As you quite rightly point out, Mr Acting Deputy President, I should focus on the important message I am delivering here, rather than worrying about people who are not willing to listen. The Labor Party first introduced legislation in relation to this matter in 1972-73 in the federal parliament and, in recent years, the ALP have taken the matter to the High Court with respect to the WA electoral system. So I trust that they would support this move to use the powers that we have at the federal level to enshrine the one vote, one value principle nationwide, given the intran-
sistence that continues to occur in Western Australia.

As I understand it, there is still a challenge in relation to the Supreme Court ruling, which I referred to earlier, in Western Australia. It may be that if that is successful at least lower house reform in Western Australia will be possible, but I do not think we can sit back and wait for that. This provides that opportunity. It provides a mechanism that I think would be welcomed by people throughout Australia who have an abhorrence of unfair electoral systems. Given the inability of the WA Labor government to get sufficient support in the upper house for legislative change that would provide one vote, one value, we need to go down this path. That is what this legislation does, and I therefore commend the bill to the chamber for its support.

**Senator LUDWIG (Queensland) (4.14 p.m.)—**The Labor Party reinforces its long-standing commitment to one vote, one value. One vote, one value was first raised by Labor when we introduced legislation into the federal parliament in 1972. The one vote, one value system is a system which Labor has been advocating for over 100 years. We advocate one vote, one value because we believe it is the fairest system, although regional areas have been—as we have heard from Senator Bartlett—sometimes a considering factor. Labor has always supported a system of one vote, one value. Australians must be entitled to participate equally in the democratic process and in public life and administration. Labor supports constitutional reform to entrench the principle of one vote, one value for all elections to ensure equal participation for all, regardless of place of residence.

The Democrats have proposed the State Elections (One Vote, One Value) Bill 2001 [2002]. This bill seeks to give equal representation to all electorates based on the projected number of votes within the next four years. This bill is specifically designed to bring Western Australia into line with other states. Senator Bartlett’s speech today effectively concentrated—for good reason, I suspect—on Western Australia. However, Senator Murray also spoke on this issue back in August 2001. He described at length the merit of the one vote, one value system of elections, adding only as an adjunct that the overriding factor is ‘the community of interest in the area’. Labor believes that the community of interest is an important factor in determining electoral sizes and one which should not be ignored in blind pursuit of the overriding principle. Whilst the practice of grouping rural areas with regional centres situated hundreds of kilometres away may satisfy the one vote, one value principle, this does not provide for responsive and effective representation. Electorates of this nature cannot satisfy the community of interest factor, given the vastly different issues facing the diverse communities within the electorate.

To perhaps expand on the debate, it is worth looking at both sides of the argument. As we know, the National Party in Queensland prior to 1990, perhaps I know it only too well, and the much smaller Liberal Party at the time—in fact, they are probably a lot smaller now—had a system of political boundaries which I will take the opportunity to go to a little later. But one can see that you can start with a system which might seem to provide electoral clarity and fairness but can quickly lead to disparity and unfairness.

Whilst the practice of grouping rural areas with regional centres situated hundreds of kilometres away may be able to coalesce into a community of interest, one of the big problems, particularly for the remote rural electorates, is that representational size should account for the representation in govern-
ment—be it at a local, state or federal government level. Of course, you can have a huge area with sparse population and therefore lose community of interest. There has been a significant outcry from country communities over changes such as that. There have been diverse views, and it is worth highlighting some of them. One from the Country Shire Association included issues such as distance, physical isolation facing rural communities and lack of representation on rural issues, including services to rural areas. Of course, we know the National Party represents those areas and we can sometimes understand the lack of representation on rural issues, including services to rural areas. The National Party has, in my view, failed to progress those well.

Labor understands that community interest is an important part of any electoral system. It is possible that the proposal before us today could extend geographical boundaries and dilute rural community input. I will go to the bill itself during this debate, but that is one of the things that you have to be careful of in constructing an electoral system that provides for one vote, one value. You do need to actually get it right, if that is the purpose of bringing the bill here. You need to be careful that you do not end up, like the Liberal Party, with a nomenclature that is opposite to the intent of the bill. I am sure Senator Murray, through Senator Bartlett, and the Democrats were not using the Liberal trick of reversing the nomenclature. But, when you examine the bill in detail, it is still open as to whether the outcomes will be fair, open and accountable at elections based on the principle of one vote, one value.

One could argue that a key effect of representation is an understanding of local electorate issues. The Labor Party holds the majority of seats in Queensland and not the National Party or the Liberal Party because it has taken the opportunity of listening and providing effective representation. The proposed changes, with fewer members representing larger electorates, may also impede the Legislative Council’s and Legislative Assembly’s ability to capture the views of a diverse and more demanding electorate. We should therefore be mindful of the effects of a one value, one value system in a country as vast and with a population as decentralised as Australia.

Going to the issue that was raised in Western Australia, the Western Australian Attorney General, Mr Jim McGinty, has long pursued the aim of introducing equality of electorate size in his own state, and we heard from Senator Bartlett the problems that Western Australia has had in trying to progress that issue. Even before moving into government, Mr McGinty challenged this in the High Court. The reason for his challenge was that there was a considerable difference between the number of enrolled voters in Western Australia’s metropolitan districts and the number of enrolled voters in the state’s non-metropolitan districts. In fact, that again reminds me so clearly of Queensland prior to 1990. He argued that the differences were so great as to weaken the basis of representative democracy.

While the judgment in the McGinty case makes it clear that there is no constitutional requirement for equal electorate size, this is not an unqualified term. The belief might be that one vote means one value. The High Court’s judgment makes it clear that this is not constitutionally guaranteed. The High Court would find in some cases that a discrepancy in the number of electors between electorates could be so great as to offend the principle in the Constitution that representatives are elected directly by the people.

In Queensland, Labor is committed to fair and regular electoral redistributions based on the one vote, one value system. Of course, it
differs from the bill that Senator Murray puts forward. I will go to it principally now but we will also examine the original EARC report of 1990, which I think also sheds some light on the debate we are having today and sheds some light on the proposed bill that Senator Murray has put forward. I should say that I suspect it is Senator Murray’s bill but Senator Bartlett spoke to it first. I will be corrected if I need to be.

Senator Murray—I will speak last for that reason.

Senator Ludwig—Thank you. I will continue then to call it correctly Senator Murray’s bill. In Queensland the ALP had pushed for many years for the introduction of one vote, one value. This ideal was brought to fruition in 1989, after the Goss government came to power. The system allowed for a system of one vote, one value for the vast majority of the state yet retained the ability for the dispersed population in our western seats to maintain an appropriate system of representation. Under the revised arrangements introduced in 1984 of the states, 89 electorates were equal in size but five large and remote electorates had smaller quotas. This meant that in terms of voters the largest seat was 58 per cent larger than the smallest.

Preparing a redistribution, the Electoral Commission ensured that the number of enrolled electors in an electoral district was not over or under the average number of enrolled electors for any electoral district by more than 10 per cent. For an electoral district with an area of 100,000 square kilometres. For an electoral district with an area of 100,000 square kilometres or more, two per cent of the total area of the electorate is taken to represent the number of notional electors. This figure is added to the number of actual enrolled electors in the district to make the total number of electors fall within 10 per cent of the average number of enrolled electors for an electoral district.

The reason I have taken us carefully through those numbers is because we can see, as a counterpoint to the bill proposed by Senator Murray, that his tends to be a little bit more of a blunt instrument in trying to achieve that, whereas in reality you need to examine the issue far more closely to ensure that you actually do get it right. For example, an electorate district with an average of 250 square kilometres would have 5,000 notional electors. This is added to the actual number of electors when calculating whether the number of enrolled electors is within 10 per cent of the average number of enrolled electors. This is an issue that has been addressed at a local, state and federal level.

An example of a problem that can arise in respect of the one vote, one value system, given that the legislation refers to state seats, occurs in the state seat of Warrego, which has a population—as I understand it—to date of 21,462 enrolments, with an area of 237,619 square kilometres. You can see that it is a significantly large piece of land with a population quite dispersed. The National Party, in my view, has been unable to effectively represent those people during that period and continues to not represent them well. But it is an issue that remains with the state as far as state politics goes.

When you look at Senator Murray’s bill closely, clause 4 provides for equal suffrage. It states:

A House of Parliament of a State shall be directly chosen by the people of the State voting in electorates as nearly equal in size as possible but, in any case, not varying by more than 15% from the quota of voters for each electorate for that House with any variation between the size of electorates to have regard to the community of interest of the electorate including...

If you recall earlier we were talking about the community of interest and this is where
you have to be so careful in ensuring that you do not derogate from the one vote, one value system and skew it by a community of interest too far outside of what the principle actually provides for. The difficulty, I think, with Senator Murray’s bill in this instance is that the way that it has been provided for may in fact not achieve its purpose.

I will return, as I indicated earlier in my speech, to the Electoral and Administrative Review Commission, which produced the report on the Queensland Legislative Assembly electoral system, volume 1, which went to November 1990. The background to that report is that the Electoral and Administrative Review Commission, or EARC, as it was then known, was established by the Electoral and Administrative Review Act 1989. Its major function was to investigate and report to the Speaker of the Legislative Assembly, the Chairman of the Parliamentary Committee for Electoral and Administrative Review and the Premier on a wide range of matters relating to public administration in Queensland in order to identify and recommend proper procedures and principles to apply in Queensland public institutions to ensure they are accountable, democratic and serve the public effectively.

It takes me back to the period prior to that when you did have what can only be regarded as a process. This was highlighted in the Fitzgerald report, which said:

The fairness of the electoral process in Queensland is widely questioned. The concerns which are most often stated focus broadly upon the electoral boundaries, which are seen as distorted in favour of the present Government, so as to allow it to retain power with minority support.

Much more is said about that in the report, but that in essence provides a picture of what it was like prior to 1990—prior to when Labor won government and prior to when Labor introduced one vote, one value into the Queensland electoral system to ensure that ‘Joh’s gerrymander’ was no longer. The National Party, which supported and propped up that system, should recant that today in this debate and support the basic principles of one vote, one value to ensure that there are fair and appropriate elections.

The basic principles of electoral systems are set out in the report. I would recommend some of the National-Liberal coalition members to go back to that 1990 report. It is not out of date; it still has currency and ensures that we do adhere to the right principles and processes. The report talks about the concept of equal suffrage being firmly established in international law. Article 21 of the Universal Declaration of Human Rights says:

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

Article 25 of the International Covenant on Civil and Political Rights, the ICCPR, says:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions ...

It goes on to guarantee those rights. There is the issue that I said I would come back to of the 15 per cent tolerance. With the time we have available, I may have to truncate some of the issues that I was going to cover, because there were other issues that were raised in that report and they provide some insight into some of the arguments we are still having today about four-year terms, entrenchment of aspects of the Queensland electoral system, electoral system education, whether there should be mechanisms to ensure that a majority of votes produce a majority of seats and facilities for MLAs. Given Senator Abetz’s efforts over the last couple of days, it still seems to be an issue.
Turning to the rationale for the weighting that has been adopted, Senator Murray has provided a figure of 15 per cent. In Queensland, as Senator Murray I am sure is aware, it effectively went to 10 per cent. The principles for that direction were provided more cogently in the 1990 Electorate Administrative Review Commission report. The report talks about the proper principles that should apply and whether any weighting is justified. When the commission considered that particular issue, they said that anything within the 10 per cent may be justified and, if it falls outside the 10 per cent, not only is it not justified but it may attack or undermine the concept of one vote, one value to such an extent that it is no longer a viable proposition to call the system a one vote, one value system with such a high weighting that could easily be skewed. They provided it a bit more eloquently than I have done, but the gist of the argument is that they concluded that there should be in Queensland, and there should be following those principles, the major features of a system which should provide for a 10 per cent quota, if we could call it that. (Time expired)

Senator JOHNSTON (Western Australia) (4.34 p.m.)—I rise to respond to this private member’s bill, the State Elections (One Vote, One Value) Bill 2001 [2002], sponsored by Senator Murray. During the very short time I have been a senator for Western Australia, I have come to respect and admire Senator Murray for the diligence in the scrutiny of legislation that he brings to this chamber. I acknowledge that Senator Murray has a strong ideological commitment to the issues contained within this bill that he is apparently sponsoring. I also have a strong ideological commitment to the issues canvassed and that lie behind the bill. I emphasise that my position is diametrically opposed to that of Senator Murray’s.

I pause to express my surprise that a Western Australian senator would seek to persuade this chamber, one constitutionally established as the states house, that the Commonwealth should be seized of electoral matters of state parliaments. Further to this, there appears to be a predisposition of this bill to address the state legislatures as if they were unicameral—again a curious outlook from a Western Australia senator. Given the considerable practical shortcomings of this bill, I feel bound to acknowledge it is nothing more or less than a political advertisement of his and, indeed, the Democrats’ ideological disposition with respect to the electoral systems contained within our states.

In the time allocated to me I seek to argue against this bill on the following bases: firstly, that article 25 is already being fully complied with and is therefore superfluous and irrelevant to the states; secondly, that this bill if enacted would have no practical or legal application and in fact is entirely contrary to Australia’s historical constitutional intent at both the federal and state level; and, lastly, that equal suffrage, properly and legitimately defined, means different things in different states and in different houses of parliament within those states.

Firstly, article 25 and, by implication, article 2 of the International Covenant on Civil and Political Rights: the tenets espoused are so vague and broad in terms as a statement of principle that article 25 virtually has no direct application to most Western democracies, particularly where tenets such as these are a practical and fundamental part of electoral life. In other words, article 25 is a statement of motherhood. The contrary position is to advance that Australian states do not adhere to these tenets. Is the honourable and respected senator seriously suggesting that the states do not conform now with article 25? Article 25 says:
Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

It is obvious to me, and I expect it to be obvious to all senators, that article 25 is clearly adhered to by every state in our great Commonwealth. It seems that Senator Murray is clearly taking issue with the words ‘equal suffrage’ in paragraph (b) of article 25. What is ‘equal suffrage’? My contention is that Australian democracy has its own brand of equal suffrage in each of the states, and in Western Australia we have a particular brand of equal suffrage. I want to take the good senator to the relatively recent High Court case of McGinty v. Western Australia (1996) 186 CLR at 140. The High Court was looking at article 25 in that very case. His Honour Mr Justice Dawson, in talking about the electoral systems contained within each of the states, said:

Once it is recognised, as in my view it must be, that electorates of equal numerical size are not a necessary characteristic of representative government...

He went on to say:

... no Australian colony at the time of federation insisted upon practical equality in the size of electoral divisions and the view was then plainly open that problems of communication and access in geographically large electorates outside a metropolitan area justify different numerical sizes in electoral divisions. That is a view which obviously still prevails ...

He further stated:

... there is ... the contrary view which holds that the effect of unequal electoral divisions ... is to weight the value of votes in the numerically smaller divisions. But the extra weight is only in the consequence that an elector in a smaller electorate is required to share his or her representative with a lesser number of electors than in the larger electorate.

... to ignore community of interest in the creation of electoral divisions and to insist on mere equality of numbers will be likely ... to produce inequality rather than equality of voting value.

There we have it. Indeed, the same judicial approach is taken by the Supreme Court of Canada. Secondly, Senator Murray must, as he well knows, source this bill through a head of power. There are two heads of power which this bill seeks to use or, rather, should I say seeks to abuse. The first is the use of the external affairs power contained within the provisions of section 51 of the Australian Constitution. Unfortunately, this is not enough. He needs to further engage the powers contained within section 109 of the Constitution in order to override the present constitutional electoral enactments contained within each of the states.

To put this bill in its proper context, Senator Murray is seeking to use or, as I have said, abuse the Commonwealth legislative powers to the detriment of the states in a most arbitrary and centralist way. The last time the external affairs power was so abused we got the results that we saw in the famous case of Teoh, a heroin trafficker on a temporary entry permit. Upon conviction, his deportation was sought by the then minister for immigration, who happened to be a Labor minister. Whilst the accused was on remand he had fathered a child in Australia and the High Court overturned the minister’s deportation order on the basis that Australia was a signatory to the United Nations Con-
vention on the Rights of the Child and, as the minister had failed to consider the rights of the child in question, Mr Teoh was allowed to stay in Australia. This is the sort of result that you get when you seek to make domestic laws of our great nation subservient to international covenants and treaties and, indeed, seek to abuse the external affairs power. And who can forget the way such power was abused by former Attorney-General Gareth Evans when he flew an Australian Defence Force plane over Tasmania to spy on the developments at the Franklin Dam? Those are the heads of power that this piece of legislation seeks to abuse.

The states have in all circumstances sought to establish their own legislative frameworks on electoral matters. In many instances, such legislation contains entrenchment provisions, which mean that such enactments cannot be changed without a constitutional majority as determined by each of the constitutions on the floor of each state legislature. What Senator Murray seeks to do with this legislation is to obliterate the legislative framework and the rights of the states to make their own electoral laws. I am very disappointed with the realisation that Senator Murray, through his sponsorship of this bill, has aligned himself with the current Western Australian Attorney-General, Mr McGinty. This is a very disturbing realisation. But what is worse is that there is no mention or acknowledgement of the different electoral systems for the upper and lower houses of our state parliaments.

Senator Murray and, indeed, the Democrats obtain their political lifeblood and oxygen from this chamber, the Australian Senate, a house of review. This bill has a clear implication that the benefits of such a house are to be denied to the states—a most curious and, may I say, disingenuous and quite dangerous approach to legislators and their election within the states. In other words, the sort of work carried out by Senator Murray in vetting and analysing legislation in this place is to be denied to the states. The inherent stability flowing from an upper house elected on a different form of franchise would be denied to the states were this bill to be enacted. This is the practical effect of the definition of ‘quota of voters’ for each electorate as contained within proposed section 3 of the bill. Indeed, this is the very inequity which Mr Justice Dawson spoke of in the McGinty case that I have cited.

What is equal suffrage, which is at the core of the motivation behind this private senator’s bill? Why did Mr Justice Dawson make the comments that he did? Is it equitable that 90 per cent of the population of a state of Australia, such as Western Australia, will never get to visit their national capital because the distance is three times the distance of anywhere else in the country? Is that equitable? Of course it is not. Is it equitable that a significant and important part of our nation—namely, Western Australia—produces 30 per cent of the total value of our export income and yet gets less than 10 per cent of the national outlays? Is that equitable? Of course it is not. Indeed, to see any of our nation’s iconic institutions requires a four- to five-day drive or a couple of thousand dollars in airfares for every Western Australian. Are there any members of the senior executive service of our great national Public Service in Western Australia? The answer is: of course not.

One only needs to look at the reactions of senators from other states in committees when they are asked to hold a committee meeting in Western Australia to see the bleating, the ‘oh dear, I’m busy’ and the ‘I’ve got something important to do’—and yet we in Western Australia travel backwards and forwards three, four or five times a month. Is it equitable that you would simply dragoon a
voting system to the states as if they were all of the same generic quality?

Senator McGauran—Yes, but what about your frequent flyer points?

Senator JOHNSTON—Only a Victorian would consider the frequent flyer points. Another important aspect of this legislation is the fact that it totally ignores the situation on a federal level. It is well-known—but needs to be restated for the benefit of Senator Murray—that the Senate is hardly an example of electoral equality. If he is going to legislate, why would he not have included the Commonwealth legislatures? Let us take the most recent July AEC enrolment figures: Tasmania has one senator for every 27,716 electors, WA has one senator for every 100,597 electors and New South Wales has one senator for every 356,194 electors. This is a ratio of nearly 13 to one in Tasmania’s favour—and yet we hear nothing from the Democrats and nothing from the Greens, who are the principal beneficiaries of that malapportionment. I think the word is ‘hypocrisy’. The hypocrisy abounds behind this piece of legislation.

In the WA Legislative Council, using the final report of the redistribution commissioners, each MLC in the mining and pastoral region represents 13,711 electors. Each MLC in the north metropolitan region—that is a metropolitan region within Perth—represents 53,452 electors. That is a ratio of four to one—well short, I think, of 13 to one—and yet we hear nothing of the Senate in this legislation. It is an attack upon the states. Again the word—the catchphrase of the day—is ‘hypocrisy’. Why would the minor parties within this chamber come here with this private senator’s bill, ignoring the obvious, undermining, underlying flaw in their argument—that is, that they are here because of malapportionment? You are here because of the very things you are seeking to complain about within this act.

Senator Lightfoot—You are here, Senator Murray, because you got Liberal Party preferences.

Senator JOHNSTON—I am very much obliged to Senator Lightfoot for that interjection. That is the real reason! I am very much obliged to Senator Lightfoot.

Senator Lightfoot—And I assure him, through the Acting Deputy President, that he will not be getting them next time.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! Senator Lightfoot, please!

Senator JOHNSTON—I am not surprised at Senator Ludwig’s support for this peculiar attempt at legislation. There is similar contempt for hardworking people in regional and outback Western Australia. Since the mid-1970s, the Australian Labor Party have used the occasion of being in power in various jurisdictions to introduce changes to electoral arrangements—in other words, to disfranchise country people. That has been
their signature, their calling card and the hallmark of every bit of power they have ever abused.

It was, therefore, no surprise when the current Western Australian Labor government set out to introduce a one vote, one value alteration to the Western Australian Constitution. By undertaking this action, eight seats of the 40 or so would have been shifted wholesale from the country to the metropolitan area. The changes would alter the balance between city and country from 34 to 23 to 41 to 15. It was also no surprise when the Liberal and National parties and various rural spokespeople, allied in a grouping called the Country Alliance, expressed their determination to fight this issue—even being prepared to challenge it in the Supreme Court of Western Australia. They have taken their resistance and challenge all the way to the High Court of Australia. Indeed, the recent pronouncements of the judges in the High Court were that the Country Alliance should have been afforded costs by the state government to conduct their opposition to this attempt to shift those eight seats into the metropolitan area.

The main argument in this case is concerned with the inequalities of representation inherent in a position where some electorates are very small and some, particularly in a state the size of Western Australia, are huge. To further deal with the judgment of that case, the Clerk of the Parliaments of Western Australia took an application to the state Supreme Court. With a majority of four to one in favour of the clerk, who would have been acting unlawfully had he progressed the legislation in that form and in breach of the entrenching provisions that were proposed by the Attorney-General, the Hon. Mr Justice Steytler and the Hon. Mr Justice Parker stated:

It is clear that s 13 was not enacted for its own sake. As indicated there was a purpose for its enactment and that purpose, in our view, is material to understanding the intended meaning of its terms. It is also relevant to the understanding of this purpose, and to the interpretation of s 13, that, in the absence of a fundamental change to the manner of constituting the Houses of the Parliament, the 1947 Act could not be repealed, in the sense of finally revoked or annulled, and not replaced.

What they sought to do was to simply repeal the Electoral Distribution Act to get around the entrenchment provisions. It was a wholly disingenuous approach, and four judges to one found it exactly that way.

Were Mr McGinty’s changes in Western Australia to get through, we would have three electorates the size of New South Wales. That is what we are looking at with respect to the sorts of underlying principles, which I must say I am very surprised to see Senator Murray bring to this chamber. With three electorates the size of New South Wales how on earth could you provide democracy, representation, a constituency connection and availability of a member of parliament? This argument speaks for itself.

When you scratch away the very thin veneer of the ideological facade that it is and let the hypocrisy bubble to the surface, you will realise that this legislation should be utterly and completely condemned and doomed.

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (4.54 p.m.)—I am certainly indebted to Senator Johnston. I listened to his speech very carefully on the State Elections (One Vote, One Value) Bill 2001 [2002]. I knew things were crook in Western Australia under this proposed legislation—but they are not crook; they are frightening. I have always thought Senator Murray was a farmer’s friend in some ways. He is a little offside on some green issues but on other issues he has
generally supported rural and regional Australia. But today he abandons them—casts them adrift. I am very surprised about that because he will no doubt go out into rural Australia and say that he supports various things that are near and dear to them. But Senator Murray, without representation, you are cutting their lifeline right away from them.

This bill is to implement article 25 of the International Covenant on Civil and Political Rights so that the election for the state legislature shall be of equal suffrage. It then goes on to say there should be equal representation. I think those two statements are in conflict because you cannot have equal suffrage and equal representation. If you have electorates the size of New South Wales, you are terribly disadvantaged. Even in the home of the Westminster system, England, there are some seats in the Orkney Islands and the Shetland Islands that have as few as 40,000 electors and there are other seats in central London that have many times that. You cannot have equal representation if your voice is swamped.

Senator Murray seeks to introduce a bill based on the civil and political rights for state legislatures being of equal suffrage. I do not know what it has to do with the price of fish over here. Senator Murray, you should be defending your state, not trying to cut it to pieces. You should be out there protecting the values and the assets of Western Australia. What you are doing is undermining them by bringing this legislation into this parliament. The bill refers to states and territories. You know very well that the last senator in just about every election is from the Democrats, as they round up everyone else’s preferences and squeak in over the line as the last people elected, yet you want to disfranchise rural Western Australians and I suppose every rural seat in Australia. This bill recommends that electorates be:

... as nearly equal in size as possible but, in any case, not varying by more than 15% from the quota...

One vote, one value is not possible. We cannot even get one vote, one value in the federal election. Queensland has 88,059 voters per electorate and Western Australia has 80,477. Senator Murray, perhaps you could propose that Western Australia loses a House of Representatives seat so that you could stand up for your principles. Tasmania has 66,517 voters and the Northern Territory has 55,000. I suppose you could reduce the number of seats in Tasmania and the number of seats in the Northern Territory. You are disfranchising the rural people of Australia.

For political democracy you have to have political representation. That is granted and given only through access to your parliamentarian. You can say that constituents can ring him, email him, talk to him on a mobile phone or talk to him through the Internet, but you are disfranchising someone if they cannot actually sit down, talk to and meet their parliamentarian. If your proposal for electorates in Western Australia the size of New South Wales were to be accepted, you would be taking away the right of constituents to access their member of parliament. Each constituent deserves access to their elected member. I know in this house we have had these debates before. It is almost impossible, as some seats are so large, for constituents to access their members. A Labor Party senator mentioned not so long ago the seat of Warrego. That seat happens to be held by a friend of mine called Howard Hobbs. The only way he can service that seat is by aeroplane, and he had to buy his own aeroplane. There is no other way that he can get around. Fortunately, Howard Hobbs is a reasonably successful grazier and has the ability to fund an aeroplane. But there are not too many people who can do that. That is the only way he is able to give his electorate true representation.
Under the federal system, our rural electorates are already larger, not only in area but also in numbers, than electorates in the cities. The rural seats are seen to be losing people so fast that they are padded up at the front end so at the end of four years they finish with numbers equal to those of the city electorates. That is designed to anticipate the population moving away midway through the period of time. So, on the one-vote, one-value system in the federal elections, the rural seats already have a higher quota level than the city seats. Areas that produce great wealth, foreign exchange and overseas sales are penalised. Western Australia produces 30 per cent of Australia’s wealth and Queensland produces nearly as much, yet they are the areas that lose their representation.

What happens when you lose your representation? We are all down here fighting for the government piece of cake—whether it is a road, a hospital, a school or whatever. Once you lose your representative, you lose your road or your hospital or you do not get another hospital or road. You are disfranchised in more ways than one. We who try and decentralise Australia, we who try and get people away from the shores of Australia, are disfranchised. Australia is becoming a big doughnut: most of the constituency is five, six or 10 miles from the coast. More and more people are leaving rural Australia. More and more people are going to the cities, and there is less and less money and infrastructure going into rural Australia because of the lessening of rural representation. People in rural Australia feel that desperately.

I do not want to raise the spectre of One Nation today, but that was one of the gifts that One Nation gave Western Australia. When people voted for One Nation, they weakened the Liberal-National Party coalition and put the Labor Party in. Then the Labor Party took away their right of representation. I hope that will always be remembered. I hope it is forever in the minds of the people who were silly enough to vote for One Nation. It has turned around and bitten them very seriously. The One Nation members sit there in the parliament and do not achieve anything, but they have let the Labor Party through the gate and the Labor Party are now disfranchising rural and regional Australia.

I knew in this debate the old issue of the gerrymander in Queensland would be raised. Let me say this: I have been in the National Party since 1974. The Labor Party have got various numbers of votes, but they always complained about the gerrymander. They always said it was the gerrymander that kept them out of power. If they could not progress, they said it was because of the gerrymander. The Labor Party did not achieve 50 per cent of the vote until 1989. Guess what? They won an election because they received the majority of the vote. It is now folklore that the coalition government relied on a gerrymander. They did not. When the Labor Party were able to achieve 50 per cent of the vote, they won government.

Senator Murray—What percentage do you think you got in the lower house? Was it 42?

Senator Boswell—I have never worked out the percentage in the lower house. I am reflecting on the complaint that was always brought up by the Labor Party and picked up by you that the Queensland government governed by a gerrymander. It did not govern by a gerrymander; it governed by the fact that it always achieved—in coalition with the Liberals—more than 50 per cent of the vote. When that vote went under 50 per cent, the Labor Party took power. And they did what they always do, which is go and put the boot into rural Australia.

The Labor Party has virtually given up on rural Australia. They are not out there; they
do not run in many seats. They get some poor old union hack who lives in Brisbane to go out to Warrego and then their mode of operation is to run dead, not spend a zack on the seat, not do anything and then pass their preferences on to an independent and abandon the bush. You pass your preferences on to an independent then, hopefully, push the independent in, knowing full well that you have no chance—but you have actually thrown the bush out. You do not even try in the bush. You go and have some sort of a rally and you call yourselves Country Labor. It does not do any good; you have given up on the bush. The practice is, ‘We won’t run hard; we’ll run dead. We’ll get some poor old hack out of the machine, push him out to the bush—he doesn’t even know where it is; he never goes out—and he will run dead and get 15 per cent of the vote. We’ll go and back a popular mayor; we’ll push our preferences in and hope he gets up.’

Senator Forshaw interjecting—

Senator BOSWELL—That is going to come back to haunt you one of these days, you mark my words, Senator Forshaw. I have been going into rural electorates for a long time. The other day I flew across a particular rural electorate. When I got in the plane I was not at the extremity of the electorate but 3½ hours later, after flying in a Baron at about 400 knots—I think they go—I got out of the plane at the other end of the electorate. It struck me: how on earth can you have equal representation under section 55, as you have offered? You would either have some-one who absolutely has to run around out there, neglect their family, their home life and their children to service that electorate or, alternatively, they have to neglect the electorate. I point out that about three or four years ago two wives of National Party members were unfortunately killed in cars as they went around the electorates with their husbands while they were trying to service the electorates. That was the event which caused those particularly big electorates to be offered four-wheel drives—to balance that out.

You cannot have it both ways: people in these huge rural electorates cannot have equal access to their member of parliament if the electorates are going to be one vote, one value. When you have to get in a plane and fly 3½ hours across the electorate you cannot afford to do it often, although I know that there are parliamentary allowances to do that. People want to see their representative: they want to talk to them, go into their office and they want them to be at their functions—at their rodeos or football matches. They want to have access to them. By bringing in one vote, one value you can do it another way: you can reduce the size of electorates and increase the size of the parliament—that is not particularly popular. Or you can have some sort of tolerance, as they had in Western Australia. When you are taking eight seats out of rural Western Australia and putting them in the city of Perth, when all the wealth is created in those mining industries—in the iron ore industry and the gold industry out there—that is disfranchisement in the worst possible way.

Senator LIGHTFOOT (Western Australia) (5.12 p.m.)—I rise to speak on the State Elections (One Vote, One Value) Bill 2001 [2002], as it is cited, for an act to implement article 25 of the International Covenant on Civil and Political Rights so that the electors for state legislatures shall have equal suffrage imposed on them. It is rather sad that the architect of the bill—at least to some degree—is Senator Andrew Murray, a Western Australian. He is not only a Western Australian senator but a Western Australian senator who was elected on very few primary votes and relied on the distribution of preferences from those Western Australians in country areas—and some of those came from the Liberal Party in Western Australia. Some
came from the National Party in Western Australia. This is the sad fact. It is a sad day for me to come in here to listen to a man—I am going to listen to him very shortly—who is I believe the only one in the Democrats who has not been a leader but has the talent to be a leader. Isn’t it odd? The only man who has the talent, and he is the only person who has not been a leader in the Democrats. Now I hope that Senator Andrew Murray does look to the future. He is a man with a vision, he likes what he does here and he speaks a lot of sense in this chamber at times, but this is the worst document I have ever seen any Western Australian produce. This is something like the rather detested Attorney-General of Western Australia might do if he were a senator of this place, introducing a bill that disfranchises country people in Western Australia and other country areas of Australia.

Let me get back to Senator Murray. Senator Murray seems to me, with his vision of the future, to be something of a male version of Cheryl Kernot. He sees that at the next election there is no question that the Democrats are going to lose seats. They are led by the worst leader of any party that I have ever seen in the nearly 48 years—I think it is—that I have been in the Liberal Party and the nearly 50 years that I have been interested in politics. That man is the worst I have ever seen. He is good for us. He is good for the Labor Party, because when you are the Labor Party you can concentrate with some satisfaction on a leader who is worse than your own leader.

The analogy between Cheryl Kernot and Senator Murray might be that Senator Murray could be looking towards jumping ship. Next time elections come up, who is going to lose seats? The Democrats are going to lose seats and the Greens will pick them up. We may pick them up on this side; I do not think they will pick them up on the Labor side. When Senator Murray gets up to reply, he might like to say categorically that he is not thinking of jumping ship at the next election or the election after that when he comes up for re-election.

Let me talk about the problems with a bill of this nature for country people, particularly country people like those in the outlying states of Queensland and more particularly Western Australia. This is ostensibly a states house, and I want to remind the Senate that this whole place was created by the states. The federal government was created by the states, by a concurrence of the six states. The last one to come into the Federation was Western Australia, which was not even recited in the first articles. New Zealand was. New Zealand pulled out and Western Australia came in under ‘other states’ under the then new Constitution.

Western Australia was a mendicant state until we had one of the greatest politicians this nation has ever seen, Sir Charles Court. When he was minister for the north-west, he introduced and opened up the vast iron ore fields of the Pilbara. They were the biggest in the world at the time and still are today. We have the big iron ore fields of Carajas in Brazil that rival us. Western Australia is not only the biggest producer of iron ore in the world, we also happen to have the biggest diamond mine in the world, which has mined on average over the past decade perhaps 50 million carats a year. Not only do we have the biggest diamond mine and the biggest iron ore mine in Western Australia, we also are the third biggest producer of gold in the world and the biggest producer by far of gold in Australia, producing over 90 per cent of the nation’s gold. We in Western Australia are the third or fourth biggest producer of nickel in the world, producing 90 or 95 per cent, or perhaps even 100 per cent now, of the nation’s nickel. Not only that, we have 50 per cent on average, and over that on occa-
sions, of the nation’s wheat crop. We are the biggest exporters of crayfish in the world. We are the biggest exporters of so many other items.

Where do all these commodities come from that give us 30 per cent of the nation’s national export income? They come from the bush; they come from the rural areas of Western Australia and of other parts of non-urban Australia. If you were a Western Australian, why would you want to introduce into this place such a bill that gives us, without lie, a clear picture of Senator Murray’s view for Australia, part of the global one world government, part of the global one world where you have no boundaries? This is the start of it. Why should we be subject to international ruling and international covenants in a democracy that is one of the oldest in the world? Why do we need interference by a covenant that may not work for us? It may work for other nations but it does not necessarily work for us. Why would a Western Australian want to so damage the people in Western Australia by introducing a bill of this nature? Western Australia is unique not just because it has senators like Dr Eggleston and me—

Senator Boswell—Great senators.

Senator LIGHTFOOT—Thank you very much, Senator Boswell. It is unique because it is the most centralised political entity of its size anywhere in the world. Seventy-five per cent of people in Western Australia live between Yanchep Two Rocks and the city of Mandurah, right along that coastal strip of just over 100 kilometres. Western Australia is about one-third of the size of the United States; it is one million square miles—yet 75 per cent of its people live within a few hundred kilometres of the state.

Senator Murray’s bill would clearly encourage people from the bush without representation to come into the city again, and that is something that I think governments of all hues in Western Australia should be condemned for. In fact, one of the previous ALP leaders, Frank Wise—I think he was Wise by name and wise by nature—in 1947 called one vote, one value ‘evil’. This was a Labor Party Premier. And of course it was evil. But that was when there were about 60 per cent of the people living in the area along the coast between those two places I mentioned. The reason the Labor Party Premier called it evil is that it is evil. It is evil for the development of Western Australia. It is evil because it disenfranchises people in Western Australia. It is evil because the people who produce the wealth would be, relatively speaking, unrepresented in parliament. It is evil for a whole host of reasons. But it puts a particular touch of irony on the evil that it should be a Western Australian senator introducing a bill that is so damaging to the people of Western Australia and particularly to those people who got Senator Andrew Murray here in the first place.

I suppose Western Australia is vastly different from Queensland in some senses but ideologically the same. We have a great empathy with Queensland. We have a great deal in common because we are great workers and we produce a great deal of this nation’s wealth. But we do not have the decentralisation that Queensland has. We do have perhaps a Mount Isa called Kalgoorlie, but we do not have a Cairns, a Townsville, a Toowoomba, a Gold Coast or those other big decentralised areas that make it easier for people in the country to be represented in parliament. Because of the 75 per cent of people living in a single metropolitan area of Western Australia, that is impossible.

We do have the biggest electorate in the world as a result of those demographics—the federal seat of Kalgoorlie. It is unfair that that should have only one person representing about 850,000 square miles, which is
virtually impossible to get around. The state is so centralised that we have towns in Western Australia that are dying because the vast regional areas are underrepresented now. Towns like Menzies are almost dead; Leonora, Leinster and Laverton are towns that are dying. Meekatharra, Mount Magnet, Yalgoo, Cue are also towns that are dying. There are towns in the Kimberley that are dying, like Derby and Wyndham. They are dying because they do not have sufficient representation.

This bill—which strangely fits well with the socialist government that is in Western Australia at the moment—will take eight seats out of rural Western Australia and put them in the city. Where is the equity for those people who work so hard? Where is their representation? Are they going to be represented by one person in a vast electorate, as they are in the federal electorate of Kalgoorlie? Barry Haase does an extraordinarily good job in that seat. If anyone travels more than I do in the outback of Western Australia, it has to be Barry Haase. He is never home. He is always travelling. He must have a lot more energy than I have.

Senator Boswell—What about his family? They never see him.

Senator LIGHTFOOT—That is what Senator Murray does not take into consideration. Senator Boswell. The other irony with this bill is that—it fits so well with the Western Australian socialist government, to try to disenfranchise country people—it talks about one vote, one value. Why do the Labor Party—and the Democrats because they support the Labor Party; they are like Lenin with a lobotomy—not extend this to the trade union movement? Some 19 per cent of Western Australian workers are trade unionists, but they have 50 per cent of the say in the ALP. Is that one vote, one value? Is that fair? Why should other people who want to vote Labor and are socially inclined in that respect not have one vote, one value?

I happen to know something about trade unions, although I do not want to sound immodest. I was in the Police Union when I was a member of the mounted police in South Australia. When I did a trade, I was in the plasterers union. When I was studying geology in Kalgoorlie, I worked for Western Mining and Newmont and had to join the Australian Workers Union, which is not a bad union as far as unions go. I was in Actors Equity—some people say I should still be there. I was in the Waterside Workers Federation when I was 13 or 14—I may have been the youngest ever in that union. So I know something about unions. Some of those unions were quite good; some were not. But the time in which we needed unions of that nature in Australia has long since past.

The point is: if there is going to be equity as those opposite see it, and as Senator Andrew Murray sees it, why is there not equity in respect of the trade union movement? Why is there not one vote, one value with their workers? Why should 19 per cent of the people who are unionised have 50 per cent of the say and 50 per cent of the vote? Until recently—until Mr Crean came out beating the drum about how he was going to bring back equity to the ALP and its voting system, and he dropped it by 10 per cent—they were still controlled by the trade union movement, which represents 19 per cent of workers. So I find one vote, one value rather hollow when it comes from people who are ideologically predisposed to the ALP as Senator Murray obviously is. Senator Murray’s one vote, one value bill contains something of a contradiction, and the contradiction is with equal suffrage. His parliamentary draftsman put:
**Equal suffrage**

A House of Parliament of a State shall be directly chosen by the people of the State voting in electorates as nearly equal in size as possible but, in any case, not varying by more than 15% from the quota of voters for each electorate...

That is something of a contradiction. But where the bill says ‘as nearly equal in size as possible’ to each other electorate but ‘not varying by more than 15 per cent’, if a court were to interpret that—and I hope it does not get as far as a third reading speech—I would like to see the intent of that section. Which part of that section will be taken note of in a legal sense? Will it be ‘as nearly equal in size as possible’, which is unambiguous except for the overrider which says ‘not varying by more than 15 per cent’? If that is the case, I wonder whether Senator Murray does not have his eye on the Senate where we have equal representation in the six states—12 senators plus two from each of the territories.

They are looking at the upper house. The legislation that the Labor government in Western Australia have introduced—which I understand will be knocked back by the High Court—would downgrade the value of the country vote in the upper house there. If that happens, it will be the thin end of the wedge. The next attack will be on the Senate—there will be fewer than 12 senators for those states and they will be on a per capita basis. That of course would be disastrous. We do not want this legislation. I am surprised that a Western Australian has introduced it.

Today I had the great fortune of meeting with his Excellency Mr Jalal Talabani, who is the President-elect of Iraq. The new government will be putting together a plan—I am told it will be drafted this year—that will federate Iraq, giving the Kurds protection for the first time since the Balfour Declaration in 1914 or thereabouts—nearly 100 years ago. The Shiahs will have some say in their state, the Sunnis will have some say and the people in Baghdad—where there is quite a mix of ethnicity and sectarianism—will have some say. They were very interested in the Federation of Australia and they took back with them 10 copies of our Constitution. They believe—from what they have read and studied over the past year or so—that it is the most pre-eminent of all the templates that they could use for Iraq.

Mr Talabani is one of the most revered of the 25 million Kurds who live over an area about the size of Victoria but covering Syria, Turkey, Iraq and Iran. It would be great to see them have a system like Australia’s. I explained to him that the system in Australia was one of the oldest democracies in the world, even though it is one of the youngest settlements in the world—quite a dichotomy. It is just over 100 years old. That seemed to appeal to them. But, with this kind of legislation being proposed in this chamber by a fellow Western Australian, I have some doubt now—if the legislation is supported by the Labor Party—about whether there is any use in me talking to his Excellency Mr Jalal Talabani with respect to that. I hope that it stops.

Senator Murray seems to be the only one laughing. In fact, I do not know whether it is quite a laugh or some sort of convulsion that he is having. Senator Murray thinks that the issue is rather funny. I can tell Senator Murray that there is no way on God’s earth that he will ever get preferences from the Liberal Party again, now that he has come into this chamber and proposed the sorts of things he proposes to do to Western Australians—to disenfranchise Western Australians, to take away the vote from country people in Western Australia, and to use the superior legislative power of the federal government in order to do it. I am surprised and, quite frankly, I am hurt because of the view that I used to have of Senator Murray. I will ensure that the people of Western Australia receive
some copies of the speech here, particularly Senator Murray’s speech.

If there was one thing that drove me into parliament about 17 years ago it was that I thought that country people—people from the bush—were being dealt an act of inequity by successive governments. If there was one thing that I wanted to defend for them it was their vote. They are the hard workers. They are responsible for this vast amount of wealth. They are responsible for the parliament that has been built. That money comes from the bush. I like the city—I have a home in the city—but my heart lies with the bush. It does not lie with people like Senator Murray. I hope, Senator Murray, that you live to regret your introduction of this bill today.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.32 p.m.)—The speech that we have just heard takes ratbaggery in the Senate to new heights. As soon as I conclude my contribution, I am going to go out and check the lunar calendar. I must say that I thought that contribution a little odd, Senator Lightfoot, even for you. I want to speak about the issue of one vote, one value. It is an important issue. Conceptually, one vote, one value simply means that each person should just have the one vote and that each person’s vote should be equal in value to every other person’s vote. An important aspect of this is that the number of electors within electorates should as nearly as possible be equal. You would hope that the principle of one vote, one value would not be controversial in a democracy such as Australia. But it is controversial, as we have heard in the debate in this chamber today. While the Labor Party has been committed to the principle for 100 years, the anti-Labor parties—in particular, of course, the Liberal and National parties—have opposed it, and they stand exposed on this issue.

For a great deal of Australia’s history mainland state electorates have had a marked degree of malapportionment, typically arranged to favour rural areas. Perhaps the most famous example of this was the electoral arrangement that was in place during the years of Sir Thomas Playford IV in South Australia. During his premiership from 1938 to 1965, Adelaide—three-quarters of the state’s population—had just one-third of the House of Assembly seats. When we look at election results such as those of the 1968 South Australian election, it is no wonder that conservatives in this debate and conservatives at that time so warmly embraced malapportioned electorates. In that election the Dunstan Labor government, which received 52 per cent of the primary vote, was defeated by the Liberal and Country League, which received 43 per cent—only 43 per cent—of the vote. Not surprisingly, that scandalous result in South Australia led to a very significant public outcry, and the issue of malapportionment was central to the re-election of the Dunstan government in 1970.

Almost every reform proposed by Labor at the federal and state level to democratise our electoral system—to ensure that each person’s vote was equal in value to every other person’s vote—has been cynically opposed by the Liberal Party, the National Party, and the National Party’s predecessors: the Country Party and the National Country Party. The Dunstan government reforms were opposed by the conservatives. They were only passed by the South Australian upper house on the votes of the Liberal movement, which of course is a splinter group that had moved away from the Liberal and Country League.

There is no better current day example of the Liberal Party’s opposition to the simple democratic principle of one vote, one value than their trenchant opposition to democratising Western Australia’s parliament. I want
to quote Gough Whitlam, who, in his speech at the ANU Law Faculty dinner on 11 November 2000, noted:

Votes for both the Western Australian Legislative Assembly and the Legislative Council are worth only half as much in metropolitan areas as in country areas. In metropolitan areas the enrolment for both Houses varies between 22,079 (Perth) and 36,624 (Wanneroo). In country areas the enrolment varies between 9,677 (Eyre) and 16,746 (Mitchell). By contrast, in next year’s Federal elections Western Australians will enjoy one vote one value in all their 15 House of Representatives seats.

Gough Whitlam went on:

Nowhere in the English-speaking world are there such unconscionable divergences as in the WA Parliament. It has only one redeeming feature; all members of the Legislative Council are elected for the same four-year fixed term. WA democracy is a monstrous misnomer.

That is what Gough Whitlam said, and he was right. It is widely known that the Labor Party has championed the fight for equality of representation in parliament since its earliest days—since its formation. In fact, we have stood for proportionality in electoral representation and the adherence to the principle of one vote, one value for over a century. In 1899 the Labor Party’s platform supported universal suffrage and included a straightforward commitment to one adult, one vote. This was not only a commitment to the abolition of the property franchise and plural voting but also to redressing the gross imbalance between population and the distribution of parliamentary representation.

Over the years, there have been a number of people in Australian politics who have led the fight for one vote, one value, and the most prominent of those is undoubtedly Whitlam. He has stood like colossus in the fight for one vote, one value for almost 50 years, and I am pleased that more recently it has been the Western Australian Attorney General, Mr Jim McGinty, who has taken on the conservatives—this hidebound lot on the other side of the chamber—on this important matter. As early as 1955, Gough Whitlam saw one of the principal functions of parliament as being ‘to redistribute and equalise liberty’. He took it as ‘axiomatic that parliament must be flawed as an instrument for equality if it itself was based on inequality’. He described the fight for equal representation as his ‘longest campaign’. His comments of 1955 have as much relevance today as they did then.

Comparisons with similar democratic countries such as the United Kingdom, India, France, the United States and Canada support the proposition that electoral equality is regarded as an essential feature of representative democracy. Whilst there are different constitutional and parliamentary structures in the United States and Canada, decisions by the supreme courts of both of those countries provide legal and practical guidance as to how the requirements of one vote, one value can be satisfied in Australia. I agree with the strong words of former Chief Justice of the US Supreme Court Earl Warren who in 1964 said this:

... the right of suffrage can be denied by a dilution of the weight of a citizen’s vote just as effectively as by wholly prohibiting the free exercise of the franchise.

The fact that an individual lives here or there is not a legitimate reason for overweighting or diluting the efficacy of his vote. The complexities of societies and civilisations change, often with amazing rapidity. A nation once primarily rural in character becomes predominantly urban. Representation schemes once fair and equitable become archaic and outdated, but the basic principle of representative government remains and must remain unchanged. The weight of a citizen’s vote cannot be made to depend on where he lives. Population is, of necessity, the starting point for consideration and the controlling criterion for
judgment in legislative apportionment controversy.

The historic words of former Chief Justice Earl Warren were delivered in the 1964 landmark case of Reynolds v. Sims. One vote, one value was introduced in the United States for all federal, state and municipal selections and elections by that landmark decision of the Supreme Court in the early 1960s.

One vote, one value was introduced for elections in the Australian House of Representatives when a joint sitting of the House of Representatives and the Senate passed the Representation Act in August 1974, and the High Court upheld the act in McKellar’s case in February 1977. So although malapportionment was a common feature of early Australian electoral systems, today, thanks to the Labor Party, every Australian parliament has now legislated for the principle of electoral equality. The only true exceptions, of course, are both houses of the West Australian parliament. They stand as exceptions because of the rank and blatant hypocrisy of the conservatives—the Liberal and National parties—on the democratic principle of one vote, one value.

The opposition strongly supports the principle behind the bill that Senator Murray is proposing, because we believe that Australia’s electoral system should be consistent with international standards such as article 25 of the International Covenant on Civil and Political Rights, which was signed by Australia on 18 December 1972 and ratified on 13 August 1980. Senator Murray’s bill proposes to implement article 25 of the International Covenant on Civil and Political Rights so that elections for state legislatures shall be by equal suffrage. While the principle of one vote, one value is relatively simple, drafting a bill like this is not an easy task. I hope Senator Murray would agree with that.

Senator Murray—I do!

Senator FAULKNER—It is a very difficult task and it is particularly difficult without the resources of government. I congratulate Senator Murray on persevering with this bill and this important principle. I want to assure him and the Senate that the Labor Party strongly supports his broad objective. Having said that, I want to say that we do recognise a number of flaws in the bill as it stands. The matters of concern to the Labor Party include issues such as whether references to ‘a house of parliament of a state’ mean both houses in those states with bicameral parliaments, because, as it stands, I think the intention is ambiguous. I think that ambiguity is compounded by the wording ‘shall be directly chosen by the people of the state voting in electorates as nearly equal in size as possible’. An interpretation of that could be that a state could not use state-wide electorates, as occurs in the New South Wales and South Australian Legislative Council elections.

It is unclear how the proposed model in Senator Murray’s bill would cope with the existing situation in the Australian Capital Territory. There are three electorates in the ACT, two electing five members and one electing seven members. I must say that the words in the bill ‘not varying by more than 15 per cent from the quota’ does raise the question of how equal this makes voting. Senator Murray might deal with this issue in reply. I am not clear on why the deviation figure of 15 per cent is proposed, rather than 10 per cent. Ten per cent is the current deviation figure under Commonwealth law, as I think senators are aware. The Labor Party strongly believes that the maximum figure should be 10 per cent.

I think there may be a number of constitutional issues arising from the bill, the most prominent of these being the question of the
Commonwealth parliament’s power to make electoral laws binding upon the states. Cases decided by the High Court have established that the existence of states, state constitutions and state laws were preserved by the Constitution and, under the Constitution, they are recognised as independent bodies politic governed by their own constitution acts. They have also established that a Commonwealth law that affects the machinery of government of a state may offend the implied federal limitation that prevents the Commonwealth from interfering with the independence of the states. It is therefore possible that legislation based on the external affairs power, albeit an incorporation of a fundamental human right such as that in article 25 of the ICCPR, would be unsuccessful in changing the constitutional relationship between the Commonwealth and the states. But we have only to refer to Senator Lightfoot—we have absolute expertise in him in relation to these matters! He seems to know the answers to these questions. Not only that but he can predict outcomes from the High Court! That is useful for the Senate, I think—

Senator Murray—And he knows who is going to run Iraq as well!

Senator Faulkner—Yes, he knows that too! I think you would agree, Senator Murray, that it is a great benefit to have somebody like Senator Lightfoot here! As I said, if we check out the lunar calendar, I think some of these questions might be answered! The principle of one vote, one value is too important a principle for us to get this wrong in implementing the legislation. I believe we have an obligation to do this and do it properly.

In the view of the opposition, the best way to do this is to refer the bill to the Senate Legal and Constitutional References Committee. I am sure that the committee will receive submissions from eminent lawyers and others whose input will greatly assist the parliament’s consideration of this important matter. I think that is the best way to get this bill absolutely right and I think Senator Murray agrees that it is a sensible way for us to proceed on this very important issue. I think it is the best way to enshrine the very important principle of one vote, one value. Therefore, I move:

Omit all words after “That”, substitute:
“the bill be referred to the Legal and Constitutional References Committee for inquiry and report by 30 October 2003”.

I commend that approach to the Senate. But I state again the Labor Party’s absolutely strong and resolute commitment to the principle of one vote, one value and to getting the objective of this sort of legislation agreed to, because it is important. I am glad it has been brought on for debate and I am happy to see it progressed in this way.

Senator Brown (Tasmania)  (5.52 p.m.)—I am very pleased to be giving a short submission to this debate on the State Elections (One Vote, One Value) Bill 2001 [2002] because I too stand very strongly for the principle of one person, one vote, one value. Senators here might recollect that very recently I moved a motion in this house to have that principle applied to global democracy, and only the Greens supported it on that occasion. That said, we are dealing here with important legislation from Senator Murray, and it inherently has my support because it is based on the fundamental principle of democracy that all people are equal and therefore it follows that all votes are equal.

Because I was brought up in the bush, I was brought up seeing a weighting for sectional interests, but it became very clear to me that those sectional interests very often meant a weighting towards the wealthy
rather than towards the people in the bush as such.

Senator Boswell interjecting—

Senator BROWN—This debate about loading in the bush came long before the debate about the Indigenous people of Australia, but I think they also warrant—and have always warranted—being part of the universal human norm, which is for one person, one vote, one value. If I am not wrong, Senator Murray has based his legislation on the universal political rights of people, as it has come from the United Nations.

That said, I note that in Western Australia this has been a matter of controversy. The Greens supported the government’s legislation to move towards but not completing the job of making one person, one vote, one value. It was held up in the upper house because the Labor government moved to give the President a deliberative vote on top of a casting vote. The important legal advice that the Greens have is that had the President of the upper house in Western Australia cast his vote at the important moment when the votes ended up 17 to 16 it would then have been 18 to 16 and the legislation would have passed the upper house. However, that vote was not used by the President, if I am right, because it was thought that under the 1890s arrangement for the Legislative Council he did not have a vote. But the legal advice is that where the Constitution comes into play the President did have that vote, and had the President cast that vote this legislation would have passed. The Greens were not in favour of a position which gave an equally elected member of an upper house two votes as against the other members’ one vote. I understand that matter has been referred elsewhere.

Senator Faulkner—It was referred to Senator Lightfoot.

Senator BROWN—Thank you, Senator Faulkner, for mentioning Senator Lightfoot. I would suggest to Senator Lightfoot two things: firstly, he understand that once you start to move away from the principle of one person, one vote, one value there is no other line; you open the way to electoral abuse and gerrymander. Secondly, he would do well to read resolution P6 of the standing orders of this place which says clearly that you must not put pressure on any senator making a deliberation on how to discuss a matter or how to vote on a matter.

I will be supporting the amendment of Senator Faulkner. It is important legislation that Senator Murray has brought forward; we do need to know that it is right. One thing that does concern me is that, because of the limited private members’ time in the Senate, there may not be the will to allow this legislation to get through later this year or early next year.

Senator Faulkner—That is why we are better off sending it to a committee so that we can say—

Senator BROWN—It does not prevent the filibuster being brought in to prevent the legislation at a later stage from simply not getting—

Senator Faulkner—The opposition will not be filibustering it.

Senator BROWN—But the government might—and that concerns me. It is good legislation and it warrants being looked at by the committee and the committee receiving input. I will be very interested to see the outcome of that inquiry and then to help proceed with this legislation which, as I understand it, applies to all states and territories—not just Western Australia. The only one cavil I might have with it is the 15 per cent component. I would have thought 10 per cent is far enough elasticity when you are dealing with the latitude that there ought to be in
determining how big and how small electorates are.

Finally, there is one thing that is really remiss in Western Australia—it is remiss in this parliament and all the mainland state parliaments as well—and that is, if you are going to really value people’s votes, you have to have proportional representation; otherwise, as we saw in the last Western Australian election, big slabs of people who voted for the Greens, for the Democrats and for One Nation have no representation in parliament, and that is a very big section of the voting public. And the single member electorate system—the winner takes all system—robs people of their democratic right and the weighting of their vote. If the Gallop government really wants to look at an area which is manifestly robbing voters of their value when they happen to be voting for minor parties in the house of government, then they have to bring in legislation for proportional representation in the Western Australian parliament.

The only parliaments that have got that right as far as the house of government is concerned are those in Tasmania under the Hare-Clark system—thank goodness for Andrew Inglis Clark, who we Tasmanians think penned the Constitution, who saw that the Hare-Clark system came in by about 1908—and the ACT, which has followed suit. New Zealand now has proportional representation of a different sort. It is high time we had that applying to our houses of parliament here.

Senator MURRAY (Western Australia) (5.59 p.m.)—Mr Acting Deputy President you can advise me, but I think this debate ends soon, doesn’t it?

The ACTING DEPUTY PRESIDENT (Senator Watson)—It ends at 6 p.m., in approximately 45 seconds.

Senator MURRAY—I therefore seek leave to continue my remarks.

The ACTING DEPUTY PRESIDENT—I am advised that you do not have to seek leave. You have 30 seconds to make some concluding remarks.

Senator MURRAY—The only thing I will say in the short time that I have is that the State Elections (One Vote, One Value) Bill 2001 [2002] was introduced before the last election and neither the Liberal Party nor the National Party refused me preferences, although both knew fully about the bill and we had discussions about it. So it just exposes Senator Lightfoot as a straw man.

The ACTING DEPUTY PRESIDENT—Order! The time allotted for the consideration of general business having expired, the Senate will proceed to the consideration of government documents.

DOCUMENTS Consideration

The following orders of the day relating to government documents were considered:

Housing Assistance Act 1996—Report for 2000-2001 on the operation of the 1999 Commonwealth-State Housing Agreement. Motion of the Leader of the Australian Democrats (Senator Bartlett) to take note of document agreed to.

Higher education—Report for the 2003-05 triennium. Motion of Senator Bartlett to take note of document agreed to.

Advance to the Finance Minister—Statement for March and April 2003—Motion of Senator Ludwig to take note of document agreed to.

Advance to the Finance Minister—Supporting applications for funds for March and April 2003—Motion of Senator Ludwig to take note of document agreed to.

Advance to the Finance Minister—Statement for May 2003—Motion of Senator Ludwig to take note of document agreed to.

Advance to the Finance Minister—Supporting applications for funds for May—
Motion of Senator Ludwig to take note of document agreed to.

General business orders of the day Nos 3-15 and 20 relating to government documents were called on but no motion was moved.

COMMITTEES

Environment, Communications, Information Technology and the Arts Legislation Committee

Membership

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

Senator BOSWELL (Queensland)—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (6.01 p.m.)—by leave—I move:

That Senator Humphries replace Senator Tchen on the Environment, Communications, Information Technology and the Arts Legislation Committee for the committee’s inquiry into the Communications Legislation Amendment Bill (No. 2) 2003 on 5 September 2003

Question agreed to.

DOCUMENTS

Consideration

The following orders of the day relating to committee reports and government responses were considered:


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 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 agreed to.

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 38 of 2002-03—Performance audit—Referrals, assessments and approvals under the Environment Protection and Biodiversity Conservation Act 1999. Motion of the Leader of the Australian Democrats (Senator Bartlett) to take note of document agreed to.

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 agreed to.

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 of Senator Bartlett to take note of document agreed to.

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 of Senator Stephens to take note of document agreed to.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! There being no further consideration of documents, I propose the question:

That the Senate do now adjourn.

Clinical Cell Culture

Senator EGGLESTON (Western Australia) (6.04 p.m.)—Tonight I would like to say a few words about an innovative Western
Australia company, Clinical Cell Culture, known as C3, and about an inspirational woman, Dr Fiona Wood.

Senator Boswell—Adult cells, I hope.

Senator EGGLESTON—Indeed, Senator Boswell, and I assure you that they are not in any way stem cells. Clinical Cell Culture, although not a household name, has come to public attention in recent months as a result of the bombings in Bali which caused such horrific burn injuries to those holiday-makers and others unfortunate enough to be in the proximity of the blast zone. Revolutionary skin replacement products developed by Clinical Cell Culture were used in the treatment of quite a number of the bombing victims at the Royal Perth Hospital.

I first became acquainted with C3, as it is called, in 2001 when I was approached to assist the company to arrange meetings with various ministers and their staff in Canberra. I was subsequently shown around the company’s headquarters in Technology Park, Bentley and came away impressed by the enthusiasm and dedication of the staff and the innovative nature of the products they were developing. C3 was founded in 1999 by Dr Fiona Wood, the company’s chief medical officer and executive director, and Ms Marie Stoner, the company’s chief scientific officer and also an executive director. As well as being involved with Clinical Cell Culture, Dr Wood is a consultant plastic surgeon at the Royal Perth Hospital, Director of the Burns Services of Western Australia as well as being a mother of six children in her spare time.

The company and Dr Wood have been the subject of media interest, particularly since the Bali events. Recently Dr Wood was featured in the 21 June edition of the Weekend Australian magazine. According to one newspaper article, Dr Wood is described by colleagues as a forceful, dynamic and energetic woman. Having met her myself, I can attest to the truth of those comments. Clinical Cell Culture has set out its vision: To become a world leader in the development of tissue engineered cellular products and set international standards in tissue repair and reconstruction and regeneration with the aim of improving patients’ quality of life with minimal scarring.

The C3 company has developed a spray-on skin called CellSpray for the treatment of major burns and scarring. A small biopsy of skin is taken from the patient—about the size of a 20c coin—which is cultured and cells are grown, which are then resprayed onto the wound. CellSpray can be used by itself or for deeper burns in combination with skin grafts. CellSpray has a number of advantages over conventional treatments, particularly in the speed of treatment, lessening the risk of scarring. Cultured skin sheets can take up to 21 days to grow, which is the conventional way of providing grafts, but with CellSpray skin cells can be grown and then sprayed directly on the wound in as little as five days. According to the company, this time saving is crucial because to avoid significant scarring it is important to apply the skin graft within 10 days of injury. Dr Wood says that, if a wound heals in 10 days you have a four per cent chance of significant scarring. If it takes 21 days that scarring risk goes up to 75 per cent plus. Scarring does not just have a cosmetic or psychological impact; if it is severe enough it can restrict normal movement and mobility. Dr Wood’s focus is on reducing scarring. She has said:

I believe that the treatment that we use does reduce scarring ... I want people to regenerate, not repair.

She further said:

I would say there is no such thing as an acceptable scar. The aim for us is to develop technology that leaves patients scar-free. That’s our Holy Grail.
Because it is in a spray form, CellSpray is easily applied. An application over a large burn can take only minutes rather than the time consuming task of applying sheets of skin in surgery, which is the conventional way of treating such large burns. As well as reducing scarring, spray-on skin allows for shorter hospital stays and less follow-up surgery. Clinical Cell Culture has developed an express version of CellSpray, called CellSpray XP, for the treatment of less extensive wounds, where cells can be harvested in as little as 48 hours after the initial biopsy. This means that the patient can be treated within days of injury, improving the chances of an optimal outcome. C3 has said that, despite the efforts of other, large companies trying to reproduce CellSpray technology, the company is not aware of any product capable of duplicating the speed, cell yields or reliability of C3’s CellSpray. It is a tribute to these people who have developed such advanced technology in Australia.

In addition to CellSpray, Clinical Cell Culture is working on another product called ReCell which, unfortunately, is not yet commercially available. ReCell has been successfully used to treat a wide variety of skin defects, including small acute burns, laser resurfacing, vitiligo and other hypopigmentation diseases, scar revision and thick skin, such as on the sole of the feet or the palm of the hand. It is expected that the major use of ReCell will be to improve the outcome of plastic and cosmetic surgery procedures. The first product developed by the company C3, CellRepair, consists of skin sheets that can be delivered after only 14 to 15 days, compared with the 18 to 20 days that most of their competitors have been able to achieve so far.

More than 1,600 procedures have been carried out with products developed by C3. The company says that CellSpray has been used to treat approximately 1,250 burns patients, predominantly in Australia and New Zealand but also in the UK, South Africa and Malaysia. An example of the use of spray-on skin has been to treat the face of a 13-year-old girl in England who, as a toddler, was burned in an accident. Products developed by the company were also, as I said earlier, used to treat more than 25 of the victims of the terrorist explosions in Bali. Those victims have done very well with the use of C3’s products, with very little or minimal scarring in most cases.

From an Australian industry point of view, the products developed by C3 possess a significant export potential, particularly in light of the growing number of plastic and cosmetic procedures performed worldwide each year, but developing this export market has been hampered by the need to obtain regulatory approvals. The company is focusing on getting regulatory approvals for CellSpray in Germany, Austria, Switzerland, France, the United States and Japan.

The company’s ground-breaking work has been aided by a number of the Howard government initiatives and programs. For example, in April this year, Clinical Cell Culture was awarded a grant of more than $150,000 under the Biotechnology Innovation Fund to assist its research activities. In addition, the company has received more than $140,000 in research and development rebates and in excess of $130,000 in export rebates in this financial year.

In conclusion, Clinical Cell Culture is an example of an innovative Western Australian company that is making a positive difference to the health and wellbeing of Australians, whose products possess a significant export potential and will make a great deal of difference to burns victims around the world. I would like to extend the company my best wishes in its endeavours.
Parliamentarians’ Entitlements:

Health: Queensland

Senator McLUCAS (Queensland) (6.13 p.m.)—I rise tonight to provide the Senate with information on what I believe is a blatant misuse of taxpayer entitlements by Liberal and National Party members in North Queensland and, through that, their attempts to divert attention away from the Howard government’s cut of $1 billion from the Commonwealth-state health agreements. Mr Lindsay, the member for Herbert, Mr Entsch, the member for Leichhardt, and Mrs De-Anne Kelly, the member for Dawson, have all had a history of misusing their electoral entitlements for party political campaigning. In the lead-up to the last election Mr Lindsay spent $279,794 of taxpayers’ funds on direct mail and advertising. Mrs Kelly spent $238,000 on direct mail and advertising, paid for by the taxpayers of Australia. The Auditor-General’s reports show that on average, in the same period, MPs spent $37,000.

I have to say that these members of parliament have form when it comes to spending taxpayers’ money on ensuring their own re-election. In the same period, Mr Entsch used his entitlement to send a letter to constituents in the electorate of Leichhardt to ask them to work on his campaign and to donate money to the Liberal Party. That, in my view, is a clear breach of entitlements. I have to say that it was not surprising that once again, in my mailbox in Cairns and in friends’ mailboxes in Mackay and Townsville, we have more literature coming from these members that (1) in no way tells constituents the truth but (2) is funded from constituents’ own pockets.

In the past two months we have seen that these MPs spent, according to my calculations, tens of thousands of taxpayers’ dollars on a mail-out which provides no information to the community and, in fact, provides them with misinformation about the state of the Commonwealth-state health agreements. I understand that amount of money would go very close to employing a couple of nurses in our Queensland hospitals or paying for 4,000 GP consultations, which, given the state of bulk-billing in North Queensland, would have been very useful. But, on top of that, we have got today’s effort, where we have seen in every major daily paper and in the national paper full-page advertisements once again completely misconstruing and refusing to tell the truth to Australians about the state of the Commonwealth-state health agreements. In my assessment, there was easily more than $200,000 spent today telling Australians completely the wrong message.

Yesterday in question time we saw the minister feigning indignation when she was saying how outrageous it was for state premiers to take out advertising to try and explain where the $1 billion would have gone had the Commonwealth agreed to continue to spend the appropriate amount of money for state hospitals. But then we woke up today and saw that the minister has done what she was decrying yesterday. There is no consistency in that argument. The reality is that the states have been forced to communicate with the constituency in the way that they have, mainly due to the sort of misinformation that has been promulgated by people like Mrs Kelly, Mr Lindsay and Mr Entsch—information that has to be corrected.

The letters that were sent out by the three members are very similar and, I have to say, are just not true. Mrs Kelly’s letter—and, as I said, all the others say the same—says:

The Commonwealth government has offered a major hospital funding increase to the Queensland State government.

Let us put the facts on the table. The proposal from the Commonwealth to the states will see a cumulative fall in federal funding
between the years 2003 and 2008 of some $160 million. In the first year, it is a cut of $7 million; in the second, $21 million; in the third, $49 million; in the fourth, $94 million; and, in the fifth year, $158 million. That is what is being offered. That is what the Commonwealth is asking the states to sign up to. It is no wonder that the states are saying, ‘No, thank you.’ If the government has so much money that it can run advertising of the type that has been run today, the states could quite easily say, ‘Let the current agreement stand with the $1 billion that you projected would be put into that agreement, and we will be better off.’ That is the message that needs to go back to the Commonwealth.

I was also very disappointed in some of the reportage of this mail-out. I thought it was quite interesting that the member for Herbert and the member for Leichhardt obviously encouraged their local papers to do a similar type of story. Round 1 of the story is a photograph of the member with a large number of pieces of paper, saying he is going to write to his electorate. That is followed some weeks later with another photograph of the member, with the reply paid letters back from the electorate. In the case of Mr Entsch, he was photographed with the Liberal state candidates for the seats of Barron River and Cairns—which, in my view, simply confirms the political nature of the mail-out. I am astonished, actually, that those Liberal candidates have been duped into standing as a backdrop to Mr Entsch’s political misinformation. I will be interested to see whether the voters of Barron River and Cairns, when it comes time for them to vote at the next state election, will have a view that their Liberal candidates in fact support a cut of $158 million from the Queensland state hospital system. But only time will tell, I suppose.

I would also like to make some comments about the way both the Townsville Bulletin and the Cairns Post reported the information that the members had gleaned from the responses. What they did was list events that had ostensibly occurred in our state hospitals; what they did not allow was the medical professionals that work in those hospitals any opportunity to refute them. Quite outrageous and scandalous allegations were made, and the hospitals were given no opportunity to respond, because these were anonymous allegations. But there was one allegation that I thought needed some sort of correction. Mr Entsch says that a 73-year-old man from Redlynch had been waiting for his new dentures for over three years. The old man from Redlynch should say to Mr Entsch, ‘Why did your government cut the Commonwealth Dental Health Program in 1996?’ That cut meant $399.4 million was taken out of that program. That would have ensured that the gentleman from Redlynch would have received his dentures earlier.

I reiterate that I am very concerned that this sort of reportage does not allow the medical profession to have any opportunity to defend its position. In fact, after it happened the headline in the Townsville Bulletin was: “Hospital mail-out ‘shatters morale’.” Mr Bill Frischman, from the AMA, was very critical of Mr Lindsay’s attack on the medical profession in that town. I commend the Townsville Bulletin for its editorial of 17 June, where it recognised that the purpose of this mail-out is simply to deflect attention from the fact that the Commonwealth is not properly funding the Commonwealth-state health agreements and is trying to sheet home blame to the states. I commend it for recognising that Mr Lindsay was not focusing on federal issues but trying to muddy the waters, to cloud the issue and to deflect attention and, by doing that, attacking our very
sound hospital and the wonderful people
who work there.

Iraq

United Nations Development Fund for
Women Report

Senator PAYNE (New South Wales)
(6.23 p.m.)—Tuesday’s terrorist attack on
the UN headquarters in Iraq that killed, at
today’s count, 20 people and injured 100 of
the mission’s staff has deprived the people
of Iraq of a team of committed professionals
who were focused on no other task but the
restoration of order, good governance and
prosperity to that community. I intended to
speak this evening about the UNIFEM re-
port, *Women War Peace* but this week’s
events cannot go unremarked—not just those
in Iraq but also the heinous murder of 20
innocent people on a bus in Jerusalem, also
on Tuesday this week. Even before this
week’s atrocity in Baghdad a program was in
place to address the improved protection and
security training for humanitarian aid work-
ers by the UN and many NGOs. More spe-
cially trained security officers are being em-
ployed by the UN, the specialised agencies
and NGOs but it is recognised in commen-
tary that the trust fund for the security of UN
personnel and special staff security programs
is underfunded.

Sadly, Tuesday’s attack took the life of
one of the leading lights of the United Na-
tions organisations in the UN’s top envoy in
Iraq, Sergio Vieira de Mello, a gentleman
whom I came to know through numerous
visits to East Timor during the UN transi-
tional administration operation. Mr Vieira de
Mello, a 30-year veteran of many UN peace-
keeping operations, from the Balkans to East
Timor to Africa, was 55 and had also re-
cently been appointed UN High Commis-
sioner for Human Rights. His approach to
Iraq, in making the establishment of full hu-
man rights a major part of his mission there,
mirrored his performance in our region. Hav-
ing had the privilege of observing his work
on the ground, I support the words of the
Minister for Foreign Affairs in the other
place yesterday when he said:
I do not believe that the United Nations’ great
success in East Timor would have been as easily
done—perhaps not done at all—if it had not been
for Sergio de Mello.

In the most tragic way this horrific act high-
lights the need for advance education of a
liberated people about the goals and the prin-
ciples of UN reconstruction forces so as to
improve the safety of those forces within
their host community. What Sergio de Mello
had already done in Iraq was to underline the
importance of promoting and protecting the
human rights of all Iraqis, and of particularly
assuring an equal place for Iraqi women in
all walks of life.

The tragedy of de Mello’s murder is also a
tragedy for the people of Iraq—that he was
not given the chance to assist the people of
that country as he had in East Timor. In his
opening address to a recent human rights
conference in Osaka, in what is now chill-
ingly an even more acute observation, de
Mello said:
We live in a time when many around the world
have profound feelings of insecurity and fear.
There is a sense that no one is safe. This insecu-
rity has been heightened by acts of terrorism that
have affected us all.

It may sometimes feel as if we no longer have any
stable points of reference to chart our way
through the uncertainties of the world. But I am
firmly convinced that a comprehensive strategy
for security can and must be guided by upholding
the rule of law and respecting human rights.

I was reminded of his Osaka speech when I
attended the recent launch of the UNIFEM
report by NSW Governor, Professor Marie
Bashir, on the progress of the world’s
women, entitled *Women War Peace*. I was
particularly reminded of de Mello’s remarks about women in regions of conflict:

Running through all these elements of a human rights approach to insecurity, terrorism and conflict, is the essential role that women play as peacemakers, as breadwinners, as sources of creative ideas. We all know well that it is indeed generally women who, as heads of household, have to pick up the pieces after conflict, and lead their family into a brighter, more optimistic future. Yet, while a disproportionate part of the world’s poor, displaced and exiled are women, they remain underrepresented in public and political life. Women suffer routine violence in the home and marginalization as foreign migrant domestic workers ... violence that takes place in the private sphere, including domestic violence and honor killings, two issues that have darkened the skies ... for too long.

In the time remaining this evening I wish to focus attention on the UN’s Women War Peace report as a very small way of honoring Sergio de Mello’s legacy to human rights, to the status of women and to peace. In October 2000 the UN Security Council unanimously adopted resolution 1325 on women, peace and security, focusing on women’s protection in armed conflict and their central role in conflict prevention, peacekeeping and peace building. The UN called for a report from the Secretary-General.

The Women War Peace report—and its contents are sobering and, in many cases, disturbing—calls for expanding the role of women in field operations and in peacekeeping. In Australia its recommendations are applied in a number of ways but particularly through recruitment and in operations. The most recent examples are the exceptional Australian women of the AFP and the ADF serving in both East Timor and the Solomons. Of the four Australian permanent peacekeeping personnel at UN headquarters, currently two are uniformed women. The experts have also called for coordination within the entire UN system to ensure implementation of commitments made to women, including the strengthening of UN field operations for internally displaced women, gender experts and expertise to be included in all levels and aspects of peace operations, a review of training programs on and approaches to the gender dimensions of conflict resolution and peace building for humanitarian, military and civilian personnel, and UNIFEM to work closely with the Department of Political Affairs to ensure that gender issues are incorporated in peace building and post-conflict reconstruction. UNIFEM has called for systematic monitoring, data collection and communications on the gender dimensions of conflict and post-conflict crises and assistance.

The report also calls for high level and consistent commitment to gender equality and women’s equal representation in peacebuilding activities, including the Secretary-General increasing the number of women in senior positions in peace related functions, the recognition of gender equality in all peace processes, agreements and transitional governance structures and the establishment of a United Nations trust fund for women’s peace building. To empower women in the rebuilding process, the independent experts have called for strengthened protection for women and for measures to address violence against women and gender discrimination in conflict and post-conflict situations, including an international truth and reconciliation commission on violence against women; targeted sanctions against the trafficking of women and girls; psychosocial support and reproductive health services for women affected by conflict to be part of post-conflict reconstruction; all HIV-AIDS programs and funding in conflict situations to address the disproportionate disease burden carried by women; the UNDP to ensure that women’s protection and participation is central to the
design and reform of security sector institutions and policies; the establishment of macroeconomic policies in post-conflict reconstruction that prioritise the fundamentals of the public provision of food, water, sanitation, health and energy, the key sectors in which women provide unpaid labour; and a greater focus on women’s education and training in conflict and post-conflict situations.

It is impossible to open *Women War Peace* and not be overwhelmed by the pictures and the stories it presents—both the literal pictures and the stories contained therein. For example, as a Save the Children worker in Burundi said in relation to HIV in this assessment:

War is a strong ally of HIV. It means we say goodbye to our communities and prevention strategies and we say hello to HIV and AIDS. How this region, and Africa, is expected to deal with this issue in the face of ongoing conflict is a question that remains unanswered. I will read a small extract from the ‘Justice’ chapter of the report about a young woman from Rwanda:

Chantal was living in a UN refugee centre in Goma in the eastern part of the Democratic Republic of the Congo ... when we met her. She was anxious to return to her native Rwanda. At first sight, Chantal could have been any strong young village woman, a farmer from Rwanda’s high, steep hills, who brought her produce to market and carried water and wood for miles. But her face was absolutely blank and her eyes stared ahead as she described her last five years deep in the forests of DRC with a group of ... militia ...

The militia used thousands of women like Chantal, some kidnapped from Rwanda, others from local towns and villages, as human shields, as porters, as sex slaves. “We ate when we went to villages,” Chantal told us. “We walked and walked in the forest. We carried very heavy loads of what we took from their places. Often there was fighting. Every man raped me.”

Most survivors of sexual violence do not talk about it. Chantal was able to tell her story because she felt no risk of stigma or rejection from her husband, family or community; she had already lost everybody ... We doubt very much that Chantal will ever see justice done. She is not likely to receive reparations for the violations she suffered, or to see her perpetrators prosecuted.

The report goes on to discuss her case in some detail. These are the sorts of issues that *Women War Peace* turned at least my attention to. I would like to conclude by making a reference to the photograph at the beginning of the report which depicts a 14-year-old mother and her son in a displaced person’s camp in Freetown in Sierra Leone. The picture is of her holding her son, but she is holding him with her arms because rebel soldiers have chopped off her hands.

**Western Australia: One Vote, One Value**

*Senator WEBBER (Western Australia)*

(6.33 p.m.)—I rise tonight—and this will come as no surprise to some—to discuss the quest for electoral equality in my home state of Western Australia. It seems to me when discussing matters like this that there is never a shortage of politicians who will talk about democratic principles and about our collective love of freedom, liberty and equality and will hold up this country as a society that is worth emulating. And, of course, it is. There are many great things about this country. We managed to become a single country without the need for war. We achieved our independence on the strength of our vision for the future and the maturity we demonstrated in doing so. We are a strong, vibrant nation with the rule of law. Laws govern us, the way we are governed and the rights we enjoy in this society. Some of the fundamental rules are those that relate to the manner in which our representatives are elected to our parliaments. Each state and territory, and the Commonwealth, has laws that deal with electoral matters. On the whole, they are bal-
anced and reasonable. They are models that can be held up to other jurisdictions around the world.

However, at the heart of the Western Australian Electoral Act rests a cancer. This cancer is eating away at our Australian democracy by allowing one person’s vote to have a greater value than the vote of another. Let us be quite clear about the way the system works. For the Legislative Assembly, there are 57 electorates. This is in a state where the WA Electoral Commission says there are 1,200,933 voters. These two figures would lead a reasonable person—one who thinks that a democracy means one vote, one value—to presume that each electorate would have around 21,000 voters. Of course, we would accept that there would be some variation. Normal electoral law would suggest a variation of plus or minus 10 per cent.

If you look at the state electorates, you might be surprised to learn that the Legislative Assembly district of Wanneroo has more than 44,000 voters. The fair model I mentioned earlier would say it should be around 21,000. Some may be interested to know that the electorate with the smallest number of electors is called Eyre. Eyre has 9,443 voters. So, if you live in Wanneroo, you and your 44,000-odd neighbours elect one member to the Legislative Assembly. But, if you live in Eyre, you and your 9,000-odd neighbours elect one member to the Legislative Assembly. All of this is taking place now, in the year 2003. Senators would acknowledge that, by any reasonable measure, this is not one vote, one value. In the case of the people in Wanneroo, it is one vote, one-fifth value. No-one can pretend that the vote of an elector in Wanneroo is equal in value to that of a voter in Eyre. In fact, if we added together the state electorates of Ningaloo, with 10,127 voters, Pilbara, with 10,194 voters, and Burrup, with 10,835 voters with the electorate of Eyre, we still would not reach the same number of electors as the seat of Wanneroo. There are four electorates with a combined total of around 40,000 voters and there is one electorate with a total of 44,000.

The basic problem in Western Australia is that the rules governing the franchise are covered in the Electoral Distribution Act 1947. Let us be clear what that means. In section 6 of the act it says:

(1) The Commissioners shall—
(a) divide the Metropolitan Area into 34 districts; and
(b) divide the area comprising the remainder of the State into 23 districts.

(2) The Commissioners shall make the division of an area mentioned in subsection (1) (a) or (b) into districts in accordance with the principle that the number of enrolled electors comprised in any district in the area must not be more than 15% greater, or more than 15% less, than the quotient obtained by dividing the total number of enrolled electors in the area by the number of districts into which the area is to be divided.

It is not one state divided into 57 equal electorates at all. No; in Western Australia the state is divided in two. There is a metropolitan division, which has 34 electorates and 893,961 voters, and there is a non-metropolitan division, which has 23 electorates and 273,411 voters. When we look at the upper house, the Legislative Council, it is even worse. There the act states:

The Commissioners shall divide the State into 6 regions so that—
(a) 3 regions, to be known, respectively, as the North Metropolitan Region, the South Metropolitan Region and the East Metropolitan Region, each consist of complete and contiguous districts that together form the Metropolitan Area;
(b) one region, to be known as the Mining and Pastoral Region, consists of complete and contiguous districts that are remote from the capital and where the land use is primarily for mining and pastoral purposes;
(c) one region, known as the Agricultural Region, consists of complete and contiguous districts that together form an area that is generally south, or south and west, of and adjacent to the Mining and Pastoral Region; and

(d) the remaining region, to be known as the South West Region, consists of complete and contiguous districts.

So there are six regions, two of which elect seven members and the remainder of which elect five members. We get the farce of the following ratio of voters to members of the Legislative Council: east metropolitan region, 54,655 voters per member; south metropolitan region, 50,858 voters per member; north metropolitan region, 52,341 voters per member; mining and pastoral region, 13,756 voters per member; agricultural region, 18,113 voters per member; and south-west region, 22,375 voters per member. So, if you live in the suburbs of Perth, it can take up to four times as many of you to elect a member of the Legislative Council!

What is the justification for all this? Electoral malapportionment is about ensuring that one group gets greater value than another. The name of the organisation that pretends that this farce—this inequality that is apparently reasonable—is the Country Alliance. Who is the Country Alliance? It is none other than the Liberal and National parties in WA. Not brave enough to fight it under their own names, they hide behind the ridiculous conceit of the name ‘Country Alliance’. We are told that people outside Perth need smaller electorates in terms of voters because the distances are vast. We are told that people outside Perth need smaller electorates in terms of voters because their contribution to the state’s economy outweighs that of people inside Perth. It all smacks of the sloganeering from Animal Farm. There it was ‘two legs good, four legs better’; in Western Australia, to have a vote in Perth is good, but to have a vote outside Perth is even better.

Let us take into account the problem of distance. I mentioned earlier that this is one of the reasons given to say that there should be so many seats outside the metropolitan area. But, as with so much else, the devil is in the detail: the seat of Wanneroo, with 44,000 voters, covers 681 square kilometres; another metropolitan seat—Roleystone—has 26,000 voters and covers 1,648 square kilometres. Let us compare that with some of the country seats: Bunbury covers 26 square kilometres and has 13,000 voters; Albany covers 50 square kilometres and has 14,000 voters; Mandurah covers 40 square kilometres and has 14,000 voters; and Mitchell covers 131 square kilometres and has 17,000 voters. This is the essential problem with rorts and gerrymanders: you cannot go around saying that the country areas need more representation because of distance and remoteness—and all the other spurious propositions—if one in five of the country seats is smaller than many of the metropolitan ones.

The way to address these problems of distance is to increase electoral allowances or staffing and other resources. For any of us to pretend that this electoral rort is democratic—and that it is fair—is an insult to the rest of the country. You cannot argue that you are a believer in democracy when you support the WA electoral laws as they currently stand. This is a gerrymander of the worst kind, and it is the worst kind because it can exist within Australia in the 21st century. Every other rort in the state electoral laws is gone. All other states have now legislated for relative electoral equality. There are no more special zones, areas, districts, regions or other nonsensical terms that are designed to cover up electoral advantage. That is what this is: pure and simple electoral advantage. People outside Perth have more value for their one vote than people inside Perth. Clearly, something has to be done to fix this
electoral rort in Western Australia, and I congratulate the WA state government.

Health: Queensland

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (6.43 p.m.)—I wish to pay tribute to the great work that my colleagues in North Queensland, Peter Lindsay, Warren Entsch and De-Anne Kelly, have been doing in highlighting the absolute maladministration of health matters by the Queensland state Labor government. I am delighted that my three colleagues in the north have exposed some of the mismanagement and the political games that this Queensland state Labor government have been involved in. Obviously these three members have been getting in touch with their constituents exposing some of the maladministration in the health system in Queensland—

Senator Patterson—And lies.

Senator IAN MACDONALD—And lies, as Senator Patterson says. I think it is a very good example of why our federal colleagues have to have the ability to make the public aware of the maladministration that is happening in the health system in the state of Queensland. I thought it was a little below the belt of Senator McLucas to be accusing these people for their work in actually representing their constituents.

Senate adjourned at 6.45 p.m.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Immigration: Asylum Seekers**
(Question No. 1495)

**Senator Brown** asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 6 June 2003:

With regard to mail to and from detainees in any Australian (domestic or overseas) centre for asylum seekers:

1. Is there a standard period of time within which mail is delivered: (a) from detainees to Australia Post; and (b) from Australia Post to detainees.

2. (a) Why did a letter take three weeks between receipt in the Woomera detention centre and delivery to an Iranian detainee number POK110 (first name Ibrahim) in the period July to September 2000; and (b) was this man, at any time during this period, in Sierra yard under regular surveillance; if so, why.

3. Do detainees under special surveillance have mail services slowed or any other services altered; if so, can reasons and details be provided in these cases.

**Senator Ellison**—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator’s question:

1. Australian Detention facilities:

   (a) Outgoing mail for detainees is processed every business day (Monday to Friday). Mail is delivered from Australian detention facilities to Australia Post within 24 hours.

   (b) Incoming mail is either collected from Australia Post, or delivered by courier, on every business day. Mail is generally delivered to detainees within a 24-hour period.

   Offshore Processing Centres:

   Australia has no detention facilities overseas, nor does Australia have Immigration detainees outside Australia.

2. (a) Records from the Woomera Immigration Reception Processing Centre have been archived, including any records of mail received by detainees that may or may not have been recorded. The Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) is unable to commit the resources to identify if a letter took three weeks to reach a specific destination. Australasian Correctional Management Pty Ltd at that time had developed procedures concerning mail delivery. Although there is no specified timeframe for delivery of mail, similar to answer (1)(b) mail is generally delivered to detainees within a 24-hour period, unless affected by broader issues concerning the safety and security of a detention facility, or widespread disturbances as happened at the Woomera facility between July and September 2000. Either of these factors may have slowed mail services to detainees.

   (b) Australia has strict privacy rules which permit the disclosure of information held on individuals by DIMIA only in very limited circumstances. While the Privacy Act 1988 prevents me from discussing details relating to the person you have listed in your question, any detainee placed under observation is watched by detention officers, or other specialised staff dependent on case management requirements, to ensure they do not commit an act of self-harm or commit harm to others or to ensure the safety of the detention facility.

3. Mail and medical care to detainees under observation are not affected under any circumstances. However, other amenities for detainees can be disrupted at times.
(a) for practical reasons, for example where equipment or facilities have been destroyed or damaged by detainees; or

(b) in the immediate aftermath of significant disturbances in a detention facility where staff are fully focused on addressing the disturbance.

Access to amenities can be limited where such amenities are being or may be used or abused in such a way as to pose a risk to the safety and security of the detention centre.

DIMIA has a duty of care to all detainees, staff and visitors which means that there may, at times, be limitations on amenities for those not involved in disruptions but this may be important for their own safety.

**Australia Post: General Agreement on Trade in Services**

*(Question No. 1529)*

**Senator Mackay** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 June 2003:

With reference to evidence given by the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union (CEPU) at the Foreign Affairs, Defence and Trade References Committee inquiry hearing into the General Agreement on Trade in Services (GATS) and the Australia-United States Free Trade Agreement, in Melbourne on 9 May 2003, which outlined the possible impact GATS would have on Australia Post if the reserved service was opened up to foreign competition and in which it was stated that Australia Post ‘would have to make a commercial decision about its rates’ (Foreign Affairs, Defence and Trade References Committee Hansard, 9 May 2003, p. 102):

(1) Has Australia Post looked into how possible changes to the reserved service through GATS could affect the rates of postage.

(2) Has Australia Post been briefed as to what action the Government is likely to take concerning GATS and the reserved service.

(3) Does Australia Post agree with the CEPU that the GATS ‘has the potential to lead to the radical reduction or abolition of the reserved service component of Australia Post’s market’.

(4) What is Australia Post’s stance on GATS.

(5) Given that during the 2003-04 Budget estimates hearings of the Environment, Communications, Information Technology and the Arts Legislation Committee, Australia Post, when asked in relation to the Department of Foreign Affairs and Trade discussion paper and the commitments on the supply of small letters whether it was aware of the kind of commitment requested, replied with the answer ‘no’ (QoN 92): Will Australia Post be undertaking, or has it undertaken, to receive clarification from the Government regarding the requests by other nations to Australia concerning small letters; if not, why not.

(6) Given that during the 2003-04 Budget estimates hearing of the Environment, Communications, Information Technology and the Arts Legislation Committee, Australia Post stated that it had provided comments regarding GATS and an earlier discussion paper issued by the department (QoN 92): can a copy of those comments be provided.

**Senator Alston**—The answer to the honourable senator’s question, based on advice received from Australia Post, is as follows:

(1) and (2) As the Government has not indicated, to date, that it is intending to make an offer or request in regard to postal and courier matters in the current round of GATS negotiations, Australia Post has not looked into how possible changes to the reserved service through GATS could impact on the rates of postage.
(3) GATS, in and of itself, can have no such impact. The only change which could occur would be consequential on a decision by the Government to make a particular offer to remove the reserved service. The implementation of any such offer would require specific legislative change and as such would be subject to parliamentary approval.

(4) Australia Post does not have a stance on the GATS. This is a policy matter for the Government.

(5) As stated above, the Government has not indicated an intention to make any offer or request in regard to postal and courier matters in response to any commitment/request placed before it during the GATS negotiating period. On this basis, Post has not felt the need to seek clarification in regard to the detail of particular requests that may have been made by the other GATS participants.

(6) The document in question was tabled as part of a special Estimates hearing of the Senate Committee for Environment, Communication, Information Technology and the Arts in Melbourne on 16 August 2002.

**Immigration: Woomera Detention Centre**

(Question No. 1614)

**Senator Brown** asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 10 July 2003:

1. Why were two Muslim women kept in the Sierra compound with more than 30 men after the riots at the Woomera detention centre in 2000.

2. Was it known to any officer, including the centre manager Mr Jim Meakins, that either woman was distressed by this situation.

3. How did the centre management respond to staff requests for the women to be separately imprisoned; if the requests were refused, why.

**Senator Ellison**—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator’s question:

1. Two women were accommodated in the Sierra compound following the August 2000 disturbances. One woman was part of a family who demanded the transfer of the whole family unit to Sierra compound. A second woman was accommodated in a room next to her adult son.

2. No. Both women were accommodated either with or adjacent to male family members.

3. There are no prisoners in immigration detention. The occupants in immigration facilities are detainees in administrative detention.

   No records are available on specific staff requests to relocate the women. Both women were accommodated in Sierra compound at their own request. Detainee requests for alternate accommodation arrangements are generally facilitated where it is in the detainee’s best interests, regardless of staff requests. The wellbeing of any detainee, including specific requests by detainees or staff, is taken into consideration when accommodation arrangements are made for a detainee.

   Both women had open access to visit the main compound while they were accommodated in Sierra compound and were free to relocate to another compound at any time.

**Trade: Imports**

(Question No. 1618)

**Senator Brown** asked the Minister representing the Minister for Trade, upon notice, on 11 July 2003:
Is it legitimate for ornaments and other goods that are imported from China to be made from dog or cat skins or fur?

**Senator Hill**—The Minister for Trade has provided the following answer to the honourable senator’s question:

The issue of cat and dog fur products involves the portfolio interests of a number of Ministers. The Government is examining options to address the issue.

**Defence: Somerton Storage Depot**

(Question No. 1673)

**Senator Chris Evans** asked the Minister for Defence, upon notice, on 28 July 2003:

With reference to the sale of the former storage depot at Somerton in Victoria:

1. When was the decision taken to sell the depot at Somerton.
2. When was this sale advertised.
3. When was the property sold.
4. What was the sale price.
5. (a) Who managed the sale process; and (b) how much were they paid.
6. How was the sale for this property conducted.
7. Is it normal to offer property for sale on more than one type of contract.
8. (a) Why were ‘conditional’ bids allowed; and (b) what were the nature of the outstanding issues with the sale that allowed the use of conditional bids.
9. Who took the decision to allow conditional/unconditional bids.
10. How many bids were received.
11. Which organisations and/or individuals submitted bids.
12. How many conditional/unconditional offers were there.
13. What was the range of bids for the property on the conditional/unconditional contracts.
14. (a) Why did Defence choose to accept the bid from Peet and Co.; and (b) was the bid from Peet and Co. the lowest bid received.
15. On what basis did Defence choose to accept the lowest bid.
16. (a) Who took the decision to accept bid by Peet and Co.; for example, was the decision taken within Defence or by the Minister or the Parliamentary Secretary; and (b) when was this decision taken.
17. How long did Defence expect the outstanding issues would take to be resolved.
18. What was the most likely outcome of this matter.
19. Why did Defence not wait until the outstanding issues were resolved.
20. Would Defence have received a higher price for the property if it had waited until the outstanding issues were resolved.
21. Did Defence accept the unconditional bid from Peet and Co. so that the sale could be processed in the 2002-03 financial year.

**Senator Hill**—The answer to the honourable senator’s question is as follows:

1. The Somerton Property was declared surplus in September 2001. The decision to sell the Depot at Somerton was taken in the context of the 02-03 Budget.
2. 10 February 2003.
(3) 28 April 2003. The sale occurs when the contract of sale from the approved tenderer is executed by the delegate, therefore effecting exchange of contracts.

(4) The sale price is Commercial-In-Confidence until the title transfer has been registered.

(5) (a) Knight Frank, Melbourne, managed the sale process
    (b) $59,000 including GST (excluding advertising costs).

(6) Through a public tender process.

(7) In accordance with standard practice, the property was offered on one type of contract. In this case, there were two contract options, that is, two copies of the contract were issued, one containing the conditional clause.

(8) (a) Conditional bids were allowed so that Defence could try to capture the full value of the property given the Commonwealth’s inability to rezone the property. The tender documents provided for the submission of a tender for the unconditional purchase of the whole property, and/or purchase of the whole property conditional upon approval of inclusion of the site in the Urban Growth Boundary by the Minister for Planning.
    (b) The outstanding issues with the site are related to the release of Melbourne 2030: Planning for Sustainable Growth (October 2002), which provides a strategic framework for the development of the Melbourne metropolitan area. Two key issues from this document that relate to the Somerton site are the newly established interim urban growth boundary (within which residential development may occur) and the protection of “green wedges” on the fringe of the Melbourne metropolitan area where residential development may not occur. The Somerton site was identified as being part of the “green wedge” even though planning for its development as a residential estate had been underway for some years.

With the support of the Hume City Council, Defence identified the Somerton site as an area suitable for future residential land use development. Under the provisions of Melbourne 2030 Defence provided a submission to the Victorian Government Department of Infrastructure for relocation of the interim urban growth boundary to include the Somerton site within the urban growth area. Hume City Council continues to support Defence with its application.

(9) Assistant Secretary Strategic Planning and Estate Development approved the Tender Evaluation Plan.

(10) Thirteen.

(11) The names of the organisations/individuals is Commercial-In-Confidence.

(12) There were 6 conditional and 3 unconditional offers, with the remaining four bids being letters of interest that could not be evaluated in the tender process due to the lack of information provided.

(13) The range of bids is Commercial-In-Confidence.

(14) (a) In accordance with the Tender Evaluation Plan, as it was identified as the best value, low risk bid and met the over-riding objective to maximise sale proceeds on a risk-adjusted basis.
    (b) No.

(15) Defence did not choose to accept the lowest bid.

(16) (a) The decision was taken within Defence by Head Infrastructure.
    (b) 28 April 2003.

(17) Defence expect it to be at least two years before a decision is made regarding the relocation of the Urban Growth Boundary to include the Somerton site.

(18) The Victorian Government Department of Infrastructure has not released any advice on potential outcomes of individual submissions.
(19) Victorian planning laws prevent Defence from rezoning land while in Commonwealth ownership. Therefore, Defence could not make the sale conditional upon rezoning or wait until the rezoning issues were resolved.

(20) The valuation undertaken prior to the sale indicated that the sale of the site following its inclusion in the Urban Growth area might have yielded a higher price. However, the risk and uncertainty associated with waiting for these outstanding issues to be resolved were too high in direct comparison with the possible higher price.

(21) Yes, although the decision to accept the unconditional bid from Peet and Co. was also consistent with Defence’s objective to maximise sale proceeds on a risk-adjusted basis. Government’s requirement for settlement of the property within the current financial year was one of a number of evaluation criteria taken into account in the assessment of tenders.

Defence: Point Nepean

(Question No. 1679)

Senator Allison asked the Minister for Defence, upon notice, on 30 July 2003:

With reference to Defence land at Point Nepean:

(1) Is the Minister aware that the old quarantine station includes the original cemetery where around 68 passengers from the Ticonderoga and 33 people from other ships, were buried between 1852 and 1854 (and that a second cemetery, known as Point Nepean cemetery, was established in 1854 and is outside the boundaries of the land being sold, within the Mornington National Park).

(2) Is the Minister aware that markers on the graves were largely weathered away and in the early 1950s army personnel cleaned up the site, demolishing the fence marking the cemetery boundaries.

(3) Is the Minister aware that a few bones dug up during the construction of a drain through the site and remaining monuments were removed in the 1950s to the second cemetery.

(4) Why is special permission now needed to visit the original cemetery.

(5) What is the current status of the original cemetery in terms of heritage protection.

(6) What protection will be afforded to this site from development or other use when under private ownership.

(7) Will the Government consider placing a covenant on this or any other heritage sites.

(8) Are there any precedents for the department selling off historic cemetery sites.

(9) Other than the monument to the dead installed in 2002 outside the estimated boundary of the original cemetery and paid for by the ‘Friends of Quarantine’ and descendants of families with links to the cemetery: (a) what does the Government intend to do to preserve the important history of the site; and (b) will the descendants of those early settlers be consulted about any such proposals.

(10) Was there an archaeological survey done on the cemetery site during the public consultation period in 2002.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) Yes.

(2) Studies on the site in 2002 and early 2003 identified that the extent of works undertaken at the original cemetery is the subject of some conflicting evidence. Historical research indicates that the Army completed some works in the area in the 1950s. Earlier work was undertaken as erosion of the foreshore areas was affecting the original cemetery.

(3) Yes, although the construction of a drain through the site is known only anecdotally.
(4) Currently permission is required to enter the entire site, not only the original cemetery, due to restoration works being undertaken on the site. The control of access to the site is for safety reasons, and is standard practice for all Defence sites in view of the liability the Commonwealth has for all persons entering their sites.

(5) A number of Australian Heritage Commission Register of the National Estate listings apply to the site, including the Quarantine Station site, affording protection of the cemetery and any other site of historical significance on the Quarantine Station site.

No places on the site are listed in the Victorian Heritage Register. This is consistent with Commonwealth ownership of the land and the conventions that are followed with regard to State legislation and controls over areas of Commonwealth interest. The entire site is identified in the Shire of Mornington Peninsula Planning Scheme’s Schedule to the HeritageOverlay. The entire site is also classified as a cultural landscape by the National Trust of Australia (Victoria).

(6) and (7) Once the site passes into private ownership, the jurisdiction of the State and Local Government Acts will apply to the site. This includes the State’s Heritage Act, which provides for the protection and conservation of built structures, shipwrecks, archaeological sites and portable relics. The site is also subject to a Heritage Overlay under the Shire of Mornington Peninsula Planning Scheme.

The Government is considering further protections which it will apply upon divestment.

(8) None that the department is aware of.

(9) (a) Refer to part (6).

(b) A program of consultation was undertaken during the development of the Community Master Plan in 2002 and early 2003. The descendants of early settlers were, along with any other member of the public or interest group, able to provide comment and input to this process.

(10) A historic archaeological desktop investigation was undertaken as part of the technical status report for the site throughout the public consultation and master planning process in 2002.

Trade: Zimbabwe

(Question No. 1682)

Senator Brown asked the Minister representing the Minister for Trade, upon notice, on 1 August 2003:

(1) Has Australia implemented trade sanctions against Zimbabwe; if so, when and with what effect.

Senator Hill—The Minister for Trade has provided the following answer to the honourable senator’s question:

(1) Australia implemented a set of targeted sanctions against Zimbabwe on 13 October 2002 to influence the current government to return to good governance and the rule of law, while avoiding harm to the people of Zimbabwe. The specific trade related measures included in the sanctions relate to a prohibition on the sale of defence items.