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SITTING DAYS—2003

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
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<tbody>
<tr>
<td>February</td>
<td>4, 5, 6</td>
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<tr>
<td>March</td>
<td>3, 4, 5, 6, 18, 19, 20, 24, 25, 26, 27</td>
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<td>May</td>
<td>13, 14, 15</td>
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<td>June</td>
<td>16, 17, 18, 19, 23, 24, 25, 26</td>
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<td>August</td>
<td>11, 12, 13, 14, 18, 19, 20, 21</td>
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<td>September</td>
<td>8, 9, 10, 11, 15, 16, 17, 18</td>
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<td>October</td>
<td>7, 8, 9, 13, 14, 15, 16, 27, 28, 29, 30</td>
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<td>November</td>
<td>3, 4, 24, 25, 26, 27</td>
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<td>December</td>
<td>1, 2, 3, 4</td>
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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on the following Parliamentary and News Network radio stations, in the areas identified.

- **Canberra**: 1440 AM
- **Sydney**: 630 AM
- **Newcastle**: 1458 AM
- **Brisbane**: 936 AM
- **Melbourne**: 1026 AM
- **Adelaide**: 972 AM
- **Perth**: 585 AM
- **Hobart**: 729 AM
- **Darwin**: 102.5 FM
FORTIETH PARLIAMENT
FIRST SESSION—SIXTH PERIOD

Governor-General

His Excellency Major-General Michael Jeffery, Companion in the Order of Australia,
Commander of the Royal Victorian Order, Military Cross

Senate Officeholders

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

Senate Party Leaders

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

Printed by authority of the Senate
<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
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<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>Tas</td>
<td>30.6.2005</td>
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(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
(2) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Warwick Raymond Parer, resigned.
(3) Chosen by the Parliament of South Australia to fill a casual vacancy vice John Woodley, resigned.
(4) Chosen by the Parliament of Queensland to fill a casual vacancy vice John Andrew Quirke, resigned.
(5) Appointed by the Governor of Tasmania to fill a casual vacancy vice Hon. Brian Francis Gibson AM, resigned.
(6) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. John Joseph Herron, resigned.
(7) Chosen by the Legislative Assembly of the Australian Capital Territory to fill a casual vacancy vice Hon. Margaret Reid, resigned.

PARTY ABBREVIATIONS

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

Heads of Parliamentary Departments

Clerk of the Senate—H. Evans
Clerk of the House of Representatives—I.C. Harris
Departmental Secretary, Parliamentary Library—J.W. Templeton
Departmental Secretary, Parliamentary Reporting Staff—J.W. Templeton
Departmental Secretary, Joint House Department—M.W. Bolton
HOWARD MINISTRY

Prime Minister

Minister for Transport and Regional Services and Deputy Prime Minister

Treasurer

Minister for Trade

Minister for Foreign Affairs

Minister for Defence and Leader of the Government in the Senate

Minister for Finance and Administration and Deputy Leader of the Government in the Senate

Minister for Health and Ageing and Leader of the House

Attorney-General

Minister for the Environment and Heritage and Vice-President of the Executive Council

Minister for Communications, Information Technology and the Arts

Minister for Agriculture, Fisheries and Forestry

Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation

Minister for Education, Science and Training

Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women

Minister for Industry, Tourism and Resources

Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service

(The above ministers constitute the cabinet)
<table>
<thead>
<tr>
<th>Position</th>
<th>Minister</th>
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</thead>
<tbody>
<tr>
<td>Minister for Justice and Customs</td>
<td>Senator the Hon. Christopher Martin Ellison</td>
</tr>
<tr>
<td>Minister for Fisheries, Forestry and Conservation</td>
<td>Senator the Hon. Ian Douglas Macdonald</td>
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<tr>
<td>Minister for the Arts and Sport</td>
<td>Senator the Hon. Charles Roderick Kemp</td>
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<td>Minister for Small Business and Tourism</td>
<td>The Hon. Joseph Benedict Hockey MP</td>
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<td>Minister for Science and Deputy Leader of the House</td>
<td>The Hon. Peter John McGauran MP</td>
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<td>Minister for Local Government, Territories and Roads and Manager of</td>
<td>Senator the Hon. Ian Campbell</td>
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<td>Government Business in the Senate</td>
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<tr>
<td>Minister for Children and Youth Affairs</td>
<td>The Hon. Lawrence James Anthony MP</td>
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<td>Minister for Employment Services and Minister Assisting the Minister</td>
<td>The Hon. Malcolm Thomas Brough MP</td>
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<td>Special Minister of State</td>
<td>Senator the Hon. Eric Abetz</td>
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<tr>
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<td>The Hon. Danna Sue Vale MP</td>
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<td>Minister for Revenue and Assistant Treasurer</td>
<td>Senator the Hon. Helen Lloyd Coonan</td>
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<td>Minister for Ageing</td>
<td>The Hon. Julie Isabel Bishop MP</td>
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<tr>
<td>Minister for Citizenship and Multicultural Affairs and Minister</td>
<td>The Hon. Gary Douglas Hardgrave MP</td>
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<td>Assisting the Prime Minister</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon. Jacqueline Marie Kelly MP</td>
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<td>The Hon. De-Anne Margaret Kelly</td>
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<td>Services and Parliamentary Secretary to the Minister for Trade</td>
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<td>Parliamentary Secretary to the Treasurer</td>
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SHADOW MINISTRY

Leader of the Opposition
The Hon. Simon Findlay Crean MP

Deputy Leader of the Opposition and Shadow
Minister for Employment, Education and
Training and Science
Jennifer Louise Macklin MP

Leader of the Opposition in the Senate, Shadow
Special Minister of State and Shadow Minister
for Home Affairs
Senator the Hon. John Philip Faulkner

Deputy Leader of the Opposition in the Senate and
Shadow Minister for Trade, Corporate
Governance, Financial Services and Small
Business
Senator Stephen Michael Conroy

Shadow Minister for Employment Services and
Training
Anthony Norman Albanese MP

Shadow Minister for Veterans’ Affairs and
Shadow Minister for Customs
Senator Thomas Mark Bishop

Shadow Minister for Children and Youth
Senator Jacinta Mary Ann Collins

Shadow Minister for Industry, Innovation, Science
and Research and Shadow Minister for the
Public Service
Senator Kim John Carr

Shadow Assistant Treasurer
David Alexander Cox MP

Shadow Minister for Ageing and Seniors,
Assisting the Shadow Minister for Disabilities
Annette Louise Ellis MP

Shadow Minister for Workplace Relations
Craig Anthony Emerson MP

Shadow Minister for Defence
Senator Christopher Vaughan Evans

Shadow Minister for Citizenship and Multicultural
Affairs
Laurence Donald Thomas Ferguson MP

Shadow Minister for Urban and Regional
Development and Shadow Minister for
Transport and Infrastructure
Martin John Ferguson MP

Shadow Minister for Resources and Shadow
Minister for Tourism
Joel Andrew Fitzgibbon MP

Shadow Minister for Health and Deputy Manager
of Opposition Business
Julia Eileen Gillard MP

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

Shadow Treasurer and Manager of Opposition
Business
Mark William Latham MP

Shadow Minister for Information Technology,
Shadow Minister for Sport and Shadow Minister
for the Arts
Senator Kate Alexandra Lundy

Shadow Attorney-General and Shadow Minister
for Justice and Community Security
Robert Bruce McClelland MP
SHADOW MINISTRY—continued

Shadow Minister for Cabinet and Finance and Shadow Minister for Reconciliation and Indigenous Affairs
Robert Francis McMullan MP

Shadow Minister for Heritage and Territories
Daryl Melham MP

Shadow Minister for Primary Industries
Senator Kerry William Kelso O’Brien

Shadow Minister for Regional Services, Shadow Minister for Local Government and Shadow Minister for Housing
Gavan Michael O’Connor MP

Shadow Minister for Population and Immigration and Assisting the Leader on the Status of Women
Nicola Louise Roxon MP

Shadow Minister for Foreign Affairs
Kevin Michael Rudd MP

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

Shadow Minister for Family and Community Services
Wayne Maxwell Swan MP

Shadow Minister for Communications
Lindsay James Tanner MP

Shadow Minister for Sustainability and the Environment
Kelvin John Thomson MP

Parliamentary Secretary (Manufacturing Industries)
Senator George Campbell

Parliamentary Secretary (Defence)
The Hon. Graham John Edwards MP

Parliamentary Secretary (Family and Community Services)
Senator Michael George Forshaw

Parliamentary Secretary (Sustainability and the Environment) and Parliamentary Secretary (Heritage)
Kirsten Fiona Livermore MP

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

Parliamentary Secretary (Leader of the Opposition)
John Paul Murphy MP

Parliamentary Secretary (Communications)
Michelle Anne O’Byrne MP

Parliamentary Secretary (Primary Industries)
Peter Sid Sidebottom MP

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

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

TUESDAY, 7 OCTOBER

Business—
Consideration of Legislation ........................................................................................ 15655
Superannuation (Surcharge Rate Reduction) Amendment Bill 2003,
Superannuation (Government Co-contribution for Low Income Earners) Bill 2003 and
Superannuation (Government Co-contribution for Low Income Earners) (Consequential
Amendments) Bill 2003—
In Committee................................................................................................................ 15656
Third Reading............................................................................................................... 15672
Sex Discrimination Amendment (Pregnancy and Work) Bill 2002—
Consideration of House of Representatives Message................................................... 15672
Ministerial Arrangements ............................................................................................ 15676
Questions Without Notice—
  Trade: Live Animal Exports ......................................................................................... 15676
  Economy: Performance ................................................................................................ 15678
  Trade: Live Animal Exports ......................................................................................... 15679
  Economy: Performance ................................................................................................ 15680
  Trade: Live Animal Exports ......................................................................................... 15681
  Death Penalty ............................................................................................................... 15682
  Insurance: Medical Indemnity...................................................................................... 15683
Distinguished Visitors........................................................................................................ 15685
Questions Without Notice—
  Health: Human Cloning................................................................................................ 15685
  Trade: Live Animal Exports ......................................................................................... 15686
  Roads: Western Australia............................................................................................ 15687
  Health: Australian Medical Association ....................................................................... 15689
Questions Without Notice: Additional Answers—
  Trade: Live Animal Exports ......................................................................................... 15690
  World Trade Organisation ............................................................................................ 15690
Answers to Questions on Notice—
  Question No. 1642 ........................................................................................................ 15691
Questions Without Notice: Take Note of Answers—
  Trade: Live Animal Exports ......................................................................................... 15691
  Health: Human Cloning ............................................................................................... 15697
Personal Explanations ..................................................................................................... 15698
Petitions—
  Trade: Live Animal Exports ......................................................................................... 15699
  Medicare....................................................................................................................... 15699
  Medicare....................................................................................................................... 15699
  Medicare....................................................................................................................... 15699
  Medicare....................................................................................................................... 15700
  Medicare....................................................................................................................... 15700
  Trade: Live Animal Exports ......................................................................................... 15700
Notices—
  Presentation .................................................................................................................. 15701
Committees—
  Environment, Communications, Information Technology and the Arts Legislation
  Committee—Extension of Time ....................................................................................... 15708
Leave of Absence ........................................................................................................... 15708
## CONTENTS—continued

**Committees**—
- Rural and Regional Affairs and Transport Legislation Committee—Extension of Time ................................................................. 15708
- Economics Legislation Committee—Meeting .......................................................... 15709

**Notices**—
- Postponement ............................................................................................................. 15709

**Iraq**—
- Suspension of Standing Orders .................................................................................. 15709
- Censure Motion ........................................................................................................... 15710

**Committees**—
- Superannuation Committee—Report: Government Response ................................... 15735

**Documents**—
- Tabling .......................................................................................................................... 15738
- Auditor-General’s Reports—Report No. 7 of 2003-04 .................................................. 15738
- Tabling .......................................................................................................................... 15739
- Auditor-General’s Reports ............................................................................................. 15739

**Committees**—
- Foreign Affairs, Defence and Trade Legislation Committee—Membership ................. 15739

**Migration Legislation Amendment (Identification and Authentication) Bill 2003** .... 15739

**Statistics Legislation Amendment Bill 2003**—
- First Reading .................................................................................................................. 15739
- Second Reading ............................................................................................................. 15740

**Bills Returned from the House of Representatives** ....................................................... 15743

**Australian Protective Service Amendment Bill 2003**—
- Report of Legal and Constitutional Legislation Committee ....................................... 15744

**Sex Discrimination Amendment (Pregnancy and Work) Bill 2002**—
- Consideration of House of Representatives Message .................................................. 15744

**Business**—
- Rearrangement ............................................................................................................. 15744

**Crimes (Overseas) Amendment Bill 2003**—
- Second Reading ............................................................................................................. 15744

**Documents**—
- Tabling .......................................................................................................................... 15752
- Tabling .......................................................................................................................... 15752

**Questions on Notice**—
- Taxation: Investment Projects—(Question No. 388) ...................................................... 15754
- Taxation: Active Cattle Project and Australian Tea Tree Oil Research Institute—
  (Question No. 450) ......................................................................................................... 15754
- Taxation: Infrastructure Borrowings—(Question No. 451) ............................................. 15755
- Taxation: Rulings and Determinations—(Question No. 1014) ....................................... 15755
- Taxation: Investment Projects—(Question No. 1036) .................................................... 15756
- Gippsland Electorate: Programs and Grants—(Question No. 1119) ............................. 15758
- Taxation: Investment Projects—(Question No. 1340) .................................................... 15758
- Taxation: Investment Projects—(Question No. 1341) .................................................... 15759
- Taxation: Mass Marketed Schemes—(Question No. 1342) ............................................. 15760
- Taxation: Mass Marketed Schemes—(Question No. 1343) ............................................. 15762
- Agriculture: Dairy Australia Ltd—(Question No. 1366) ............................................... 15763
- Veterans: Legal Aid—(Question No. 1463) .................................................................... 15764
CONTENTS—continued

Defence: Aircraft Charters—(Question No. 1502) .......................................................... 15771
Telstra: Cable Air Pressure Program—(Question No. 1534)........................................ 15775
Telstra: Aged and Disability Services—(Question No. 1537) ....................................... 15778
Telstra: Resources—(Question No. 1538) .................................................................... 15779
Telstra: FuturEdge—(Question No. 1539) ..................................................................... 15784
Telstra: Cable Network—(Question No. 1541) ............................................................. 15785
Telstra: Pay Phones—(Question No. 1543) ................................................................... 15787
Telstra: Cable Joints—(Question No. 1547) .................................................................. 15788
Taxation: Mass Marketed Schemes—(Question No. 1548) .......................................... 15790
Taxation: Mass Marketed Schemes—(Question No. 1549) .......................................... 15791
Taxation: Mass Marketed Schemes—(Question No. 1558) .......................................... 15792
Taxation: Mass Marketed Schemes—(Question No. 1559) .......................................... 15792
Communications, Information Technology and the Arts: Senior Executive Service—
(Question No. 1571) ................................................................................................. 15793
Taxation: Mass Marketed Schemes—(Question No. 1594) .......................................... 15793
Solomon Islands: Regional Assistance Mission—(Question No. 1660) .................... 15794
Manildra Group of Companies—(Question No. 1693) ................................................. 15795
Attorney-General’s: Programmers—(Question No. 1752) ........................................... 15796
Attorney-General’s: Community Legal Services Information System—(Question No. 1753) ................................................................................................. 15796
Environment: Greenhouse Gas Emissions—(Question Nos 1758 and 1759) .......... 15798
Environment: Mandatory Renewable Energy Target Scheme—(Question Nos 1760
and 1761) .................................................................................................................... 15802
Environment: Mandatory Renewable Energy Target Scheme—(Question No. 1763) 15803
Environment: Mandatory Renewable Energy Target Scheme—(Question No. 1764) 15804
Environment: Photovoltaic Energy—(Question Nos 1765 and 1766) ....................... 15804
Legal and Constitutional References Committee: Australian Republic Inquiry—
(Question No. 1773) ................................................................................................. 15805
Australian Broadcasting Corporation: Redundancies—(Question No. 1774) ............ 15806
Australian Broadcasting Corporation: Redundancies—(Question No. 1775) ............ 15806
Australian Broadcasting Corporation: Redundancies—(Question No. 1776) ............ 15806
Australian Broadcasting Corporation: Redundancies—(Question No. 1777) ............ 15807
Australian Broadcasting Corporation: Redundancies—(Question No. 1778) ............ 15807
Australian Broadcasting Corporation: Redundancies—(Question No. 1779) ............ 15808
Australian Broadcasting Corporation: Redundancies—(Question No. 1780) ............ 15808
Australian Broadcasting Corporation: Redundancies—(Question No. 1783) ......... 15809
Office of the Status of Women: Appointments—(Question No. 1790) .......... 15811
Health Insurance: Premiums—(Question No. 1799) .................................................... 15812
Defence: Coastal Surveillance—(Question No. 1802) ................................................... 15813
Health Insurance: Ancillary Benefits—(Question No. 1807) ........................................ 15813
Medicare: Bulk-Billing—(Question No. 1811) ............................................................ 15815
Telstra: Forensic Scientific and Investigation Group Report—(Question No. 1822) ... 15824
Health: Human Research Ethics Committees—(Question No. 1825) ....................... 15824
Environment: Grey-Headed Flying Fox—(Question No. 1833) ................................. 15825
Sydney Harbour Federation Trust—(Question No. 1834) ............................................ 15826
Johns, Mr Gary: Fulbright Scholarship—(Question No. 1839) ....................................... 15828
Civil Aviation Safety Authority: Regulations—(Question No. 1939) ....................... 15829
Minister for Health and Ageing—(Question No. 1956) .............................................. 15830
Proposed Department of Parliamentary Services: Secretary—(Question No. 2144) ... 15830
Tuesday, 7 October 2003

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

BUSINESS

Consideration of Legislation

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (12.31 p.m.)—by leave—

I move the motion as amended:

That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

- Crimes (Overseas) Amendment Bill 2003
- Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003
- Taxation Laws Amendment Bill (No. 8) 2003

Senator BROWN (Tasmania) (12.32 p.m.)—Despite the fact that a number of bills have been taken off this list by the Manager of Government Business in the Senate, we still have included the Crimes (Overseas) Amendment Bill 2003, and I note from the list that has gone around that there will be four speakers on that bill. I point out that no committee has considered that bill and there has been no widespread consultation, as there ought to be, with the community, including the legal community. It is a far-reaching bill. It in effect extends Australian law to Australians who are serving the country overseas in various ways at the expense of the domestic law in whichever country they may be serving. For example, it will cover Australian personnel working in Iraq so that if they commit a crime while in Iraq they will be brought to justice under Australian law rather than Iraqi law. There are good arguments for and against that, but this bill is quite a deal wider than the New Zealand equivalent, which extends, in the case of that country, to personnel from New Zealand in the Solomon Islands. But behind it is the whole matter of the jurisdiction of countries that have a controlling interest, for one reason or another, over domestic countries and who may get into trouble and then their law becomes supreme over that country’s domestic law.

Where is the international debate about this? What are the United Nations’s norms on this? Why is it that under this legislation we suddenly are going to cover the whole world instead of just the Solomon Islands and/or Iraq? These are matters that we ought to be hearing a debate on. There should be a Senate inquiry, and there should be reference to international experts on the matter. Instead of that, we are getting the cut-off here, the bill being brought in and debated this afternoon, the bill passing and its becoming law. I think that is a wholly inefficient way of dealing with an extremely important piece of legislation like this. It has very great ramifications in international law as well as our domestic law. It is on that basis that the Greens are opposing this cut-off motion. It simply denies the Senate both the right and the obligation to adequately confer with the experts in the field on this matter.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (12.35 p.m.)—It is within the Senate’s capacity to send any bill to a committee. We have the Selection of Bills Committee process, as you, Mr President, would know from your own experience as the chairman of that committee for many years. Any senator can initiate the reference of a bill to a committee through that process. It is virtually automatic if you do that. If you cannot get it through there, you bring it to the floor of the chamber. I think anyone who stands up in the Senate and says that a bill cannot get proper scrutiny when it comes to the Senate—
Senator Brown—I’m saying it hasn’t had proper scrutiny.

Senator IAN CAMPBELL—There is no reason why this bill could not have had more scrutiny if someone had sought it. I am not sure, because I do not have the information at my fingertips, but I understand that no senator sought that this bill be referred to a committee. If Senator Brown, after consideration of it, after the selection of bills meeting and after all of the processes of the parliament, has decided that it should go to a committee, he has obviously woken up to it a bit late, but no other senator has shown any interest in having this bill referred to a committee.

Not every bill goes to a committee. Back in the old days, in the nineties, in the last millennium, I think—and I am speaking off the top of my head—something like 15 per cent of bills used to go to committees. I think that about 30 per cent now do. That is a good thing for the scrutiny of legislation by the parliament. It frustrates government sometimes when bills go to committee and take a long time to come back, but the reality is that good committee consideration of a bill is good for the legislation. It usually picks up things that the government, bureaucrats and draftspersons have not picked up, and it generally can improve bills. It allows the community, as Senator Brown has said, to have a say on legislation. So it is a good process, but not every bill needs to go to a committee. Roughly, 30 per cent of bills do; 70 per cent of them do not. This one has fallen into the 70 per cent category. And, of course, when it gets into the parliament, it can have proper scrutiny through the committee stage here. I commend my motion to the Senate.

Question agreed to.

SUPERANNUATION (SURCHARGE RATE REDUCTION) AMENDMENT BILL 2003
SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) BILL 2003
SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) (CONSEQUENTIAL AMENDMENTS) BILL 2003

In Committee

Consideration resumed from 18 September.

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

The CHAIRMAN—The committee is considering the Superannuation (Government Co-contribution for Low Income Earners) Bill 2003 and opposition amendment (3) on sheet 3067 moved by Senator Sherry. The question is that the amendment be agreed to.

Senator SHERRY (Tasmania) (12.38 p.m.)—I think we were heading to the vote last time we were debating this amendment, so I do not have any further comments to make.

Question agreed to.

Bill, as amended, agreed to, subject to requests.

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

Bill—by leave—taken as a whole.

Senator CHERRY (Queensland) (12.39 p.m.)—by leave—I move Democrat amendments (1) to (6) on sheet 3090 revised and amendment (1) on sheet 3105:

(1) Schedule 1, page 3 (after line 7), before item 1, insert:
1A  Section 6 (after the definition of demerging entity)
   Insert:
   dependant in relation to a person includes the spouse, partner, any child of the person or any person with whom the person is involved in an interdependency relationship.

(2) Schedule 1, page 3 (after line 7), before item 1, insert:
   1B  Section 6 (after the definition of insurance funds)
   Insert:
   interdependency relationship means a relationship between 2 persons that is acknowledged by both and that involves:
   (a) residing together; and
   (b) being closely interdependent; and
   (c) having a continuing commitment to mutual emotional and financial support.

(3) Schedule 1, page 3 (after line 7), before item 1, insert:
   1C  Section 6 (after the definition of part of a distribution that is franked with a venture capital credit)
   Insert:
   partner, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as the partner of the person.

(4) Schedule 1, page 3 (after line 7), before item 1, insert:
   1D  Section 6 (definition of spouse)
   Repeal the definition, substitute:
   spouse, in relation to a person, means another person who, at the relevant time, was legally married to that person.

(5) Schedule 1, page 4 (after line 20), after item 7, insert:
   7A  Section 995-5 (definition of spouse)
   Repeal the definition, substitute:
   spouse, in relation to a person, means another person who, at the relevant time, was legally married to that person.

(6) Schedule 1, Part 1, page 11 (after line 14), at the end of Part 1, add:
   Superannuation Industry (Supervision) Act 1993
   24A  Subsection 10(1) (definition of dependant)
   Repeal the definition, substitute:
   dependant, in relation to a person, includes the spouse, partner, any child of the person or any person with whom the person is involved in an interdependency relationship.

   24B  Subsection 10(1) (after the definition of insurance funds)
   Insert:
   interdependency relationship means a relationship between 2 persons that is acknowledged by both and that involves:
   (a) residing together; and
   (b) being closely interdependent; and
   (c) having a continuing commitment to mutual emotional and financial support.

   24C  Subsection 10(1)
   Insert:
   partner, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as the partner of the person.

   24D  Subsection 10(1) (definition of spouse)
   Repeal the definition, substitute:
spouse, in relation to a person, means another person who, at the relevant time, was legally married to that person.

24E At the end of subsection 52(2)
Add:
; (i) not to discriminate, in relation to a beneficiary, on the basis of race, colour, sex, sexual preference, transgender status, marital status, family responsibilities, religion, political opinion or social origin.

I note for the record that these amendments are close to identical to amendments also distributed by Senator Brown on sheet 3112. These amendments are very important. They continue the debate that we had in the last sitting fortnight about the importance of recognising a broader definition of 'dependant' and a broader definition of 'spouse' in both superannuation and tax law. These particular amendments go to the heart of the discriminatory provisions in that they deal with not just the Superannuation Industry (Supervision) Act but also the Income Tax Assessment Act.

We raise two issues here. One is the definition of 'spouse', which we dealt with extensively on the last occasion. I would reiterate the very strong view of the Democrats that the definition of 'spouse' in federal superannuation law is archaic and needs to be updated. It has now been updated in all state legislation to ensure that de facto couples, regardless of their sexuality, are given equal treatment, and it is time we do it at the federal level. We have had this debate in this place on 11 previous occasions—in fact, 12 occasions including the last sitting fortnight—and I do not propose to raise it again, but I do believe it is a matter of importance for human rights and I certainly commend these amendments to the chamber.

We also include in these amendments, probably for the first time in the 12 times we have debated these issues in the chamber, a second category of definition, which is the definition of what we call an ‘interdependency relationship’. An interdependency relationship is defined as a relationship between two people that is acknowledged by both and which involves residing together and being closely interdependent and having a continuing commitment to mutual emotional and financial support. This definition is a very important one. It draws on section 238 of the Migration Act, so it is recognising a well-defined area of law at the moment. It picks up not just the area of spouses but also the broader area of family or genuine domestic relationships where there is a genuine commitment to each other, a genuine sharing of financial resources and also a genuine notion of interdependence. That is very important. Under the current superannuation act, under the definition of 'dependant', which is also replicated in section 27AAA of the Income Tax Assessment Act, the issue of dependence has been found by the courts to come down to the issue of not just full financial dependence but partial financial dependence.

So we are getting down to the situation where it has been found in some of the cases that payment of maybe $25 or $35 board a week to another person makes that person dependent on them for the purposes of tax and super law. So we are getting down into an area of picking up some of these very complicated genuine domestic relationships that exist out there. But the whole notion of where there is interdependence, shared financial resources, shared emotional resources and shared living resources is not yet picked up under the act. The Democrats come from the fundamental point of view that we do not believe that tax law or super law should ultimately dictate who you can and cannot leave your death benefits to and whether or not those death benefits should be
taxed. I hope at some stage the government will consider this fairly fundamental issue on its merits—the notion of whether tax law should dictate which types of relationships, which types of families, which types of households are respected for the purpose of superannuation law and which types of death benefits are or are not taxed for the purposes of tax law.

This definition at least will include and broaden out that area of partial financial dependency, which is currently reflected under the tax law, and take it out to include interdependency, which includes people who have made a decision to share their resources and their lives with each other. It may not be spouses living together, but it covers situations of mothers and sons living together, brothers living together and very old friends living together who have chosen to make a commitment of financially and emotionally supporting each other. Under migration law this area has been well established. It has resulted in a great deal of fairness and equity being added into migration law in this country. I certainly commend these provisions to the chamber.

I acknowledge that, if these amendments were passed, regulations would need to be established, as exist under the Migration Act, to broaden out what these definitions apply to. It is a very important area. I come back to my fundamental point that, if the government believes in providing more choice in superannuation, choice should extend to not just what happens to your super when you are alive but what happens to your super when you are dead. If the government is fundamentally opposed to death duties, as it has said in many leaflets criticising the Democrats over many years, then it should also start raising the question as to why certain death benefits of superannuation are taxed and why some are not. This amendment tries to get to the bottom of that by taking out the notion of partial dependency, which is currently recognised at law, to include interdependency. It is an important amendment. It is an important advance. I hope that, on this particular occasion, we will eventually get government support for it.

Senator GREIG (Western Australia) (12.44 p.m.)—I rise to speak in favour of the amendments moved by Senator Cherry. I would like to revisit briefly part of the debate we were having in this broad area when we last sat on 18 September 2003. Later that day when I returned to my office I received the following email, which I would like to read with the sender’s consent. I was contacted by Mr Bruce Baker, who is President of Boutique Financial Planning Principals Groups Inc., which he notes is a small AFS licensees association. We were debating at the time the notion raised in part by Senator Harradine that perhaps one way to deal with this would be for superannuants to leave their moneys to a will. Mr Baker raised the following points with me, and he makes a good point which has not been covered in much of the discussion we have had so far. His email says:

While driving yesterday, I heard (on NewsRadio) part of the discussion regarding how a person who is a member of a super fund might make arrangements for their dependants in the event of this person’s death. He is referring to me when he says ‘you’. I heard part of what you had to say.

I had the impression there was a belief that a person’s Will could direct a super fund trustee to pay superannuation death benefits to the person of their choice (as long as they were a dependant as defined under the SIS Act). This is not so—for 99.99% of super funds. In the vast bulk of cases, a Will might record the member’s wishes but does not have the force of law to compel the super fund trustee to comply.

In the vast majority of cases, a member may nominate a death beneficiary, but the trustee has
discretion (after taking the member’s wishes—and the needs of other beneficiaries into account) as to whom the benefit is paid. This is quite problematic and can readily lead to death benefits being paid to others than those intended—in a range of circumstances. Trustees’ discretion in this matter has also led to a range of complaints to the Superannuation Complaints Tribunal.

To try to deal with this problem, the SIS Act was amended a few years ago to allow a fund to offer a binding death benefit nomination—to increase the certainty as to whom death benefits were paid. However, this still leaves 2 problematic issues:

* First a large proportion of superannuation funds do not offer binding death benefit nominations.
* Second, a binding death benefit nomination lapses if not refreshed every 3 years. If the super fund member suffers dementia (i.e. legal incompetence) during these 3 years, he/she cannot refresh their death benefit nomination—and it lapses—and the death benefit may (depending on the trust deed of the fund) revert to trustees discretion.

and the death benefit may (depending on the trust deed of the fund) revert to trustees discretion. Clearly the people to whom binding death benefit nominations are most important (older people) are also the people most likely to suffer dementia. This is a very serious weakness in the SIS Act. If a Will does not lapse after 3 years if not refreshed, a binding death benefit nomination should not lapse after 3 years if not refreshed. Wills and Binding Death Benefit Nominations are very similar instruments—so there should be similar rules—to help reduce the confusion that the public has about these matters—and to just be consistent.

I would appreciate it if you could raise this issue in the Senate.

And I am pleased to have done so. In the context of that email, obviously I reiterate my strong desire for this issue to be resolved in the manner the chamber is articulating—three or four different sets of amendments, some of which have been passed and another which we have before us—and to go to the heart of this matter, rather than try to circumvent the issue by trying to, if you like, launder superannuation death benefits through a will. I have already said that there are several problematic reasons with that. Mr Baker has rightly pointed out there are further reasons which I was not conscious of at the time and on which I now have better information. For that reason, the amendments that Senator Cherry is advocating ought to be strongly supported.

Senator BROWN (Tasmania) (12.49 p.m.)—The Australian Greens support these amendments and have some complementary amendments. The committee is dealing with superannuation legislation to which these amendments have been added to eliminate discrimination against same sex and dependant partners in the field of superannuation insofar as we can both in the public sector and the private sector. Labor, the Greens and the Democrats have moved and are moving a series of amendments which, put together, would have that effect. For the reasons that Senator Greig has just outlined and, before him, Senator Cherry, you see quite clearly that leaving the legislation as it is is totally unsatisfactory and discriminatory. For example, if a mother and daughter have depended on each other and lived together for many years in the same household, superannuation going to the daughter will have accrued, but if the daughter were to precede her mother in dying and if the mother did in fact receive the superannuation benefits they would be taxed.

We have been talking about same sex couples who, despite decades together, cannot be assured that when one dies the other will be the beneficiary of superannuation. What they do know is that in that process they may lose 30 per cent of the superannuation in taxation, whereas heterosexual couples do not have that applying to them. So it is very discriminatory. The process in these amendments is basically to bring justice to all citizens who earn and pay for superannuation and want to see the same value come
from their superannuation contributions as would be the case for any other citizen. That is what this suite of amendments would do.

In the two-week period since we last debated this there has been some press speculation that the Democrats are not going to insist on these amendments. It would help if we could have the air cleared on that, because the process we are debating now is an important one. It appears that these amendments will go through. They will go to the House of Representatives. The government is not going to accept them. We will then be in a position where the legislation comes back to the chamber and the chamber has to decide whether it will stand firm on the amendments. It may be that the Democrats have not decided what they will do at that stage, but it would certainly help the process of this legislation if we knew whether a decision had been made on the matter.

I should say that the Democrats have been champions in this field for many years. What has changed is that the Labor Party has changed its past objections to amendments like these and is now supporting them. That has created a difficult position for the Democrats, because they were supporting the government’s package of legislation— influenced and improved by the Democrats—but these amendments have now been added and are a very important third component of it. I would like to know the direction in which we are headed as far as this important component of it is concerned, and I know that many people in the community would as well.

Senator Sherry (Tasmania) (12.53 p.m.)—The Labor Party will be supporting the amendments moved by the Democrats that we are currently considering. I think Senator Brown still has his amendment. We will deal with that shortly. When we debated this issue in the last sitting week I moved an amendment to remove the discriminations that apply to superannuation in respect of same sex couples. I do not want to go back through that debate at any great length, but there are two important issues. One is the important principle of removing discrimination against same sex couples in a range of areas in our society. In order to do that with respect to superannuation, the amendments that we are now considering—and the amendment we have already passed and, indeed, Senator Brown’s amendment—need to be carried.

There is an additional argument with respect to superannuation—that is, superannuation is the individual property of a person. Government does not interfere with the property rights of individuals and to whom they would choose to leave their property in any other circumstance that I can think of. The one area where government—the state—does interfere and attempts to change the wishes of an individual is in respect of superannuation, which is the individual’s own property. That is fundamentally wrong. In moving the amendments successfully in the last sitting week and in supporting the amendments today, Labor has taken the view that, because we have a package—an agreement—between the government and the Democrats, there is at least a reasonable chance that we will be able to progress this issue.

I do not know what the future holds. Senator Brown has asked Senator Cherry to clarify on behalf of the Democrats what they will be doing when the message returns from the House of Representatives. Given the statements on the record by the minister, Senator Coonan, and subsequently in the media following the last sitting fortnight, presumably the government will reject the amendment that Labor successfully moved, the amendment that will be passed here that the Democrats have moved and the amendment that will be passed that Senator Brown
has moved. The government will reject those; there will be a message to the Senate. It would be useful to know what the government’s position and Senator Cherry’s and the Australian Democrats’ position will be.

Secondly, Senator Greig has read an email communication from a financial planner. There was some discussion about at least some of these issues on the last occasion. The binding death benefit is a partial solution. Very few people enter into a binding death benefit with respect to superannuation. I do not have the statistics, though I have tried to find out, but I understand that it is very rare for a person to enter into a binding death benefit with respect to superannuation. Therefore, it is not a solution to argue that people should enter into a binding death benefit. They simply do not do it. Most people do not even know it exists, so it is not a solution.

Senator Greig today has drawn our attention to an issue that we did not discuss on the last occasion, though it was an issue I was aware of. Generally, most people in the community are not aware that their will can be overridden by superannuation trustees whether they are part of a same sex couple or not. The issue has occasionally been raised with me where a will has indicated the property distribution of an individual, and I have found that people in the community are not aware that superannuation trustees do not have to take any notice of the will. Generally, they do. From my discussions of this issue with trustees over the last couple of weeks, I know that they generally follow the will. But they do not have to. In some cases, of course, where they are not legally required to take notice of the will, there can be very debilitating, lengthy and costly legal proceedings involving the superannuation trustees and very difficult disputes where the trustees choose to ignore the wishes of the will—if there is one.

The other process is that, when most Australians join a superannuation fund, they can indicate on the form that goes to the superannuation fund their preferred beneficiary. Again, I have checked this. Apparently, less than half of the Australians who are in a superannuation fund actually nominate a preferred beneficiary and, where they do, they often do not change it afterwards if there are changed circumstances. Generally, Australians do not change the death beneficiary on their superannuation.

Given the amount of moneys in superannuation—that is, the total of the savings, which is increasing over time—and particularly given issues relating to death and disability insurance, this can become a very messy area. It can become an area of significant disputation for not just same sex couples but all people in the community who have superannuation. I am not sure what the answer is, to be frank, for the general community or how to address the difficulties people have if they do not nominate a beneficiary of their superannuation or if they do not have a binding death nomination. I am not sure what the solution to this problem is. However, we are dealing with amendments moved by the Democrats that I think deal conclusively with ending discrimination against same sex couples in respect of their superannuation. As I said, I support them on behalf of the Labor Party. I think it is appropriate that we progress the issue in this area. This is an opportunity to do so on a package of bills we know the government wants. We know the government wants this legislation, and the Democrats obviously want the legislation because they are party to some signed-up document that I have not seen but that the minister has referred to. I hope we can progress this issue.

I notice that some in the media have analysed some comments made by, amongst others, the minister, Senator Coonan, before
she entered the parliament. Those comments are on the public record. I notice there has been some examination of comments made on the public record by some other people, such as Mr Abbott and Dr Nelson. Dr Nelson’s public comments on this issue do not surprise me; I guess I was a little surprised at Mr Abbott’s public utterances on this issue.

Labor is hopeful that we can progress this issue via these amendments. I would hope that, since we last debated the issue two weeks ago, the government has had a change of heart. I would be interested to know from the minister whether this matter has been re-examined in the last fortnight and whether what I think have been convincing arguments and debate in the chamber around this issue have led to a change of attitude by the government. I could ask for the details of the debate that I hope occurred around the cabinet table since the committee last met, and I could ask for an outline of Senator Coonan’s recommendations, Mr Abbott’s position and Dr Nelson’s position—and I am sure there are a number of others who expressed a view—but I would not get it because of cabinet confidentiality. It would have been interesting to have been a fly on the wall in that debate, if it occurred, in cabinet in the last two weeks. Labor will support the amendments before the chair.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (1.03 p.m.)—I rise to put on the record on behalf of all of the Democrats, and to clear up any confusion about it—and there has been some confusion and some misinformation as well about what the Democrats’ approach is to both the issue before the chamber at the moment, the Democrats amendments, and the legislation more broadly—the Democrats’ position on this issue. The amendments before the chamber, as Senator Sherry quite rightly said, clearly and effectively address the discrimination currently faced by same sex couples in aspects of superannuation law. That is only one aspect of the discrimination against same sex couples in many areas of Commonwealth law. As has been acknowledged, the Democrats have been trying for a long time to address that discrimination across the board rather than in bits and pieces. It has been a matter of intense frustration to us as a party that we have not been able to make progress on that through the Senate with either of the major parties. It is therefore significant and welcome that Labor is supporting these and other amendments that address discrimination against same sex couples.

It is worth noting, and I suspect it is not completely irrelevant, that Labor have chosen to support amendments such as these to a bill they do not support. That support is, of course, crucial with respect to their willingness to support these amendments, which deal with discrimination against same sex couples. But it is nonetheless welcome and it signals to the Democrats that there has been—potentially—a change of heart in the ALP, and we will redouble our efforts to move appropriate amendments to other legislation where possible to address discrimination in other areas. I would have to say that superannuation is probably not the largest area where discrimination affects same sex couples. I would say taxation is the biggest, but there are plenty of other areas as well: immigration law, the social security and welfare system, superannuation and other financial areas and the affairs of veterans and defence forces. That is to name just a few areas where there are Public Service rules. I happily signal to the chamber—and it is worth the government noting this in terms of other issues they may wish to progress—that the Democrats will further utilise the potential shift in attitudes of the major parties to try and remove some of this discrimination in a whole range of areas.
To indicate the Democrats’ view on what we will do once the government has considered these amendments, I can simply say—as has been suggested—that we have not decided what we will do if the government decides to insist. At this stage we want to maximise the pressure on the government to not insist, particularly with respect to these amendments. It is worth noting, of course, that the government does change its position, despite what it may say in this chamber or publicly. There is no easier example of that to point to than the significant changes in position in relation to health issues and the area of medical indemnity insurance—an area in which Senator Coonan herself made quite strong and unequivocal statements. The government’s position has changed. That is not a criticism of Senator Coonan. If anything, it is a word of praise that this government is willing to change its view given further reflection, further consideration and further assessment of the political realities and the policy issues. I do not think it is accurate to say that there is no prospect of any change in the government’s attitude. I do not even think it is particularly worth while getting further indications from the minister at the moment about what she or the government may do, because obviously it is a matter for the government to consider more fully once it has the final legislation before it after it has passed through the Senate.

I think the debate should now focus on finalising the legislation and getting it passed through the Senate. We have been debating it for quite a period of time, and I think many people in the community thought it was passed a couple of weeks ago. Of course we still have some matters to deal with, but no doubt we can deal with those today. It is an issue that the Democrats are obviously keen to progress because—unlike the ALP and, as I understand it, the Green party—we do support the significantly amended legislation, including the same sex amendments. It is a significant win for low-income earners—a significant amount of money has been removed from high-income earners and has been dramatically expanded in providing savings assistance to low-income earners. It is not a magic solution to everything, but it is a significant step forward and a significant achievement that the Democrats have managed, and we are keen to see it progress.

It is no secret to anybody in this chamber or in the community that we are also keen to see the issue of the removal of discrimination against same sex couples progressed. We will continue to examine every parliamentary and political opportunity to progress that issue. It is a significant area of injustice in our society, which has been identified for a long period of time but which continues to be resisted at the federal parliamentary level. To get those changes through, of course, we have to get parliamentary approval, and this is a good opportunity for the Senate to try to advance the chances of that outcome.

As I said before—and I signal now to the government and the minister—there are plenty of other bills and issues on the table, some of which the Democrats will be pivotal in enabling or otherwise the passage of. It is an issue which the government will need to continue to confront, particularly if the ALP’s position remains consistent in removing discrimination against same sex couples. Whether or not that approach will continue consistently on bills that the ALP support as opposed to bills the ALP oppose, we shall have to wait and see. But that is part of the unknowns that we will be seeing in the near future in this chamber and that, amongst other things, will determine what the Democrats’ approach will be to the future outcome of this legislation—should the government not agree to the amendments that the chamber makes. But that, as is not uncommon, is an issue to be considered down the track.
rather than predetermining what we will do. It is obviously less than ideal to predetermine what we will do in relation to a particular outcome when there are so many different factors in play and so many potential and possible responses from a variety of players, including not just the government but the opposition.

Senator SHERRY (Tasmania) (1.11 p.m.)—Senator Bartlett—I do not think deliberately—misrepresents our position. We are considering two measures: one is the exclusive tax cut on superannuation for high-income earners. It is an exclusive tax cut that only applies to those Australians whose taxable income is greater than $95,600—I think the figure is. The Labor Party do not support that approach in respect of an exclusive tax cut. We do not support that, Senator Bartlett, and I have said that very consistently over a long period of time.

The second measure, which the Labor Party do support, is the low-income earner co-contribution. We support that because it is an improvement that is reasonably well targeted. I have subjected the minister to a range of questions about who exactly benefits from the measure. While I have some concerns about at least some of those who will benefit from the measure actually being low- or middle-income earners—I think there will be some areas where higher income earners will take advantage—on balance Labor agree with the co-contribution for low-income earners. I might say that this co-contribution proposal is in fact a very much watered-down version of the Labor Party’s proposal of 1995-96. In 1995-96, the Labor Party proposed a co-contribution of three per cent from government and three per cent from the employee for all superannuation fund members—guaranteed.

In 1997, this government dropped that and substituted a so-called ‘savings rebate’ which then was dropped approximately a year later. We were left with nothing. So the chamber is considering today what is a very much watered-down version of what Labor initially proposed. To give you some comparative figures: the Labor Party’s co-contribution of three per cent from the government and three per cent from the employee would have delivered into superannuation for everyone—not one in 10, but for everyone—an additional $4½ billion from government and obviously a matching contribution from employees. That would have meant an additional $9 billion a year in superannuation savings in this country. The Liberal government scrapped that in 1997 and have brought back a very much watered-down version which delivers a benefit for approximately one in 10 of the lower to middle-income earners in this country—approximately one in 10.

Effectively what we have seen is Labor proposing 10 steps forward and the government abandoning that and now taking one step forward. However, the Labor Party is confronted with the reality that the government have bundled together both the exclusive tax cut for high-income earners and the low-income earners co-contribution. That is the government’s call, not the Labor Party’s. They have bundled together two quite different measures. The Labor Party do not agree with an exclusive tax cut for high-income earners, so ultimately we will have to make a call on the package when we have the final vote in the Senate on the measures before us.

In conclusion I want to emphasise that, despite our critical analysis of at least some of the beneficiaries of the low-income earners co-contribution, it is effectively an idea that was advanced by the Labor Party in a much more rigorous and expansive form back in 1996. For that reason, we support it in principle.
Senator BROWN (Tasmania) (1.16 p.m.)—It does seem like the Greens are the only ones who know exactly what they will be doing now and next time, and that is to oppose the legislation, with the exception of supporting the amendments for same sex couples and co-dependent partners regardless. That becomes an important and pre-eminent issue. It will be interesting to hear what the government has to say on the matter. The breakthrough there is absolutely crucial if you are looking for social justice. What we find with the legislation in itself, as Senator Sherry has just been indicating, is that it is very much weighted to high-income earners. Even the copayments at the lower level will be picked up by partnerships in which there is a high-income component more readily than partnerships in which two people are on very low incomes. That being said, it is going to be very important and will set the parameters for a debate going into next year, should the Democrats allow the government to say, ‘Hold on, we will review this matter and at some later time introduce legislation which, in part or in full, gets rid of discrimination against same sex couples and people in co-dependent relationships.’ I can predict that what will happen then is the government will see this as an opportunity to get rid of the spectre of a double dissolution, which it is not all that keen on, to be able to leverage much greater concessions from the Democrats further down the line in return for a much delayed but inevitable change to the law to get rid of discrimination right across the field in Australia. That will be a catch-up not only with the States but with just about every equivalent country in the world in terms of ending discrimination against same sex couples and people who are in co-dependent relationships.

I would advise very strongly against that, because the government will drive an extremely hard bargain. There are a number of bills it wants to get through but which face the hurdle of a double dissolution because they have been set aside by the Senate for being manifestly unfair, in one way or another, as far as the Australian people are concerned. The politics of this is very important. I think people should seize this opportunity. It comes about because the Labor Party has always blocked it before but has now changed direction, as Senator Bartlett said, and decided to come on board with the Greens and Democrats in moving to end discrimination against same sex partners and people in co-dependent relationships. It is an opportunity and it should be taken up and insisted upon by the Senate.

Senator SHERRY (Tasmania) (1.20 p.m.)—I have two questions for the minister, which she may be able to get some advice on, relating to issues that have been raised with me in the last fortnight. They are not in the area of same sex couples. Firstly, I understand that the Superannuation (Government Co-contribution for Low Income Earners) Bill 2003 applies to Norfolk Island. I had a call from someone on Norfolk Island who asked why the surcharge tax reduction bill did not apply to people on Norfolk Island. I know it is a very specific question. I presume the surcharge does not apply on Norfolk Island, but I was asked to confirm whether that is the case because of the unique arrangements that apply to Norfolk Island.

Secondly, in the Treasurer’s announcement of the surplus for the last financial year there was a two-line note announcing that the surcharge tax revenue that was collected had gone up in the last financial year by some $290 million—I think that was the figure. If that is the case, does that mean the tax reduction in the surcharge bill, which we have passed, will cost more? Was that increased revenue taken into account when calculating the costs to budget of the loss of revenue
with the passing of the reduction in the rates for the surcharge tax bill? The circumstances of the increase in tax collection from the surcharge tax in the last financial year may have been unique to that financial year and therefore will have no longer term impact, but it is an issue that has, again, been specifically raised with me in the last week. If the minister is able to provide an answer either now or at some later time, I would be interested to know it.

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (1.22 p.m.)—There are a number of issues that I will very briefly address. Firstly, a number of speakers this afternoon have referred to the need for the government to be flexible. I think the mere fact that we are here debating these bills with some prospect of them getting through either now or later is an indication of the government’s flexibility and determination to concentrate on the policy purpose of these bills, which is, of course, to assist those earners of particularly low incomes to have opportunities to save for their retirement.

In relation to the same sex issues that have taken up a great deal of the debate, what I want to say very clearly is that there does appear—whatever the merits or otherwise of everything that has been said about same sex couples—to be a misunderstanding about the intended operation of these particular bills and their application to same sex couples. I want to place on the record very clearly again that the co-contribution and surcharge measures in the bills only apply to the individual. The bills do not distinguish between eligible individuals in same sex relationships or those in any other relationship. The co-contribution, for example, is just as available to an eligible gay or lesbian person as it is to an eligible married person or an eligible single heterosexual person. The same sex amendments, therefore, have no application to these bills because there is no possible discrimination in respect of the operation of these bills. I think that is the critically differentiating point. The government will honour the agreement it has with the Australian Democrats, which is confined to the subject matter of these bills. I do trust that this has clarified the basis of the government’s decision.

There are a couple of other issues that I will deal with very briefly. I note the couple of issues raised by Senator Sherry. I do believe that Norfolk Island has some unique tax arrangements, and I suspect that that is the basis for the distinguished position in relation to the surcharge, but I will obviously check it. My understanding is that this was probably a one-off in relation to the increased revenue in this year’s budget, but I will also check that. The information I have is that the surcharge revenue outcome was $299 million higher than expected in 2003-04, and the stronger than expected accrual outcome largely reflects a change in the accounting treatment for unfunded liabilities in respect of defined benefit schemes. Previously the liabilities associated with these schemes have not been recognised in the revenue estimates and outcomes. The recognition of unfunded liabilities reflects the change in accrued liabilities for unfunded defined benefit schemes since the introduction of the surcharge. In the 2003-04 year, the change in receivables for the surcharge will only include the change for the year.

That means that the figures in the supplementary explanatory memorandum have not been revised, and no change has occurred to the proportion of benefits flowing to the co-contribution compared to the surcharge rate reduction. It brings me to an earlier point: that the benefits still remain at 66 to 34 in favour of co-contribution, as we earlier put on the record. The figures have been estimated on a cash and not an accrual basis, and
the change in the final budget outcome relates to an accrual basis, not a cash basis. That deals with the figures, but I will check the Norfolk Island issue.

There are a couple of other points that I want to raise. Senator Bartlett quite rightly alluded to the fact that issues to do with same sex relationships are not confined to superannuation. Indeed, it may be one of those areas where there is not so much an issue as perhaps in other areas of the law. If you were to get down to look at this, you would see it obviously requires further work and examination. Obviously, in those circumstances, you could also look at what to do with preferred beneficiaries and binding death benefits but, in any event, the government is not persuaded that changing definitions is an appropriate way to deal with the bills currently under consideration.

Without pre-empting Senator Brown’s amendment, I do just want to say something very briefly about the amendment being moved by Senator Cherry. Senator Cherry is moving an amendment to section 10(1) of the SI(S) Act to amend the definition of ‘dependant’. I simply draw to the Senate’s attention that the Democrats have already supported Senator Sherry’s amendment to the same definition. It certainly would be helpful if we could clarify just what definition the Senate hopes to insert, because otherwise I think we will have a conflict. I raise it in the context of Senator Brown also bringing forward a similar amendment. We want a definition that does not conflict.

Senator CHERRY (Queensland) (1.29 p.m.)—In answer to Minister Coonan’s previous question, the difference between my amendment and Senator Sherry’s amendment is only the addition of the recognition of interdependency relationships. It takes Senator Sherry’s amendment from the last debate and adds words at the end to ensure that the definition of ‘dependant’ picks up the notion of interdependency. I do have a question for the minister about the issue of interdependency generally, and it is about her understanding of the tax treatment of dependants’ superannuation benefits. Is it her understanding that spouses are currently included in the definition of ‘dependant’ for the purposes of the Income Tax Assessment Act and the concessional treatment of taxation?

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (1.30 p.m.)—The answer to that is yes.

Senator GREIG (Western Australia) (1.30 p.m.)—I would like to respond briefly to part of the minister’s contribution a moment ago where she argued—and I am paraphrasing—that this effectively was not the right bill or the appropriate bill to look at same sex couple amendments because it does not deal with relationships. The minister said—and again I am paraphrasing—that this bill does not discriminate against an individual on the basis of their sexuality. I think that is a disingenuous argument. It is not the case. I would make two points here. Firstly, all superannuation bills that come before this chamber are appropriate avenues to try and address this issue. The minister said—in what I took as a disparaging way—that we had debated the issue of same sex couples for some considerable time and at great length on this bill. The reality is that we are going to be debating same sex couple issues until we get a resolution. It is, in my view, the last great human rights movement, following the black civil rights movement and the wave of feminism. Certainly from my perspective—and obviously I have a personal interest—the most outstanding human rights issue in terms of lack of legislation is the way in which we acknowledge lesbian and gay people and their relationships. As a Western democracy, we fall far behind com-
parable jurisdictions in the way we do that. So I would say to the minister: yes, we have debated this at great length, but it is not the end of it, by any means. If it should fail on this occasion then there will be another and another and another. Persistence is what it is all about.

More importantly, the specific point I wanted to make was that it is not the case, in my view, that this bill is not one which ought to be addressed in terms of same sex couple amendments. I would argue that, should it pass, somebody taking advantage of the co-contributions under this scheme, whether they are a low- or high-income earner, may like the opportunity down the track or believe they have the right to leave the benefit they have gained under this scheme to their same sex partner. That is when the discrimination will come into play. This is an opportunity to attach these amendments. It is an opportunity to progress the debate and the issue, and it is a bill to which we ought to be considering these relationship amendments.

It is true, as the minister said, that there are many other areas of discrimination under Commonwealth law, not just quarantine and superannuation. There is similar discrimination in social security, taxation, veterans’ affairs, the Federal Police, immigration and industrial relations. The only opportunity we have to debate all of those things fully, in a comprehensive and holistic way, is with an omnibus bill that deals with that. I remind the Senate again that we Democrats have such a bill and would dearly love Senate time and the opportunity to debate that thoroughly. That has not been the case to date. If the minister is indicating that the government might perhaps offer that opportunity in the future so that we could discuss all of these things in a comprehensive way, to the point of having a thorough debate and a vote on those issues, then I would very much welcome that. But, failing that, the only opportunity for those of us trying to prosecute this human rights agenda is with amendments to piecemeal pieces of legislation, and this is but one of them.

Senator BROWN (Tasmania) (1.34 p.m.)—Senator Greig is absolutely right. The figures are rough, but I want to bring that home. Under this legislation, if a copayment from the government is worth $1,000 with an extra contribution of $1,000 made by a low-income person to her superannuation fund and she wishes to leave that to her same sex partner, that same sex partner, in the event of her death, will get hit with 30 per cent tax. So actually $700 of the copayment, and $700 that the person has put in, will flow over rather than the $1,000. The discrimination that sits there in superannuation law flows into these amendments. The amendments coming from the Greens, Labor and the Democrats reverse that. These amendments, which end discrimination, flow back into superannuation law to get rid of discrimination altogether.

Question agreed to.

Senator BROWN (Tasmania) (1.35 p.m.)—by leave—I move Australian Greens amendments (1), (2) and (3) on sheet 3104:

(1) Schedule 1, page 5 (after line 32), after item 9, insert:

9A Schedule (Form of Trust Deed)

subrule 7(4) (definition of spouse)

Repeal the definition, substitute:

spouse, in relation to a member, means a person who is legally married to the member and includes a person who, although not legally married to the member, ordinarily lives with the member as his or her husband or wife or partner, as the case may be, on a permanent and bona fide basis.
As the minister indicated, these are amendments which go to the matter of adding the definition of ‘partner’ to the definition of ‘spouse’. They are self-explanatory. After the term ‘husband and wife’, where it occurs, the amendment inserts the term ‘partner’. It goes on to say on two occasions:

In spite of anything in this Part, a partner in relation to a person means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as a partner of the person.

You will note that that does take into account co-dependent people—such as mother-daughter, father-son, brother-sister relationships—where superannuation should flow if a person has earned the money and wants it to go to a particular person with whom they are sharing their life but not a sexual relationship. So it is a definition that enforces the understanding that we are talking of here about the right of a person who is a superannuant to pass that superannuation on to a person with whom they have a relationship regardless.

Senator SHERRY (Tasmania) (1.37 p.m.)—As I have already indicated to the chamber on two previous occasions, the opposition supports these amendments. I have one final comment, which I should have mentioned earlier. Senator Brown would be well aware that in Tasmania we have recently had a debate on a package of measures to remove discrimination against same-sex couples. Whilst the total package did not pass, the area of superannuation was absolutely non-contentious. The removal of discrimination against same-sex couples for superannuation purposes in the state public service, where state government law applies, I do not think was even debated. It was accepted broadly by a very conservative upper house. There was no argument or resistance to ending the discrimination in superannua-
tion in the state public sector funds in Tasmania.

I think Tasmania is probably the last state to remove discrimination in superannuation at a state government level. I am not absolutely sure about that. Certainly, I think that almost every other state and territory has removed the discrimination at a state level. As I say, as conservative as our state upper house in Tasmania is—the legislative council is notoriously conservative—the members accepted that it was time to end discrimination in the area that we have under debate here today.

Senator CHERRY (Queensland) (1.39 p.m.)—I rise to confirm that the Democrats will support these amendments.

Question agreed to.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (1.39 p.m.)—by leave—I move government amendments (1) and (2) contained on sheet QG220:

(1) Schedule 1, page 6 (after line 22), after item 13, insert:

13A Section 16 (notes 1, 2, 3 and 4)

Repeal the notes, substitute:

Note 1: Section 61 deals with individuals who request transfer of account balances to RSAs or superannuation funds.

Note 2: Section 65 deals with individuals who retire because of disability.

Note 3: Section 66 deals with individuals who have turned 65.

Note 4: Section 67 deals with individuals who are not Australian residents for income tax purposes etc.

Note 5: Section 67A deals with individuals who have permanently departed from Australia.

Note 6: Section 91E deals with debiting of accounts to recover overpayments of Government co-contributions.

(2) Schedule 1, item 25, page 12 (line 6), omit “2002”, substitute “2003”.

I will be very brief. These amendments include a technical correction and also provide for the deferral of the application of the amendments in the consequential amendments bill. Amendment (2) provides for the deferral of the application of the consequential amendments to other acts that give effect to the co-contribution measure. This date is now 1 July 2003, compared with 1 July 2002. For example, the tax offset that the co-contribution is replacing will now be repealed and will affect contributions on or after 1 July 2003, rather than on 1 July 2002. The other amendment is a technical correction of a previous omission in that it adds further notes to the provisions of the Small Superannuation Accounts Act 1995. I just wanted to make those matters clear.

Senator SHERRY (Tasmania) (1.41 p.m.)—On a very minor matter, and I do not want to hold up the passage of the bills on the basis of the situation that exists on Norfolk Island but—

Senator Coonan—The surcharge and rate reduction apply to Norfolk Island residents. We would not want Senator Sherry sweeping over that.

Question agreed to.

Bill, as amended, agreed to.

Superannuation (Surcharge Rate Reduction) Amendment Bill 2003 and Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003 reported with amendments; Superannuation (Government Co-contribution for Low Income Earners) Bill
2003 reported with amendments and requests for amendments; report adopted.

Third Reading

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (1.42 p.m.)—I move:

That the Superannuation (Surcharge Rate Reduction) Amendment Bill 2003 and the Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003 be now read a third time.

Question agreed to.

Bills read a third time.

SEX DISCRIMINATION AMENDMENT (PREGNANCY AND WORK) BILL 2002

Consideration of House of Representatives Message

Consideration resumed from 11 September.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (1.43 p.m.)—I move:

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

Senator LUDWIG (Queensland) (1.43 p.m.)—That was a short disagreement by the Minister for Revenue and Assistant Treasurer. The opposition are particularly disappointed with the government’s response to the Senate’s amendments. We would have preferred a much better and different outcome for the Australian populace, or perhaps a better explanation as to why those amendments were not accepted by the government.

The amendments moved in the Senate would have demonstrated a genuine commitment on the part of this parliament to ensure that the law gives greater protection to potentially pregnant, pregnant and breastfeeding women. The need for a change to the law was demonstrated by Sex Discrimination Commissioner Susan Halliday, in her role in the 1999 report entitled Pregnant and productive: it’s a right not a privilege to work while pregnant.

For all the Prime Minister’s rhetoric on this issue about work and family, his government shelved that report for 17 months and took more than 2½ years to draw up the legislation. You could hardly argue that this government has embraced policies on work and family; in fact, you could easily draw the conclusion that the government has not embraced the issue and has not seen fit to deal with it in any substantive way. Perhaps what is worse is that the Howard government’s legislation does not expand the operation of the Sex Discrimination Act to give greater protection to potentially pregnant, pregnant or breastfeeding women. The government’s response to that report was less than weak. In the answer provided in the chamber today, I had hoped for a more broad explanation as to why the government has rejected the amendments and why it has decided not to pursue a broader approach on this issue.

The report clearly highlighted the issues, and I addressed them during the second reading contribution that I delivered on behalf of the shadow minister. Unfortunately, though, we ultimately find ourselves in a position of having to support the bill as printed. It is extremely disappointing that this government is not prepared to reconsider its weak response to these serious concerns. We have been placed in this position because of the inability of this government to pick up these work and family issues and progress them. It is acknowledged that the changes to the bill do assist but not to the extent that the report of the then commissioner, Susan Halliday, or the amendments proposed in this Senate could have. On that note, rather than prolong the issue any further, on behalf of the opposition I advise the Senate of our extreme disappointment. The government has again
shown to the broader community a lack of commitment to work and family issues.

Senator STOTT DESPOJA (South Australia) (1.47 p.m.)—Senator Ludwig is correct: it is not only disappointing; it is extraordinarily disappointing. It was bad enough that the Sex Discrimination Amendment (Pregnancy and Work) Bill 2002 was almost a couple of years after the significant recommendations of the Human Rights and Equal Opportunity Commission. Not only were the amendments piecemeal but they were pretty much clarifications of the existing provisions in the act. A number of the recommendations put forward by HREOC in an attempt to alleviate and/or prevent discrimination against women who were pregnant were left out. So we had a piece of legislation that did not do much but did a little bit. Thus, everyone now feels compelled to vote for it because women in the workplace who have faced this sort of discrimination have waited so long for such legislation. The fact that fundamentally important policy suggestions and recommendations put forward by HREOC were left out of this legislation has made aspects of it a joke. That is why we had a detailed, impressive and effective discussion about this legislation. That is why the Australian Democrats and the Australian Labor Party moved amendments that would put into the legislation some of those badly needed changes—that is, the recommendations contained within the HREOC report. That is why the amendments should be insisted upon today but, as I have said, and certainly as Senator Ludwig articulated before me, because this legislation contains such urgent, necessary reform, people feel compelled to let it pass.

When we debated this legislation last time, some of the amendments that were passed by a majority of the Senate included expanding the coverage of the act to federal statutory employees, judicial office-holders and members of parliament; extending the coverage of the act to unpaid workers; extending protection to employees who intend to or are in the process of adopting a child; removing the exemption of religious educational institutions—I acknowledge that that amendment, put forward by the Australian Democrats, was amended by the Labor Party and that that amendment passed the Senate—a provision that set out pregnancy discrimination standards, again with a further amendment by the Labor Party to the Democrat amendment; allowing complaints about discriminatory advertisements to be made notwithstanding that the complainant is not a person directly affected by that advertisement; allowing the Sex Discrimination Commissioner to refer discriminatory awards to the Industrial Relations Commission without the requirement that he or she had received a written complaint; and a change to the bill’s title to read: ‘A bill for an act relating to pregnancy and work and for related purposes’. That is, of course, from the original bill for an ‘Act to amend the Sex Discrimination Act 1984 and for related purposes’.

Beyond that, the Australian Democrats moved—unsuccessfully—a number of amendments that dealt with our ongoing concern that there is no national paid maternity leave scheme in this country, once again making Australia one of two OECD countries that do not have what is a basic work entitlement for its working women, and the impact it has on women in the work force, whether it is in relation to discrimination, people giving up their jobs—women’s largely increasing expertise in the workplace being underutilised because they have to leave their jobs—or indeed deferring having children. Evidence tells us that this is having an impact on fertility rates in Australia, but this government keeps teasing women with the prospect of work and family reform. I
think it is four times now that, publicly, our Prime Minister has teased Australian working women with the notion that they might get an entitlement that other women around the world take for granted, as they should.

Other Democrat amendments that were unsuccessful related to the issue of breastfeeding and the right of women to breastfeed in the workplace. But they would of course need certain entitlements to do so—for example, a place where women could express milk, store milk et cetera. Unfortunately those amendments were not successful. But the ones that were successful and have been rejected by the House of Representatives should be insisted upon. They should have been part of legislative reform not just today but years ago. I think everyone in this chamber knows that, so I still do not quite understand why the government has rejected the amendments. I am not talking about the paltry excuses that have been offered by the House of Representatives today and last time we had this debate.

I think this feeds into a broader debate, a debate that was probably touched on in the last debate that we just had in this chamber on superannuation. That is the fact that this country does not provide for full equality for all people. Equality denied includes equality that is delayed, and we have been delaying these amendments and these much-needed reforms for working women and for pregnant women, just as some people in this chamber very broadly would have the rights of gay and lesbian people denied as part of other debates, but I am sure we will get back to that.

The bill currently only clarifies existing provisions of the Sex Discrimination Act and it ignores changes that would be more meaningfully able to assist Australian women. While the government’s legislation implements only three of the 12 HREOC recommendations relating to the act, our amendments—and I am talking about the Democrat amendments with Labor support or with Labor amendments, or indeed the Labor amendments—would have incorporated most of those outstanding recommendations into the legislation. The rejection of the Senate’s amendments is the government’s latest refusal to deal with the needs of working women in this country. I have mentioned paid maternity leave and the broader issue of work and family balance. While I was not surprised that my amendments to this legislation to try and enact a national paid maternity leave scheme for the first time in Australia were not successful, that will not stop the Democrats continuing to campaign on this issue—indeed, continuing to promote the fact that we do have historic legislation tabled in this chamber ready to go that implements a scheme of paid maternity leave.

There are a range of other issues affecting working women and women who are not in the workforce as well. I look at the issue of gender pay gaps, which has been highlighted recently. It is 30 years since we have had the equal pay for work of equal value campaigns, yet the women’s and men’s wages disparity continues to increase. We have seen in the last week a new census of Australia’s top 200 companies that reveals that women make up only 8.8 per cent of executive managers compared with 15 per cent in the United States. Only four of these 200 companies have a female CEO. Of the 1,300 directors in these companies, only 109 are women. The Equal Opportunity for Women in the Workplace Agency found that the percentage of company boards that do not contain any women increased from 46.7 per cent to 47.3 per cent in the last year. So it is getting worse, and I cannot say that federal legislation is doing anything to assist this process. In fact, dare I suggest that in the 21st century we are actually going backwards
when it comes to women’s rights in the workplace and women’s rights in this country generally.

So, if I seem a little angry about this legislation, it is because I refuse to say that I am simply disappointed. I am angry. This legislation is long overdue. It was long overdue years ago, yet this government dillydallied around with actually putting anything into legislation. And, when they do, women of Australia and men of Australia too are supposed to be pathetically grateful that they have finally seen the implementation of the recommendations contained in that Human Rights and Equal Opportunity Commission report. And what are they? Three of the 12—and most of them are technical changes or clarifications to the act. If that is the best this government can do for Australian working women, I have no idea how they continue to get support from women and indeed men. If anyone in this chamber and anyone in this community cares about equality for all, not only would they be insisting on these amendments but the government would not have to be forced to make these changes, they would have initiated the changes. So not only is this disappointing but it certainly is an indictment on this government’s record in relation to working women in particular, and specifically women who are pregnant. These are the same kind of women and the same kind of so-called family values that our Prime Minister is the first to boast about, the first to invoke, when he wants to talk about good values.

There is not much good news in this legislation for women who are pregnant or who may become pregnant and who do not want to face what seems to be in some workplaces inevitable workplace discrimination on that basis. So, yes, I am disappointed that the government did not take the opportunity to enact better legislation thanks to Democrat and Labor amendments, but I am pretty angry that it is trying to fob us off with what is a piecemeal piece of legislation that does not make much difference to the lives of Australia’s working women.

Senator NETTLE (New South Wales) (1.57 p.m.)—As I said in my speech on the second reading of the Sex Discrimination Amendment (Pregnancy and Work) Bill 2002, it was a disappointing bill for the reasons that the previous speaker outlined in terms of taking into consideration so few of the HREOC recommendations when framing the bill that was presented to the Senate some time ago. When that bill was presented to the Senate, the Senate improved the legislation to deal with many of the other HREOC recommendations put forward to deal with discrimination that women face in the workplace. It also put forward something on the public agenda that this Prime Minister has constantly ignored, which is the need for a national maternity leave scheme. The Greens supported that improvement to the legislation to ensure that women did have security in terms of their workplace and did have the capacity to balance work and family that this Prime Minister so constantly talks about, in a way which truly recognises the contribution that mothers make to the raising of children in this country.

We saw yesterday in the Australian newspaper the Prime Minister commenting further on this issue. In his comments he again argued against the $213 million a year scheme put forward by the federal Sex Discrimination Commissioner, Pru Goward, saying that he did not believe that it would increase fertility rates. We have had the previous speaker talk about the way in which it is already in fact having an impact on fertility rates. But to speak just about fertility rates within this debate is to miss the main point of the debate. It is about ensuring work entitlements for women who seek to balance work and family responsibilities. These are the im-
improvements the Senate put into this poor piece of legislation that came before us. The Greens believe we should be insisting on these amendments so that we can have at least some steps towards improving the capacity for working mothers to be able to balance their family and work responsibilities.

Progress reported.

MINISTERIAL ARRANGEMENTS

Senator HILL (South Australia—Leader of the Government in the Senate) (2.00 p.m.)—On 29 September 2003 the Prime Minister announced significant changes to his ministry, which will further strengthen the government. As this concerns the Senate in particular, I announce that Senator Alston has decided to stand down as Minister for Communications, Information and the Arts after probably the most successful stint in that portfolio in the history of the Commonwealth.

Government senators—Hear, hear!

Senator HILL—He has also stood down as the Deputy Leader of the Government in the Senate to be replaced by my friend and colleague Senator Minchin. Senator Patterson is taking on the portfolio of Family and Community Services and will also represent the Prime Minister in matters concerning the status of women. Senator Vanstone moves to Immigration and Multicultural and Indigenous Affairs, and we welcome Senator Ian Campbell into the ministry for the first time. He has already moved to the top of the tree, as you will note. Mr President, the swearing-in took place this morning. For the information of honourable senators, I table an updated list of the full ministry.

QUESTIONS WITHOUT NOTICE

Trade: Live Animal Exports

Senator O’BRIEN (2.01 p.m.)—My question is to Senator Ian Macdonald, the Minister representing the Minister for Agriculture, Fisheries and Forestry. Can the minister confirm the government receives daily mortality reports from the master of the stranded sheep carrier MV Cormo Express? How many sheep have died since the vessel left the port of Fremantle 63 days ago? And how many sheep have died since the government facilitated the repurchase of the sheep last Wednesday?

Senator IAN MACDONALD—I thank Senator O’Brien for raising what is an issue of very grave concern to all Australians. The welfare of those animals is something that does concern the Australian government, and that is why we have gone to extraordinary lengths to look to their welfare and safety. The live cattle export trade is worth $1 billion to Australia and employs, directly and indirectly, some 9,000 people. It is a very important part of the pastoral industry generally in its overall health. It does, of course, substantiate and assist with the development of rural and regional Australia. That is why we are so concerned about this particular issue.

It is probably important, in answering Senator O’Brien’s question, to highlight the fact that these sheep were bought from Australia by a foreign businessman, loaded onto a foreign ship and taken offshore. Some would say that it is not then a matter for the Australian government, but because we have a concern for the welfare of the sheep we have taken a very direct and concerned interest in it.

Senator O’Brien asked me for some particular details about the number of sheep that have died since the ship left Australia. Mr Truss, the Minister for Agriculture, Fisheries and Forestry, gave a press conference in Brisbane on Saturday where he clearly gave all these figures. If you were interested in the issue, Senator O’Brien, you could have had a look at them.
Senator Sherry—What are they, for the Senate? The Senate is interested to know.

Senator IAN MACDONALD—I could send you the transcript, Senator Sherry, if you are interested in this, but I know that you are not interested in this sort of thing. You are not interested in anything that has anything to do with rural and regional Australia.

The PRESIDENT—Would you ignore the interjections and address your remarks through the chair. Senator Sherry, you know that interjections across the chamber are disorderly.

Senator IAN MACDONALD—Thank you, Mr President. I appreciate the honourable senator from Tasmania has no interest in rural and regional Australia or this issue or the welfare of the sheep, but in answering Senator O’Brien’s question the information given by Mr Truss on Saturday is that 5,000 sheep have died since they left Australia about 58 days ago. There are a number that do die every day and that is, they tell me, normal in this situation. It is a situation we had hoped would not have occurred because the sheep would have been offloaded.

It is also important in talking about this matter—and I am sure Senator O’Brien would be interested in this—to note that not only have Australian veterinary surgeons given the shipment a clear bill of health but indeed an officer from the international organisation that looks after the welfare of animals internationally has also been on board and inspected the sheep at close quarters and has signified and certified them to be in good condition for sale, in good condition for import and in good condition for consumption by human beings. These are issues of concern to the Australian government, and we do what we can each day. Mr Truss has been very open with the Australian public about the issues as they evolve and the steps that the Australian government are taking to resolve this very complex and difficult issue.

Senator O’BRIEN—I ask a supplementary question, Mr President. I note that the minister is unable to answer some parts of the question. I would ask him, if the matters are not in his brief, to seek information from the minister confirming, firstly, that the government receives daily mortality reports and, secondly, the number that have died since the vessel left port 63 days ago and the number that have died since the government facilitated the repurchase of the sheep last Wednesday. Can the minister also advise how many sheep are expected to die on any return journey forced by Minister Truss’s inept handling of negotiations to secure an alternative port?

Senator IAN MACDONALD—We do receive daily reports—I am sorry for omitting that. I did indicate to Senator O’Brien that 5,000 was the number since the sheep had left Australia, as Mr Truss indicated in his news conference last Saturday. There are sheep that die every day. I am afraid I do not have those reports today on how many died last night, but they do die. I have indicated that to Senator O’Brien. What was the other part of your supplementary?

Senator O’Brien—Since the government facilitated the repurchase of the sheep last Wednesday, how many sheep have died?

Senator IAN MACDONALD—I am afraid I do not have that detail, Senator O’Brien. I can get it for you, if how many is the big issue of the day. But you did ask how many would die between now and when the ship got home. Again, I cannot say that. We are hoping to sell them at a place near the point where they are currently, and that work is going on. Senator O’Brien criticises Mr Truss. I have not yet heard one sensible suggestion from Senator O’Brien on what should be done. For some time Mr Truss has
struggled with this issue and I look forward to Senator O’Brien’s suggestion. (Time expired)

Economy: Performance

Senator LIGHTFOOT (2.08 p.m.)—My question is addressed to the Leader of the Government in the Senate, Senator Hill. Will the minister inform the Senate how the Howard government’s responsible management of the Australian economy is continuing to provide benefits for all Australian families. Is the minister aware of any alternative policies?

Senator HILL—I thank the honourable senator for his important question. It is true that the Howard government remain committed to the responsible and strong management of the Australian economy. We have made the tough but necessary decisions to keep the budget in surplus. We have been able to direct money towards the important areas of health, education, national security and environment, while paying off the crippling debt we inherited from Labor’s bungled management of the economy. The Australian economy continues to perform strongly. The International Monetary Fund, in its September 2003 world economic outlook, predicted that Australia will continue to be one of the fastest-growing advanced economies in the world. Despite the weak global economy and the lingering impact of the drought, the IMF forecasts that the Australian economy will grow by three per cent in 2003 and by 3.5 per cent in 2004.

The particular good news is that unemployment is also expected to remain at record low levels. The IMF again commented favourably on our commitment to continuing repayment of public debt. So our policy proposals are fully costed and affordable. That is, of course, where we fundamentally differ from the Australian Labor Party. We thought the Labor Party might have seen the light. Earlier this year, the Leader of the Opposition said to his people:

It’s not a popularity contest. It’s a policy contest …why didn’t we win the last two elections? Because people perceived we didn’t have the policies.

It is now 7½ long years since Labor went into opposition and yet we are still to see anything remotely resembling an alternative policy platform. We have had hints that Labor have the 30 per cent private health insurance rebate for the chopping block. That of course would not be surprising, because we know that Labor have never supported private health insurance. They have not had the courage to do so, but if they move in that direction it will of course detrimentally affect millions of Australians. They have proposed extra spending for Medicare but refused to say where the funding will come from.

Opposition senators interjecting—

Senator HILL—Yes, there have been some hints—surprise, surprise—from Mr Beazley and Mr Smith. They suggested that the Medicare levy might rise. Of course, all that means is higher taxes for ordinary Australians. Even in my own area of Defence, whilst the shadow minister has issued many press releases attacking the government, we are yet to find one single policy initiative—one single alternative direction being proposed by federal Labor. No new ideas, no alternative approaches, no spending commitments 7½ years on—nothing. While the coalition continues to deliver benefits to Australian families through strong economic management, the Labor opposition continues to deliver exactly nothing.

The PRESIDENT—Before I call Senator O’Brien, I would remind Senator Sherry, once again, and Senator Kemp and Senator Abetz that shouting across the chamber at each other is disorderly.
Trade: Live Animal Exports

Senator O’BRIEN (2.12 p.m.)—My question is again to Senator Ian Macdonald, the Minister representing the Minister for Agriculture, Fisheries and Forestry. Can the minister confirm that the government has completed an import risk analysis on the return of the sheep stranded aboard the MV Cormo Express? What are the findings of this analysis? Will the minister table the import risk analysis to permit proper assessment of the likely consequences of the government’s failure to secure an overseas market for the unfortunate sheep?

Senator IAN MACDONALD—An import risk analysis assessment will be conducted on these sheep should they return to Australia. That has commenced. In conducting an import risk analysis, you work out what the risks are so that you can manage those risks should the occasion arise.

Senator Bolkus interjecting—

Senator IAN MACDONALD—Sorry? The PRESIDENT—Minister, ignore the interjections.

Senator IAN MACDONALD—I did not hear. It is interesting to hear someone like Senator Bolkus making a contribution to this debate. I am surprised that he even knows what a sheep looks like, unless he looks at the seats in front of him! The import risk assessment process is now occurring. It will continue to occur should the sheep return to Australia. I mention again that the sheep returning to Australia is the last option. We are trying to do everything possible to sell them in the region where they currently are, now that they have been certified as being safe for human consumption and without any particular diseases. So that is the approach. Senator O’Brien also asked me whether we will make that import risk assessment available. I will refer that matter to Mr Truss, but I do not think there would be any difficulty in doing that. It is an issue. If the sheep do return to Australia, we will have to work very closely with the industry—in fact we are doing that at the moment—and we will also have to work very closely with all of the state governments.

We had a very long and involved discussion with all of the state ministers at the ministerial council meeting in Perth last Thursday. All of the state governments recognise that this is a difficult problem, one that needs a lot of goodwill and good thinking to overcome it. All of the states are cooperating and will be helpful in the approach. In fact, a joint Commonwealth-state group called the National Management Group, comprising state and Commonwealth officials, is already looking at that particular issue. I know that the states are supportive and are prepared to help—some more so than others, I might say. One state in particular was trying to make political points out of this because it is a Labor state, but the other six state and territory governments are all Labor states and they were most supportive. I understand that they addressed this in a most mature way. There will be a risk assessment done. I am assuming that it will be made public. It will have to be for the state governments, the industry and all those involved to address the risks that are determined.

Senator O’BRIEN—Mr President, I ask a supplementary question. Is the minister aware that the Northern Territory Minister for Primary Industry and Fisheries has ruled out off-loading the sheep in Darwin due to a potential bluetongue disease threat? What would be the consequences of a bluetongue disease outbreak? Will the minister give an ironclad guarantee that the return of the sheep will not expose Australian livestock to exotic diseases and parasites?

Senator IAN MACDONALD—I can certainly give the last assurance sought by
Senator O’Brien so far as is humanly possible. That particular issue will be foremost in the minds of the Australian government. Senator O’Brien asked about whether I was aware of the Northern Territory refusing to take the sheep because of bluetongue disease. I have not heard a specific announcement. The Northern Territory minister was at the ministerial council meeting where it was fully discussed. I do not recall him making any issue of it at the time. Perhaps he has done so since. Generally, we do recognise and understand that bluetongue can be a problem in the northern parts of Australia. That is all being taken into account in the arrangements that are being looked at in the event that the sheep have to return to Australia.

Economy: Performance

Senator SANTORO (2.17 p.m.)—My question is to the Minister for Finance and Administration, Senator Minchin. Will the minister advise the Senate of any recent indications as to the Howard government’s sound financial management? Will the minister outline how these outcomes will benefit Australian families? Is the minister aware of any alternative policies?

Senator MINCHIN—I thank Senator Santoro for his very good question and acknowledge his deep interest in fiscal discipline—indeed, in discipline of all kinds, I suspect! Last week the Treasurer released the final budget outcome for the 2002-03 financial year. That document very pleasingly showed that the cash surplus for 2002-03 was $7.5 billion, up from $3.9 billion forecast in May and the $2.1 billion surplus forecast at the time of the 2002-03 budget. The biggest driver of this better than expected surplus was the fact that company tax receipts were up $2 billion on the May forecast, an increase of 6.7 per cent. That of course is very good news because it reflects the continuing strength of company profits in Australia and the underlying strength of the economy, despite the drought and patchy world growth. It is also entirely consistent with the government’s policy of keeping the budget in balance over the course of the economic cycle. Total cash payments in 2002-03 were down 0.8 per cent or $1.3 billion compared with the May estimate but were in fact $5 billion higher in 2002-03 than in the previous year.

When we run a surplus of that kind, the surplus increases our cash reserves and thus reduces net debt. The 2002-03 surplus has the effect of reducing general government net debt to just $29.6 billion. So our government in 7½ years have now paid back $67 billion of Labor’s debt, more than offsetting the $65 billion which the Labor government racked up in just their last four years in office. Our interest payments in 2002-03 were $3.6 billion. That is $4.8 billion less than we were paying when we came into office to pay off Labor’s debt. We are saving $5 billion every year as a result of our reducing the debt we inherited from the Labor government. It is the first time since 1991-92 that the net debt has been below $30 billion and it is the lowest level of net debt to GDP since 1981-82. We have reduced our net debt to GDP to levels not seen since Bob Hawke became Prime Minister 20 years ago.

The obvious beneficiaries of this very good, very disciplined fiscal management are Australian families and Australian small businesses, because they are experiencing sustained low interest rates as a result of this fiscal discipline. Under the previous government, with all the debt they racked up, interest rates peaked at 17 per cent and they were still 10½ per cent when we came into office. Today the mortgage rate is only 6.55 per cent.
The 2002-03 budget outcome is very good news for Australian families and taxpayers. It confirms the strength of Australian companies, and that is very good for the people who work for those companies and for the Australians who are shareholders in those companies. It reduces debt to levels not seen since before the Hawke Labor government came to power and it keeps downward pressure on interest rates to the lasting benefit of home owners, consumers and small businesses.

**Trade: Live Animal Exports**

Senator CROSSIN (2.21 p.m.)—My question is to Senator Ian Campbell, the Minister for Local Government, Territories and Roads. Can the minister confirm whether the government is considering using the Cocos (Keeling) Islands as a dumping ground for the 53,000 sheep aboard the MV Cormo Express to prevent their return to the Australian mainland? What facilities exist on Cocos (Keeling) Islands for the docking of the vessel, the off-loading, transport and mass slaughter of these unfortunate sheep? What consultation has this government had with the Cocos (Keeling) Islands Shire Council about this matter and what was the response from the shire council?

Senator IAN CAMPBELL—I thank Senator Crossin for her question. It is obviously an issue that is on the minds of many Australians. Senator Ian Macdonald has answered questions about the status of the sheep at the moment and about the issues that are before the government. It is fair to say that there have been suggestions that either Christmas or the Cocos (Keeling) Islands could be used as a place to deliver the sheep and, ultimately, have them slaughtered. The reality, however, is that the facilities available on either Christmas or Cocos are quite limited. I think it is fair to say that either option would be regarded by the minister, Minister Truss. I have not discussed it with him since coming into the portfolio at about 10 o’clock this morning, but we have obviously had departmental considerations.

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left, I remind you that this is the minister’s first question. I would hope that you would give him some leeway.

Senator IAN CAMPBELL—I know that Senator Crossin would take the issue far more seriously than some of her colleagues. I presume that Senator Crossin is ahead of me in that she has probably visited both Cocos and Christmas by now. It is something that I am looking forward to doing over coming weeks. As I understand it, from the brief that I have been provided, there are facilities available there. There would be significant logistical problems in, firstly, unloading the sheep at either Christmas or Cocos. Water would be a serious issue for that size flock, and feed would also be a significant issue. It certainly is an option, but it is an option that has significant logistical problems in front of it.

My view, without having discussed it with Minister Truss—and based on the brief I have read, which is only a short one by its nature—is that it would be regarded as very much a last resort and very much an unpreferred option. Although, to be fair, I would not want to rule it out, because I think the minister needs to consider—and is considering—all of the options at the moment. The government’s commitment is to ensure that the sheep remain healthy. Clearly, that cannot go on forever. I heard the vet’s report—I think it was on Friday night or Saturday night’s news—saying that the sheep were in remarkably good condition. But even that independent vet said that this cannot go on forever. I will be putting the resources of the relevant section of the department of ter-
ritories to the assistance of the minister as that is required. I will consult with him as required. But, on the advice I have got, it is not regarded as one of the preferred options.

Senator CROSSIN—Mr President, I ask a supplementary question. I notice that the minister has not ruled out the Cocos (Keeling) Islands as an option. Can the minister tell us: is the Cocos (Keeling) Islands solution addressed in the government’s completed import risk analysis on the return of the sheep? Can the minister confirm that West Island, which is the largest in the Cocos (Keeling) Islands group, being just 600 metres wide and 14 kilometres long, is seriously inadequate, and that the Cocos shire CEO, Bob Jarvis, has already stated publicly that the island is too small to house the 35,000 sheep? Isn’t the willingness to canvass the offloading of the sheep on the Cocos (Keeling) Islands another example of this government’s contempt for the residents of the external Indian Ocean territories?

Senator IAN CAMPBELL—Quite the contrary; firstly, in relation to the assessments, they are a matter for Minister Truss and, in this chamber, a matter for Senator Ian Macdonald. We have looked at these options, and my brief and my advice from the department is that some of the people at Cocos and many of the people at Christmas are very interested in having the shipment come there because it will provide a boost for the local economy. My information differs from yours, but I do agree with Senator Crossin that there are definitely logistical problems. There are definitely space problems, but also there are problems with water supply and with pellet supply. I reiterate the fact: it is not what you would call at the top of the list of possibilities for the Cormo Express sheep. We are very keen to ensure that those sheep are looked after appropriately and that we find the best solution. I am not going to rule out Cocos or Christmas as a solution. (Time expired)

Death Penalty

Senator BARTLETT (2.27 p.m.)—My question is addressed to the minister representing the Attorney-General. Is it not the case that Australia is a party to the second optional protocol to the International Covenant on Civil and Political Rights and, therefore, the Australian government has an obligation to work with other countries towards the international abolition of the death penalty? Does the minister agree with the comments of Justice Michael Kirby that inflicting the death penalty is the ultimate acknowledgement of the failure of civilisation and that imposing capital punishment makes the state part of the violent world? Is the government committed to upholding its obligations under this second optional protocol and working with other countries towards the international abolition of the death penalty?

Senator ELLISON—It is well known internationally and of course at home the position of the Australian government, and that is not to support the death penalty. That has been a longstanding position of this government, and I think it is fair to say that it is on a bipartisan basis. We have also had in place the practice of limiting assistance where there is extradition or mutual assistance sought where the death penalty is involved. That has included countries like the United States and others.

In recent events closer to home we have seen in Indonesia that the death penalty has been handed down in relation to the Bali bombers and we have said that that is a matter for the Indonesian government. We ourselves do not support a death penalty as an Australian government in Australia, and that has been our longstanding position. But you have to respect the sovereignty of states, and that is another aspect of international law
which Senator Bartlett should remember. That is that each state has a sovereign right to determine its domestic jurisdiction. We as a country have made it very clear where we stand on the death penalty, but what we do say is that the rule of the sovereignty of states does allow a state to have its own domestic circumstances, and that includes the death penalty. We have said that very clearly in relation to recent events in Indonesia.

Senator BARTLETT—Mr President, I ask a supplementary question. Minister, how can your statement and the Prime Minister’s statement—and the Leader of the Opposition’s statement, for that matter—that other countries’ use of the death penalty is simply a matter for them and a matter of individual sovereign states rights be consistent with our obligation as a party to the second optional protocol to work towards the international abolition of the death penalty? Surely, if we are a signatory to this protocol that requires us to work towards the international abolition of the death penalty, we should be making our opposition known to other countries when they carry out the death penalty. Does the minister’s statement that carrying out the death penalty is simply a sovereign right for other nations to determine mean that the government will not protest if any Australians are subject to the death penalty in other countries?

Senator ELLISON—It has been a long-standing practice of all Australian governments—both when the opposition was in government and with this government—when any Australian is subjected to the death penalty in any other country to do everything possible to avoid that, and that will continue.

Insurance: Medical Indemnity

Senator FAULKNER (2.30 p.m.)—My question is directed to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Does the minister recall her recent media statement on 1 October 2003 entitled Paying for doctors’ past mistakes? where she defended the government’s medical indemnity package by stating:

While today’s announcement that five doctors will leave Western Sydney Hospitals is disappointing, half-truths and scare tactics about the medical indemnity situation are counterproductive...

Is the Assistant Treasurer aware that two days after this statement the incoming Minister for Health and Ageing announced an 18-month moratorium on levy payments in excess of $1,000 and a preparedness to renegotiate the scheme? Minister, what objectively changed between 1 October, when you defended the incurred but not reported scheme, and 3 October, when the incoming minister for health ditched it?

Senator COONAN—Thank you for the question, Senator Faulkner. Yes, I was aware of the changes because I was there; I was actually part of the announcement made together with the incoming health minister, Mr Abbott. Nothing changed between the previous few days and the date of the announcement. If you looked carefully at what I said in both my announcements and my press release, you would see what we were talking about was the low amounts of money incurred by the levy—that is, 80 per cent of doctors were being asked to pay not more than $1,500 per annum and 93 per cent of doctors were being asked to pay not more than $5,000 per annum. I had always indicated that, in respect of the higher amounts charged to specialists and certain specialist surgeons, there may be some anomalies within the way in which the IBNR was struck and that that was indeed something that the government could and would look at. I had always made that clear.

I think it is important to look at the IBNR and the announcement made by Minister Abbott as giving a circuit-breaker to allow
doctors to maintain their posts while the levy is looked at further. As we all know, the levy is not the only issue in medical indemnity. What is required is a much greater structural readjustment, which is well under way. That has two thrusts to it. The first is that the medical indemnity organisations have to be stable and that the medical indemnity industry must be financially viable in going forward, and the earlier part of that is in my portfolio. The second thrust to it is the affordability of arrangements that have to be made to enable the medical indemnity industry to be stable, and that is in Minister Abbott’s portfolio. They interrelate in respect of some organisations, such as UMP-AMIL, which was the largest provider of medical indemnity to doctors in Australia and which is about to come out of provisional liquidation.

From the point of view of my portfolio responsibilities, there has been a major restructuring of the medical indemnity industry so that all of these organisations are now subject to prudential requirements and subject to actuarial valuations so that they are unlikely to fall over in the way in which UMP-AMIL did. There are also ongoing issues to do with tort law reform, which is a state issue, but there has been in respect of most states substantial movement on tort law reform which will ultimately have a downward pressure on fees, charges and premiums. Another very important initiative that is being progressed through the ministerial meetings is the whole notion of risk management and professional standards. All of these things have to go forward, together with looking at other work force issues and other matters to enable doctors to be confident that these issues are being addressed. We all know that this was not of the government’s making, but the government are here to fix this issue and fix it we will with measures designed to improve both the structure of the industry and the work force conditions of doctors going forward.

Senator FAULKNER—Mr President, I ask a supplementary question. As the minister does indicate, she recalls the content of that media statement of 1 October. Does the minister also recall her media release of 1 August 2003, describing the final details of the medical indemnity IBNR contribution? Can I ask if she recalls stating in that press release:
The measures announced today build on the Commonwealth Government’s comprehensive and generous package of initiatives to improve the safety and affordability of medical indemnity insurance for doctors.

Minister, does that press release also say:
The Government has fully upheld its end of the bargain to help resolve medical indemnity problems.

I ask the Assistant Treasurer whether she stands by these statements. Or has the position adopted by her and the ex-minister for health, Senator Patterson, on this issue now been completely debunked and overruled by the Prime Minister and the new minister for health?

Senator COONAN—Yes, of course I remember that press release. In fact, most of the matters referred to in the press release and in earlier press releases still apply, such as the blue sky scheme to limit the liability of doctors in claims over $20 million, the run-off cover for retirement, the issues to do with exemptions under the levy so that retired doctors and those over 65 are exempt from the levy, and that those who are substantially in the public hospital system are still exempt from the levy. The important issues to do with the levy are that all doctors subject to it will pay up to $1,000, and there will be a moratorium while other issues are looked at as to whether there any anomalies in the overall design of the levy. But it is part
of a very large package, as I indicated in my earlier answer—a package that I might say was supported by the Labor Party and which now needs to be supported again. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a delegation from the Singaporean parliament, led by the Speaker, Mr Abdullah Tarmugi MP. On behalf of all honourable senators, I take great pleasure in welcoming you to the Senate and trust that your visit will be both informative and enjoyable. With the concurrence of honourable senators, I invite the Speaker to join me on the floor of the Senate.

Honourable senators—Hear, hear!

Mr Tarmugi was seated accordingly.

QUESTIONS WITHOUT NOTICE

Health: Human Cloning

Senator HARRADINE (2.39 p.m.)—My question is to the Minister representing the Minister for Health and Ageing, Senator Campbell, and I congratulate him on his appointment to the ministry. At the United Nations General Assembly last Tuesday, the National Health and Medical Research Council made a statement which failed to take a stand against the cloning of human embryos for destructive experimentation. How is it that a statutory organisation, at arm’s length from the government, can speak on behalf of the government on an issue of grave importance to the whole of humanity? Did the minister responsible for the cloning issue approve, or was he even consulted on, the text delivered by the National Health and Medical Research Council to the United Nations? Was not the action of the NHMRC, whose agenda is to pave the way for cloning of human embryos, in direct conflict with the prohibition on human embryo cloning which this parliament passed overwhelmingly only last year?

The PRESIDENT—Senator, that was a very long question.

Senator IAN CAMPBELL—I thank Senator Harradine for the question. I have sought some information on this issue. Firstly, I am not aware of what consultation might have taken place between the minister and the NHMRC. Senator Harradine talks about whether or not they speak on behalf of the government. I would be surprised if they did; as an independent agency, I think they speak on their own behalf. As to whether they represent the government’s views, if I accept what Senator Harradine has said—and I have not read what they said at the General Assembly—and if it is in conflict with the government’s position, which I will now define to the Senate, then clearly they do not.

The government’s position is that we will continue to work towards a convention that is consistent with the act passed by this parliament—that is, the Prohibition of Human Cloning Act. We support the urgent development of a convention to ban human reproductive cloning. We are concerned that, given the absence of a consensus in the working group on this, attempts to develop a convention to ban all forms of cloning immediately may delay a ban on human reproductive cloning. While the Australian legislation bans both human reproductive and therapeutic cloning, we are also required to undertake an independent review on the operation of this legislation. That review, as most senators will recall, commences in December 2004.

To put it succinctly: the government’s actions at the UN are in fact in total harmony with what the parliament wanted to do. We are pursuing the convention on the prohibition of human cloning. We understand that to pursue the further ban on cloning would ac-
tually hinder that progress. What we are doing is in harmony with what the parliament said. Also, because the parliament itself spoke on the issue of a review of therapeutic cloning, our activities in the UN to pursue the ban on human cloning convention and not to progress the other until our review has taken place are in fact—in the limited time I have been briefed on this—entirely in harmony with the parliament’s will as well. That is the government’s position and that is the position that the foreign minister communicated, as I understand it, to the UN. I will get back to the Senate in relation to what capacity the NHMRC speak at these international fora and also what consultation took place between the minister and the NHMRC on this issue.

Senator HARRADINE—Mr President, I ask a supplementary question on two things. Firstly, could the minister advise the Senate whether or not the minister responsible for the area of cloning was consulted in respect of that document? Secondly, could the minister confirm whether whoever gave him that briefing used the words ‘therapeutic cloning’? Does the minister realise that the Australian Health Ethics Committee has stated to the National Health and Medical Research Council that the words ‘therapeutic cloning’ are misleading and deceptive—hardly therapeutic for the human embryo that is cloned? Could the minister take up those matters?

Senator IAN CAMPBELL—I am very happy to do so.

Trade: Live Animal Exports

Senator O’BRIEN (2.45 p.m.)—My question is again to Senator Macdonald representing the Minister for Agriculture, Fisheries and Forestry. I refer to the minister’s earlier answer to my question relating to an import risk analysis on the return of the sheep stranded aboard the MV Cormo Express. In his answer, he said that the import risk analysis was still being prepared. Is the minister aware that Mr Truss told a media briefing last Tuesday:

A scientific import risk assessment has been done to deal with any risks that might be associated from a quarantine perspective.

Minister, why did you deny that an import risk analysis exists? Why is Mr Truss refusing to release it?

Senator IAN MACDONALD—Again, I thank Senator O’Brien for raising this very complex and distressing issue. One of the things that does concern me about this whole issue is that certain people, including Senator O’Brien, I regret to say, are choosing to try to play politics and score political points out of an issue that should be of the greatest concern to all Australians. There is a very big export industry at risk here, and the continuous stream of misinformation from certain quarters does not help. Our export industry is world class. We have very good relationships with a lot of the people we deal with, particularly in the Middle East. In fact, since the Cormo Express incident, two other shipments have landed in Kuwait without any difficulty at all. Right around the world our live animal trade is seen as world class, very humane and very well managed and operated. I give very great credit to Mr Truss for the considerable effort he has made to enhancing this export industry.

Senator Faulkner—Pity he doesn’t put so much effort into other things!

Senator IAN MACDONALD—John, don’t interrupt please; you look after Senator Hutchins and try and sort out the New South Wales Labor Party. Don’t worry about these sheep matters.

The PRESIDENT—Order! Senator Macdonald, ignore the interjections.

Senator IAN MACDONALD—Just look at the sheep behind you.
Opposition senators interjecting—

Senator Faulkner—The President is on his feet.

The President—Order! I am on my feet because senators are behaving in a very noisy manner and I wish they would desist.

Senator Ian Macdonald—As I indicated to Senator O’Brien previously, an import risk analysis assessment was being done—

Senator O’Brien—It has been done.

Senator Ian Macdonald—I think it continues, Senator O’Brien. It is an assessment that is made of the risks and it depends on what actually happens with the sheep. Returning the sheep to Australia is the last option—the option that we would least prefer. It depends how many more days it is before the sheep return. As I have indicated to Senator O’Brien, I do not know what Mr Truss’s answer is in relation to the public release of this. As I indicated in the very first question, I will seek Mr Truss’s advice, but I cannot imagine there would be any difficulty in releasing it publicly. The industry have been part of the assessment and have been taken into confidence, and all the state governments have had an input. With respect to some of my colleagues in the state governments, the lines of communication between Senator O’Brien, his advisor and many of the state governments are not all that secure from a government point of view. All of those things have to be involved. We will consult widely. For that reason, I cannot imagine why the import risk assessment would not be released at the appropriate time. It is something that all Australians, all Australian industry and all Australian governments will have to be involved in to make sure that if the sheep do return to Australia there will be no risk to Australian quarantine standards.

Senator O’Brien—Mr President, I ask a supplementary question. I remind the minister that Mr Truss said on Tuesday, 30 September that ‘a scientific risk assessment has been done’. I ask the minister again: will the minister table that scientific import risk assessment that the minister was referring to on 30 September in his press conference in Perth? If not, why not? Can he also advise us—if he knows the answer now; he can seek it out if he does not—why the minister chose not to tell him that he already had an import risk assessment and the minister misled the Senate earlier?

Senator Ian Macdonald—For the third time in half an hour can I say to Senator O’Brien that I will ask Mr Truss about the release of that risk analysis. I repeat that I cannot think why it would not be publicly available. I will see if Mr Truss wants me to table it in the Senate and, if he does want that, I will let you know. What I can table, which I thought would be of more interest to Senator O’Brien, is the veterinary statement by Dr Ghazi Yehia, the coordinator of the OIE. This particular independent veterinarian has looked at the sheep and certified that there is no evidence or clinical signs of infectious or contagious diseases. I think that is very important for Australians, for those interested in the welfare of the sheep and certainly for the future of the industry.

Roads: Western Australia

Senator Johnston (2.52 p.m.)—My question is to the Minister for Local Government, Territories and Roads, Senator the Hon. Ian Campbell. Will the minister please update the Senate on the status of the Australian government’s roads program in my home state of Western Australia?

Senator Ian Campbell—Thank you to Senator David Johnston, a senator for Western Australia, for the question. Might I congratulate the senator on an excellent
question—and one, I might say, from a senator who, as with most Western Australian senators, as I look at my colleagues, spends an enormous amount of time on WA roads. Senator Peter Cook would support in a bipartisan way the fact that Western Australians understand about roads because, per capita, we have an enormous distance of them. What Senator Peter Cook may not agree with me on—in fact, he may privately—is the fact that, as the Australian government is working harder and harder to help Western Australia with roads, the Western Australian state Labor government and their transport minister are actually taking the money away.

I think that Senator David Johnston would share with me and my Western Australian Senate colleagues the concern for not only this short-sighted approach of the state Labor government but in fact the long-term risks that that puts the state of Western Australia and ultimately the economy into. It will place at risk not just the economy—because we rely in Western Australia on transportation for our great industries outside the capital city and the regional centres to move equipment to the mines and to move stock and feed up and down from the farms to the ports—but also, very importantly, our tourism trade and the safety of families who travel vast distances for their normal holidays or the safety of those who, living in the north, visit Perth to see their families. We need good roads and we need safe roads for two obvious reasons. One is that they are the backbone of our economy; the other is that they are vital to the safety of families who get into the family sedan or four-wheel drive and travel across the vast and beautiful state of Western Australia, quite often in the holidays.

So what has the West Australian government done in the last couple of years in relation to road funding? It has quite clearly pursued an ideology which is to take money away particularly from non-metropolitan roads and redirect it for other purposes outside the roads portfolio into the metropolitan area. The state minister has pursued a policy that has slashed the maintenance budget for roads over the last three years, but she has not stopped there. The minister has just revealed that the WA state Labor government razor gang will slice $200 million off roads over the next four years. Can I just inform the Senate that Australian taxpayers, including WA taxpayers, will in fact put $200 million a year into WA roads. The $200 million we put in this year is being ripped out by the state minister over the next four years. We are putting in $200 million every year; she is taking out $200 million over the next four years.

As I have said, the state Labor minister and the state Labor government are slashing maintenance expenditure. Everybody knows that, if you reduce maintenance on roads, ultimately it is going to cost a lot more money to fix them up. I would say to Senator Cook, who is seeking to interject, that one of the great things that he could do for Western Australia—

Senator JOHNSON—Mr President, I ask a supplementary question. Could the minister further inform the Senate of the current status of the Peel deviation, south of Perth?

Senator IAN CAMPBELL—I will certainly address that issue. The state minister, with her single focus on building this massive railway down the freeway—Alannah’s white elephant, you might call it—wants federal money to support—

Senator Chris Evans interjecting—

The PRESIDENT—Order! Senator Evans! I know this is a Western Australian question, but you are very loud.

Senator IAN CAMPBELL—What is good for Western Australia is good for Aus-
The minister wants money out of the federal government for the rail project, but she will not pursue the Peel deviation—a crucial piece of infrastructure for the southern suburbs of Perth, the southern districts and the Peel district. We have asked the state government to pursue all of the planning requirements for the Peel deviation, and the minister has refused to do that. I take this opportunity to call on the state Labor minister for Western Australia to take her single, myopic focus off the railway and spend a bit more time thinking about roads outside the Perth CBD.

Health: Australian Medical Association

Senator STEPHENS (2.58 p.m.)—My question today is to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Can the minister confirm that she said last Thursday, when the doctors started withdrawing their services from hospitals:

“It’s a shame, and it has an air of contrivance about it that, instead of sitting down and talking about these issues, there are these quite intemperate threats.

Is the minister aware that the new Minister for Health and Ageing said on Friday morning:

I am ready to listen to what people of goodwill, reasonable people, have to say to me and, obviously, the AMA is a very senior body in the health sector and always deserves a fair hearing and nearly always deserves to be taken seriously.

Given the new minister for health appears to have a conciliatory approach, will the minister now stop abusing the doctors and apologise to the AMA?

Senator COONAN—I see absolutely no inconsistency between those two statements. The first statement indicated that there needed to be some conversation in relation to the higher end of the levy. That is precisely what Minister Abbott said, and the outcome is that we did sit down and discuss it with members of the AMA and indeed other doctors’ organisations to come to a view to allow a moratorium with, of course, some basis on which money would be paid up to an amount of $1,000 per doctor. So there is nothing inconsistent about those two statements.

What is really important, if the Labor Party is serious about this, is to recognise the problem that was caused by both an out of control legal system and the doctors’ mismanagement of their own company, which was run by doctors and for doctors. This meant that there was some serious mismanagement in the previous insurer. That was not something that the government could know about, because it was not regulated, but the government has rolled up its sleeves to look at a package that extends not only to the restructure of the industry and the viability going forward of the medical defence organisations but to the affordability for doctors. It is a complex package but it is one where both Minister Abbott and I have started to work through both the affordability issue and, certainly, the structural side of it. It is important that those matters do not unravel and that they go forward in the interests of every Australian.

Rather than the Labor Party trying to drive wedges in this matter, I would have thought that you would support this. Of course, now you have a different shadow health minister. The one I dealt with, Mr Smith, was in fact very supportive of the government’s package and the government’s package has been supported by—

Opposition senators interjecting—

Senator COONAN—Mr Smith supported the government’s package and indeed so did the Labor Party, because it was a sensible package of measures that was not only designed to stop UMP, the doctors’ insurer, from falling over but also designed going forward to assist doctors, the medical indem-
nity system and the legal system to cope better with adjusting the rights of plaintiffs—those injured by doctors out of medical negligence—and giving them a reasonable right to be compensated, together with making sure that the system is sustainable and that doctors have an opportunity to practise their profession with confidence and, ultimately, with premiums that can be afforded.

Senator STEPHENS—Mr President, I ask a supplementary question. In relation to the package, can the minister guarantee that the 18-month moratorium on the IBNR is a core promise and the government are not just planning to charge the doctors a full IBNR debt if they win the next election? Can the minister guarantee that the government will not be charging the doctors 18 months arrears?

Senator COONAN—What may not be understood by the Labor Party and the community more broadly is that the Commonwealth has assumed these liabilities, so it no longer affects UMP. Whether it can come out of provisional liquidation is a matter that has to be looked at. The issue now is: what would a reasonable contribution be for doctors to make in respect of their past mistakes? If it is not to be the IBNR levy in the way in which it was structured, it is a matter of working out what a fair thing would be. During meetings, representatives of doctors’ organisations agreed that it was appropriate that doctors make some contribution. As in most of these things, it is a matter of getting an appropriate balance. Senator Stephens can be absolutely assured that the government will be doing everything possible to ensure the stability not only of the medical indemnity profession but of doctors and the safety of patients going forward.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Trade: Live Animal Exports

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (3.04 p.m.)—In question time, Senator O’Brien was very keen to learn whether the import risk analysis assessment would be made public. I have been advised by Mr Truss’s office that it will be. It is currently being discussed with industry, and when the measures to meet the risk assessment are determined—and that will depend on just what happens to the sheep—that will all be made public.

World Trade Organisation

Senator HILL (South Australia—Minister for Defence) (3.05 p.m.)—On 17 September this year Senator O’Brien asked me a question regarding agricultural trade reform. Mr Vaile has provided me with further information on that matter which I seek leave to have incorporated in Hansard.

Leave granted.

The answer read as follows—

Can the Minister confirm that the government was unaware until just before its representatives arrived for the World Trade Organisation Ministerial Conference in Cancun that key members of the Cairns Group, including South Africa Brazil and Indonesia, were planning to support an alternative proposal for agricultural trade reform put up by what is now the Group of 22 nations rather than the Cairns Group position? Isn’t it the case that the government’s failure to offer any unifying leadership of the Cairns Group has contributed to the collapse of the WTO negotiations, at a huge cost to Australian farmers?

Talking Points

• The Minister for Trade was aware of the formation of the Group of 22 nations before the Cancun Ministerial Meeting of the World Trade Organisation.
In fact, the group of major developing countries now known as the Group of 22 first appeared only in mid August.

The Group—at that stage comprising 16 countries—tabled a framework reform proposal directly in response to the joint framework proposal tabled by the European Commission and the United States in mid August in Geneva.

The Group’s paper is broadly consistent with Cairns Group positions.

Australia chose not to sign on to their paper, partly because there were strong tactical advantages in these major developing countries playing a more assertive and independent role, separately to the role played by the Cairns Group coalition.

The question asked by the Honourable Senator suggests that the emergence of the G22 as a force in the WTO agriculture negotiations is evidence that the Government failed to offer unifying leadership of the Cairns Group.

That linkage is false.

The G22 is a welcome new force in the WTO agriculture negotiations. The increasingly assertive voice of countries as significant as China and India in these negotiations puts the major developed countries on notice that the WTO membership will now not accept anything short of a substantial reform outcome on agriculture.

Australia and the Cairns Group have been working for some time to bring about this level of activism and support for the cause of agricultural reform, particularly among the major developing country Members of the WTO.

We will continue to work closely with all WTO Members that are seeking a substantial outcome on agriculture in the Doha round.

All Cairns Group members have expressed their continued strong commitment to the Cairns Group and its role in the WTO agriculture negotiations.

ANSWERS TO QUESTIONS ON NOTICE

Question No. 1642

Senator ALLISON (Victoria) (3.05 p.m.)—Pursuant to standing order 74(5), I ask the minister representing the Minister for Immigration and Multicultural and Indigenous Affairs for an explanation as to why an answer has not been provided to question on notice No. 1642, dated 21 July, relating to detention centre.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (3.05 p.m.)—I thank Senator Allison for the question. The advice that I have is that the answer to question on notice No. 1642 should be cleared later today and therefore be available to you later today or definitely by tomorrow. I am advised that the delay has been because it is a very complicated question that has 24 parts. In any event, the advice I received just before question time is that you can clearly have the answer tomorrow.

Senator ALLISON (Victoria) (3.06 p.m.)—I thank the minister for her answer and look forward to receiving the answer to the question tomorrow.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Trade: Live Animal Exports

Senator O’BRIEN (Tasmania) (3.06 p.m.)—I move:
That the Senate take note of the answers given by the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) and the Minister for Local Government, Territories and Roads (Senator Ian Campbell) to questions without notice asked by Senators O’Brien and Crossin today relating to live sheep exports and the Cormo Express.

In moving so, I should say at the beginning that in my third question to Senator Ian Macdonald I inadvertently suggested Mr Truss announced the completed import risk analysis in Perth last week; it was in fact an announcement he made at a press conference here in Parliament House on the same date. I apologise for misleading the Senate to that extent.

I wondered whether Senator Ian Macdonald was going to do the same thing when he stood up following question time to refer to some additional information he had. Certainly, in answer to the second question I asked of him at question time today, he advised that the process of completing an import risk assessment had not been concluded and that, when it was, he thought that information would be available. The fact of the matter is that, on 30 September, Minister Truss announced that a scientific import risk assessment had been done—that is, at the end of last month, the assessment to which I was referring in my question had been done. Obviously Senator Ian Macdonald had not been advised of that in his brief and was put in the embarrassing situation of misleading the Senate. I think that, on reflection, he will look at his answers and find the need to come in and correct the record because, unfortunately, I suspect that Minister Truss has again left one of the ministers in this place hanging out to dry.

The four questions we asked today were about the Cormo Express matter. The questions concerned sheep mortality aboard the livestock carrier, the quarantine risks associated with the return of the sheep and consideration of the Cocos (Keeling) Islands as an offshore quarantine facility should the repatriation of the sheep proceed. Consistent with its behaviour throughout the Cormo Express crisis the government, and particularly Minister Truss, refused to provide comprehensive answers to the Senate on these important matters, and Senator Ian Macdonald’s failure to provide precise mortality figures, including the projected mortality from any repatriation, is frankly no surprise.

Senators will recall the government’s disgraceful response on 18 September this year to a Senate order for the production of documents related to sheep mortality on the Cormo Express. The government refused to comply with the order of the Senate due to ‘sensitive negotiations’ on the fate of the sheep. That is a fair while ago, of course, and the negotiations have achieved nothing. But the government knew then how many sheep had died, as we now know they do get daily reports—that was admitted by Minister Macdonald. The government was quite prepared to divulge that information to foreign governments during negotiations to offload the sheep, but refused to comply with its obligations to the parliament. On 17 September, the Secretary to the Department of Agriculture, Fisheries and Forestry, Mr Taylor, similarly failed to provide a committee of this Senate with advice on mortality, claiming that he had been in Sydney and had not caught up with the latest news. Mr Taylor’s trip must have been pretty exciting because the Rural and Regional Affairs and Transport Committee has waited 21 days, and counting, for the promised advice—it still has not arrived.

The second matter addressed in Labor’s questions on live sheep concerned the import risk analysis related to the proposed return of the sheep to Australia. As I have touched on, it is clear that an analysis exists, yet Senator
Ian Macdonald suggested in his first answer that it did not. He is obviously now clear that one does exist, and hopefully he is now in no uncertain terms advising Minister Truss’s office that if he is to be briefed on these matters he should be properly and fully briefed so that he does not mislead the Senate.

Serious views are held about the potential quarantine risks associated with the return of a shipload of sheep that have spent at least six weeks in the gulf region. Dr Bill Gee, a former Commonwealth director of animal hygiene, a foundation director of the Commonwealth Bureau of Animal Health, a former director of AQIS and a past president of both the Australian Veterinary Association and the world animal health organisation, the OIE, has expressed grave fears about the risks posed by the return of the sheep. The current president of theAVA has expressed deep concerns about this matter, as have important rural commodity and representative groups with regard to their imports, as well as meat processors in various parts of the country, given the impact that this is having on our exports of lamb to Europe and beef to Japan. In relation to this important import risk assessment, I have been calling for it from at least 24 September, but clearly the minister has put it in the public domain in the sense that it existed from 30 September. It should be released today. I look forward to it.

(Time expired)

Senator FERRIS (South Australia) (3.11 p.m.)—I think what Senator O’Brien has outlined in his contribution to this debate this afternoon reflects the view that all of us share in relation to this issue as it affects Australia’s rural industries. The wool industry and the live sheep industry have had a terrible 10 years. This is not, of course, the first time that the live sheep trade to the Middle East has encountered difficulties. In fact, in the early 1990s—I think during Senator O’Brien’s period as a member of the government at the time—the live sheep trade to the Middle East was suspended for some years. Prior to my coming into this place, I was a member of a delegation that visited the Middle East during the period in which the live sheep trade had been suspended. We visited Saudi Arabia and spoke with a number of representatives there. It was very clear that this was a particularly complex issue and that the answers were not simple. Fortunately, on that occasion, the live sheep trade was able to be resumed and has continued to this day.

This ship aside, there are other shipments of live sheep that have gone to the Middle East and are being sold and unloaded without difficulty. At the moment the ship is in Kuwait and is reprovisioning. Notwithstanding the small fire that occurred on the ship a couple of days ago, it is due to leave this week. Hopefully by that time there will be some resolution of the issue and a new buyer for the sheep will have been found. Arrangements have been made to have an AQIS veterinarian and two experienced stockmen on board the vessel when it does sail from Kuwait later in the week.

Interestingly enough, while the ship has been in port, an independent veterinary inspection has been conducted by a veterinarian who reported that, notwithstanding the amount of time that these sheep have been in international waters—a very long time; I think we all agree that it is far too long—they are clinically fit and healthy. They are free from disease and are suitable for admission to any country in the region for human consumption. As I understand it, the veterinarian who carried out this inspection is from the animal version of the World Health Organisation, the OIE. As well, and importantly, this veterinarian reported that there was no evidence of scabby mouth on the sheep.
The Australian government’s priority remains finding a home for these sheep. With so many countries looking for food, it is hard to believe that an acceptable resolution to this matter cannot be achieved. I understand that all options are being pursued to locate a suitable port so the sheep can be unloaded and transported to a new destination. However, in the event that there are no suitable ports in the region, work is continuing on the option to bring the sheep back to Australia, which I am sure is a resolution that nobody wants.

Nobody wants those sheep to have to travel back to Australia. There are a number of difficulties related to that, and some of them were outlined today by the minister. It is very clear that bringing them back is not the best option either for the sheep or for those growers in Australia, who do not want the sheep or any of the diseases that the ship may now be carrying coming back to dock in our port. However, at this stage we have three days when the ship will be in port in Kuwait. I know that the minister and other senior ministers in the government are focused on finding a resolution to this very difficult and complex question for the sake of the animals and for the sake of a very important and very valuable industry to Australia. (Time expired)

Senator WEBBER (Western Australia) (3.16 p.m.)—It was some 63 days ago that 57,000 Western Australian sheep left the port of Fremantle. Ever since that time, they have been travelling around the Middle East looking for a new home. As we now understand it, they are in Kuwait, where the ship is being resupplied with feed and provisions. There are now, at most, 52,000 sheep. The minister indicated that, when the ship, the MV Cormo Express, docked at Kuwait, the government would use the time it took for the ship to be resupplied with feed and provisions to find a new purchaser and, if an alternative port were not found, the sheep would return to Australia.

The return of the sheep to Australia and their welfare are the main concerns. As Senator O’Brien pursued today, the government needs to come clean with the import risk assessment. The government also needs to come clean with any of its quarantine arrangements, which are part of that import risk assessment, if they return to Australia. If they are to return to Australia, the Howard government must address all the potential risks associated with that return. Those risks include quarantine from fodder- and insect-borne diseases. As we all know, the Middle East is one of the riskiest areas in the world for animal diseases, and the existing Australian import protocols prevent the importation of live sheep from that region for any reason. In fact, the Australian import protocols prevent the importation of live sheep from anywhere other than New Zealand.

For all we know, the sheep aboard the MV Cormo Express may have been exposed to exotic diseases, including bluetongue. The return of these sheep without adequate quarantine protocols would be inconsistent with the conservative quarantine regime Australia has maintained quite proudly for some 200 years. We need to ensure that Australia’s livestock industry enjoys continuing freedom from the many pests and diseases endemic in many other countries, particularly bluetongue. I know that that is of concern to my home state government in Western Australia. As has been outlined before, the Northern Territory government has expressed similar concerns and therefore has looked at ruling out accepting the return of the sheep.

The Western Australian government has advised that, if the sheep were returned to Fremantle or some other port, it would demand an ironclad assurance from the Commonwealth that there was not an unaccept-
able level biosecurity risk—that is, risk of disease or quarantine breaches. That is a particularly important issue not just for the long-term security of the industry but also for public confidence in what is quite a controversial industry and quite a controversial trade. Indeed, it was Labor that ensured an independent review of the live sheep trade at the Primary Industries Ministerial Council in Perth on 2 October. It was Labor that pursued these issues, not the Howard government. It is Labor that supports a humane trade in live animals but recognises the future of the industry is at stake if the Commonwealth cannot give certainty in animal welfare outcomes to the Australian people as well as to our overseas markets.

A review of the adverse international media coverage of the MV Cormo Express and the other incidents that have been alluded to, it is vital to the interests of all Australians and to our international trade that the Commonwealth reviews its current arrangements to provide for much greater transparency in reporting and public confidence in animal welfare outcomes. During this debacle the remaining sheep have now been repurchased by LiveCorp. LiveCorp is mainly an industry body. It is my view and Labor’s view that there does not appear to be an appropriate separation of regulation from the direct industry involvement. There has been an outright criticism of LiveCorp in that it plays both the role of industry representative body and regulator. In a situation like this, that is inappropriate. (Time expired)

Senator LIGHTFOOT (Western Australia) (3.21 p.m.)—I am disappointed that the Labor Party, the official opposition, has taken the stance of criticising the devastation that has been caused to the live sheep export trade without offering any solutions whatsoever. As a grower of wool for many years on a reasonably large scale and as an exporter of sheep, I feel as if I have some authority on this subject and can speak about it in this chamber. The troubles with the live sheep export by this particular ship, the Cormo Express, started perhaps before it slipped the hawsers in Fremantle and the sheep ceased to belong to Australia. On inspection, the sheep had an estimated 0.035 per cent scabby mouth. Scabby mouth can be brought about by a disease factor—it is contagious—or an appearance of it can be brought about through eating hard pellets, which often causes abrasions to the sheep’s mouth and passes as scabby mouth.

The sheep have been inspected in the gulf prior to the proposed unloading and after they had been rejected by Saudi Arabia. Because there was no scabby mouth found or any other disease, the sheep were offered to other countries. Other countries, most notably with significant Muslim populations, all rejected the sheep for one reason or another. I am at a loss to say why Saudi Arabia rejected the sheep when they were owned by a Saudi Arabian. I am at a loss to say why they should not have been purchased by another country. I am also at a loss as to why they should not return to Australia and that action be endorsed by this chamber if those sheep are found to be disease free, which they are at the time of speaking. Not only are those sheep disease free but they are actually putting on weight on the ship.

If the sheep are not sold, I understand tomorrow or Thursday is the arbitrary time given for when they will be returned to Australia. But I understand that countries on the east coast of Africa have also been approached. There may be a sale to the countries on the east coast of Africa; I am unsure of that. However, I do know that Cocos (Keeling) Islands are suited to the unloading of these 50,000 sheep.

Senator Crossin—They are not.
Senator LIGHTFOOT—People are becoming sudden experts on these matters who have had no input into primary production or no primary production experience whatsoever. It amazes me that people with a union background who are not associated with rural or primary industries suddenly are becoming experts on them. I can tell you this, Mr Deputy President: the feedlots on which these sheep are fattened and the feedlots to which they go in Saudi Arabia and other areas in the Middle East are infinitely smaller than that proposed on a place like Cocos (Keeling) Islands, and that destination is a place they could be tested for any disease that is not apparent now. There are no identifiable diseases in the sheep at the moment. Yes, I would be a purchaser of those sheep if they came to the mainland, not if they are on Cocos (Keeling) Islands. The sheep are fit and healthy and they are free from disease, as I said, at the time of speaking. They were passed for slaughter in the regions of these destinations and they are also passed for human consumption. There is no evidence, according to the veterinarians on the ship, of scabby mouth. I say that because perhaps the experts on the other side with trade union backgrounds, disassociated from primary production, have a different opinion. It is ludicrous that you should be speaking like this and adding further damage to an industry that has made hard-won gains in the past two years.

Now he is saying that he does not want them to come back to Australia. He has already said that they should come back. Then on AM on 2 October, the next day, it was reported that the federal opposition had called for the sheep on the Cormo Express to be slaughtered at sea. He has suddenly become an expert on this. (Time expired)

Senator CROSSIN (Northern Territory) (3.26 p.m.)—I rise to take note of the answers from Senator Ian Campbell this afternoon in relation to the sheep overboard affair, or perhaps not ‘overboard’ but they should be overboard. It is a pity that such attention was not given to others that lay wanting at sea over the past couple of years under this government. But let us get to the issue at hand. It seems that anything trapped at sea under this government really has no prospect of a good future.

In relation to whether or not these sheep ought to be offloaded on Cocos (Keeling) Islands, it was very disappointing of the minister, in answer to his first question as minister, not to be able to categorically rule out that Cocos Island would be used. It is very sad to see, and let us hope that Minister Campbell is not going to continue the legacy of poor relationships that this government has had with Christmas and Cocos islands as we have seen under Senator Ian Macdonald and Mr Tuckey. I was hoping we might have had at least a change of heart under this minister. One waits to see whether that is going to be the case. Here was his perfect opportunity to stand up and say that he would categorically rule out the sheep being offloaded on Cocos Island, but he did not do that. In fact, he said, ‘I would not want to rule it out.’ That is very disappointing.

Why can’t the sheep go to Cocos Island? For starters, there is no port for the ship to
moo in in order to offload the sheep. I as-
sume they would have to be dumped into
rubber dinghies or into patrol boats and taken
ashore 100 at a time. But there is actually no
port at Cocos Island because it is a coral
atoll. It is West Island we are talking about,
which is only 600 metres wide by 14 kilomet-
res long. There is an old quarantine station
on Cocos Island that has not been used for
that purpose for many years. It was used to
house 70 Sri Lankan asylum seekers some
years back but it has not been used as a quar-
tantine station for many years.

In fact, earlier this year during the esti-
mates process and during a parliamentary
committee meeting with the department of
territories looking into the annual reports of
Christmas and Cocos Islands, a question was
asked about the quarantine station, the un-
used facility on the islands. Labor represen-
tatives believe that this is a facility that
should be handed back to the Cocos shire.
When officials were asked earlier this year in
a parliamentary committee hearing whether
or not they believed that should happen, their
view was yes, and the Australian Quarantine
and Inspection Service representative said
that, although the site was currently listed as
a Commonwealth asset, it had no value at-
tached to it. The official also advised that the
facility was so degraded that it could not be
used without major structural upgrades.

The shire of Cocos Island have been call-
ing for a long time for this facility to be
handed over to them so that they can actually
use it. There are a couple of hundred acres of
land and it is very overrun; the grass was
extremely tall and overrun the last time I was
there. This is a section of land that the Cocos
(Keeling) Islands Shire Council could well
use, but no-one wants to use it to offload this
government’s problem and 50,000 sheep. I
might add that there are 600 people on Cocos
Island so, at this rate, they would all get 900
sheep each on a per head of population ratio.

They would all get 900 sheep each. That is
pretty well enough roast legs of lamb to last
them about 18 years, so maybe at the end of
the day they could do well out of this. I do
not think that a big rush on roast lamb is
what is needed on Cocos Island.

What is needed is for this government to
sit down and talk to the people on Christmas
and Cocos islands. That would be an unusual
event for this government, because this gov-
ernment have constantly used the Indian
Ocean territories to dump their problems. It
is a kind of out of sight out of mind view
regarding Christmas and Cocos islands. Co-
cos Island is not an appropriate place to put
the sheep. The CEO of the shire council, Mr
Jarvis, said so last Saturday. The island is too
small and the facilities are inadequate. You
could not get the sheep off the ship, let alone
house them or feed them. (Time expired)
Question agreed to.

**Health: Human Cloning**

*Senator HARRADINE (Tasmania) (3.31
p.m.)—* I move:

That the Senate take note of the answer given
by the Minister for Local Government, Territories
and Roads (Senator Ian Campbell) to a question
without notice asked by Senator Harradine today
relating to the cloning of human embryos.

Minister Campbell indicated that he had re-
ceived advice and he quoted from some of
that advice. Some of the advice suggested
that the action Australia is taking at the
United Nations would ensure that there
would not be a delay in a reproductive clon-
ing ban—those were the words that were
given to him. Cloning is cloning is cloning.
It is exactly the same process whether the
outcome is for reproductive purposes or
whether it is for the purposes of cloning a
human embryo specifically for destructive
experimentation. You could have two em-
bryos, for example, from the same process—
one is transferred to the womb of a woman

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and the other one is killed for the purpose of utilisation in research. There should be a condemnation of both those uses.

The minister referred to ‘therapeutic cloning’. That is a misstatement, and the term was used in the National Health and Medical Research Council’s invitation to state and territory health authorities. The Australian Health Ethics Committee is a statutory body, and the NHMRC must observe its rules. The chairperson said this about the particular phrase:

In the ethical guidelines AHEC reaffirmed and applied the well accepted distinction between a) therapeutic research and b) non-therapeutic research. Therapeutic interventions are interventions directed towards the well-being of the individual embryo involved, and non-therapeutic interventions are interventions that are not directed towards the benefit of the individual embryo but rather towards improving science, knowledge and technical application.

The use of the term ‘therapeutic cloning’ by any public servant who gave that advice to the minister is an absolute disgrace. It was clearly shown to be such by the Australian Health Ethics Committee. If that is the road that we are going along, we are actually undermining the basic principle which should govern research on humans. What emerged from the Nuremberg trials and the Helsinki agreements was that in all research on humans the interests of the individual subject must take precedence over the interests of science or society. Once we lose that principle, there is no end to the problems that we will face. This is the way in which some of those in the United Nations are going. It is of great concern to me that the National Health and Medical Research Council spoke on behalf of the government and now the government appears to be tied to that particular statement. I appeal to the government, in the time between now and the legal committee’s consideration of the matter, that it review the matter very seriously. (Time expired)

Question agreed to.

PERSONAL EXPLANATIONS

Senator O’BRIEN (Tasmania) (3.36 p.m.)—I seek leave to make a personal explanation.

Leave granted.

Senator O’BRIEN—I thank the Senate. On 19 September 2003 a number of News Ltd newspapers carried a report concerning the MV Cormo Express matter. The report suggested that I had blamed the suspension of Australia’s live export trade with Saudi Arabia for the failure of negotiations to facilitate the off-loading of the sheep stranded aboard the MV Cormo Express. This suggestion is not correct. As the shadow minister for primary industries, I issued a statement on 29 August 2003 announcing Labor’s support for the suspension of the live trade. It begins:

Labor supports the decision to suspend Australia’s live export trade with Saudi … until the current dispute over the health of Australian sheep exports is resolved.

I have expressed concern about the failure of the government to put in place contingency arrangements following the suspension, but I have expressed firm Labor support for the act of suspension. I seek leave to table my statement dated 29 August 2003.

The DEPUTY PRESIDENT—Do you want it tabled or incorporated?

Senator O’BRIEN—I will simply table it.

Leave granted.

PETITIONS

The Clerk—Petitions have been lodged for presentation as follows:
Trade: Live Animal Exports
To the Honourable President and Members of the Senate in the Parliament assembled.
This petition of the undersigned citizens of Australia draws to the attention of the Senate the stress and extreme suffering caused to cattle, sheep and goats during their assembly, land transportation and loading in Australia, shipment overseas, and then unloading and local transportation, feedlotting, handling, and finally slaughter without stunning in importing countries.
Further, we ask the Senate to note that heat stress, disease, injury, inadequate facilities, inadequate supervision and care, and incidents such as on board fires, ventilation breakdowns, storms and rejection of shipments contribute to high death rates each year, e.g. 73,700 sheep and 2,238 cattle died on board export ships in 2002. Many thousands more suffer cruel practices prior to scheduled slaughter.

We the undersigned therefore call upon the Senate to establish an inquiry into all aspects of live animal exports from Australia, with particular reference to animal welfare, to be conducted by the Senate’s References Committee on Rural and Regional Affairs and Transport.

by Senator Bartlett (from 21,740 citizens).

Medicare
We call upon the Senate to block the changes to Medicare which will see a further Americanisation of the health system with
- Workers earning over $32,300 being charged upfront for doctor’s visits
- Doctors given monetary incentive to increase fees for those not bulk-billed

To Extend Medicare and provide a free, universal health system for all by
- Transferring the money from the Private Health Insurance Scheme—worth $2.2 billion every year to a free health system
- Scrapping the $2.7 billion earmarked for military spending and transferring it to the health and education sectors

Extending Medicare to provide world-class health for all to include dental services, physiotherapy, chiropractic, physiological, optometry and all other health services not currently available on the bulk-billing system.

by Senator Jacinta Collins (from 14 citizens).
Howard Government through under-funding and cost shifting to the sick. We reject totally what will result from the proposed changes to Medicare: the establishment of a two-tier US-style health system.

Access to quality health care for all Australians is a basic human right that must be ensured.

Your petitioners request that the Senate should:
• oppose all Howard Government policy initiatives that will undermine the integrity, universality and ongoing viability of Medicare;
• ensure bulk billing for all Australians as a fundamental cornerstone of our health system;
• institute an independent national inquiry into the future of the Australian health system, so the community determines the type of health system that meets its needs; and
• make no change to Medicare until this national independent inquiry is finalised.

by Senator McLucas (from 11,891 citizens).

Medicare
To the Honourable the President and members of the Senate in Parliament assembled:

The Petition of the undersigned shows: Every Australian has the right to access medical care of a standard proper for the person’s overall self-development and appropriate in the event of ill health [Pope John XXIII Pacem in Terris. Encyclical on the Establishment of Universal Peace in Truth. Justice. Charity, and Liberty, 11 April 1963]; upheld to the United Nation’s (Copenhagen Declaration on Social Development 1943 of which Australia is a signatory]. Australians living in regional and rural Australia at present do not have access to the same standard of medical care: when compared to Australians living in urban areas. This inequitable situation is unacceptable and it undermines the dignity of those living in regional and rural Australia.

Your petitioners request that the Senate should: immediately establish a select committee to inquire into and report back to the Senate on: 1) why Australians in regional and rural areas do not have access to the same standard of medical care as those living in urban areas; 2) why current health policies are not working to provide deliver regional and rural Australians the same standard of health care available in urban areas: and 3) identify innovative policy solutions to overcome this unacceptable and socially inequitable situation.

by Senator McLucas (from 906 citizens).

Medicare
To the Honourable the President and Senators in Parliament assembled:

The Petition of the undersigned shows that we reject the Howard Government’s proposed changes to Medicare. Under the changes many more families will not be able to access bulk billing, and doctors will increase their fees for these visits. We therefore request that the Senate takes urgent steps to restore bulk billing by general practitioners and reject John Howard’s plan to end universal bulk billing.

by Senator McLucas (from 256 citizens).

Trade: Live Animal Exports

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.39 p.m.)—I seek leave to make a brief statement regarding one of the petitions.

Leave granted.

Senator BARTLETT—I thank the Senate. It is probably unfortunate that procedures in the Senate these days mean that petitions are pretty much waved through with just the tabling of a list rather than being read out as used to be the case. I simply want to draw the Senate’s attention specifically to a petition tabled here from close to 22,000 people regarding the live animal trade, which the Senate has just been debating. It is a matter of great interest to people in the community. I am fairly sure that this is the largest petition tabled in the Senate so far this year. I also understand that, in the last couple of years, there have been sizeable petitions tabled on this issue, with pretty close to the
largest number of signatures on a particular issue, not necessarily the top but they are certainly right up there. I think it is worth drawing the Senate’s attention to the size and significance of this petition and also noting that a petition with a larger number of signatures, about 26,000, from citizens of the UK was presented to the Australian High Commissioner in London over the weekend as well. Given the level of concern in the community on this issue, I thought it appropriate to specifically draw the attention of all senators to this petition.

NOTICES
Presentation

Senator Ridgeway to move on the next day of sitting:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on forestry plantations be extended to the last sitting day in 2003.

Senator Brandis to move on the next day of sitting:

That the order of the Senate of 9 September 2003 authorising the Economics Legislation Committee to hold a public meeting during the sitting of the Senate on 13 October 2003, be varied to provide that, after consideration of the Late Payment of Commercial Debts (Interest) Bill 2003, the committee also take evidence on the provisions of the International Tax Agreements Amendment Bill 2003.

Senator Brandis to move on the next day of sitting:

That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 28 October 2003, from 4.30 pm, to take evidence for the committee’s inquiry into the provisions of the Taxation Laws Amendment (Superannuation Contributions Splitting) Bill 2003.

Senator Allison to move on the next day of sitting:

That there be laid on the table by the Minister representing the Minister for Health and Ageing, no later than the next day of sitting, the following documents:

(a) the advice provided by the Australian Technical Advisory Group on Immunisation (ATAGI) in August 2002, as outlined in paragraph (3) of question on notice no. 1750 (Senate Hansard, 15 September 2003, p. 14473), relating to the options for vaccination programs ahead of other ATAGI recommendations;

(b) the submissions received by the National Health and Medical Research Council as part of its public consultation on the draft 8th Australian Immunisation Handbook;

(c) all documents relating to the government funding, its requirements of and the subsequent performance of the National Consortium for Education in Primary Medical Care Alternative Pathway Program since its inception, including any review documents; and

(d) the latest report submitted by the Medical Benefit Schedule Attendance Item Restructure Working Group.

Senator Allison to move on the next day of sitting:

That there be laid on the table by the Minister representing the Minister for Health and Ageing, no later than the next day of sitting, the most recent draft of the National Drug Research Strategy, as prepared by the National Drug Research Committee.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes the findings of the Access Economics report, released 25 August 2003, showing that:

(i) the financial costs of bipolar disorder amounted to $1.59 billion in 2003, around 0.2 per cent of gross domestic product,

(ii) around half of this cost is borne by people with the illness and their carers,

(iii) the cost of treating people with bipolar disorder is $298 million per annum,
with 66 per cent being on hospital costs and 2 per cent on medication,
(iv) other costs include $464 million in lost earnings, $199 million in carer costs, $25 million in prison, police and legal costs and $224 million in lost tax revenue, and
(v) the burden of bipolar disorder is greater than that for ovarian cancer, rheumatoid arthritis or HIV/AIDS, and similar to that of schizophrenia;
(b) notes that:
(i) misdiagnosis and under-treatment were found to be associated with unacceptable levels of suffering and suicide, and
(ii) around 298 Australians with bipolar disorder take their own lives each year, 60 per cent of whom are estimated to have received inadequate treatment; and
(c) urges the Government to adopt recommendations by SANE Australia to:
(i) enhance training and support for health professionals to aid earlier accurate diagnosis and treatment,
(ii) improve funding for community mental services with a focus on better continuity of care, more assertive psychiatric intervention and easier access to psychological treatments,
(iii) increase support and training programs for people with bipolar disorder and for carers,
(iv) integrate treatment for substance abuse with community mental health services,
(v) provide more effective suicide prevention programs with more focus on people with a mental illness,
(vi) conduct research into the most effective treatments for bipolar disorder as well as into its causes, and
(vii) improve community education in mental health literacy, especially in relation to awareness of possible early symptoms requiring assessment.

Senator Allison to move on the next day of sitting:
That the Senate—
(a) notes that since the Government’s announcement that it would introduce an excise on alternative fuels commencing 2008, the effect on the LPG industry has been to:
(i) during the week beginning 28 September 2003, force Australia’s largest manufacturer and supplier of automotive LPG tanks and accessories for factory fitted gas only and dual fuel motor vehicles and after-market dual fuel installations—APA Manufacturing Pty Ltd—into voluntary administration,
(ii) put 75 Victorian jobs at APA Manufacturing under threat, with an estimated 200-300 direct flow-on jobs also threatened,
(iii) make unlikely any sale of APA Manufacturing as a going concern, and
(iv) reduce demand for LPG-only vehicles by approximately 50 per cent, largely because of fleet buyer concerns about the effect of resale values of excise imposition;
(b) notes that:
(i) the Prime Minister (Mr Howard) wrote to the industry in November 2002, stating that the Government had no intention of imposing an excise on LPG,
(ii) Australia has the second highest number of LPG vehicles in the world despite the price differential between LPG and petrol being the second smallest in the world, and
(iii) LPG use in transport currently reduces carbon dioxide emissions by more than 840 000 tonnes a year and avoids the need to import around 13 million barrels of oil a year; and
(c) urges the Government to reverse its decision to impose excise on alternative fuels.

**Senator Allison** to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) according to figures prepared by the Tasmanian Gaming Commission from data in all states and territories, in 2001-02 Australians lost more than $15 billion in gambling, an increase of $0.6 billion on the previous year,

(ii) $8.9 billion of this was lost on poker machines (excluding those in casinos), an increase of more than $350 million on the previous year,

(iii) 43 per cent of gambling losses were estimated to come from problem gamblers, and

(iv) the former treasurer of the Box Hill Football Club is the latest to be charged with stealing and says he lost $200 000 on poker machines at the Box Hill RSL Club;

(b) urges the Prime Minister (Mr Howard) to make good his 1999 commitment to show national leadership in combating problem gambling; and

(c) notes that a meeting of the Ministerial Council on Gambling has finally been called for November 2003 and urges that this meeting progresses stalled initiatives on problem gambling.

**Senator Allison** to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the ‘Depleted Uranium Weapons: The Trojan Horses of Nuclear War’ conference is being held in Hamburg, Germany, from 16 to 19 October 2003,

(ii) this conference will unite scientific experts with their independent studies and the peace, veterans and anti-nuclear movements, and

(iii) speakers include Dr Helen Caldicott, Professor Durakovic and Dr Doug Rokke; and

(b) urges the Government to send a representative to the conference and, failing that, meet with Australian non-government organisation representatives attending the conference on their return, and consider any recommendations coming from the conference.

**Senator Forshaw** to move on the next day of sitting:

That the time for the presentation of the report of the Finance and Public Administration References Committee on staff employed under the Members of Parliament (Staff) Act 1984 be extended to 16 October 2003.

**Senator Lightfoot** to move on the next day of sitting:

That the Joint Standing Committee on the National Capital and External Territories be authorised to hold a public meeting during the sitting of the Senate on Thursday, 16 October 2003, from 6 pm to 7 pm, to take evidence for the committee’s inquiry into the role of the National Capital Authority.

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

That the Senate—

(a) notes:

(i) the extensive history of violence directed towards human rights defenders in Colombia,

(ii) that Article 3 of the Geneva Conventions prohibits violence against civilians in the context of armed conflict that occurs within the borders of a sovereign state and is not of an international character, and

(iii) recognises the importance of human rights work and views with regret any implication that human rights is connected with terrorism;

(b) welcomes:
(i) the Colombian Ministry of Defense Directive 09 of 8 July 2003, obliging the State Security Forces to protect the work of human rights organisations, and

(ii) the Presidential Directive 07 of 9 September 1999, requiring all government officials to refrain from questioning the legitimacy of human rights organisations or making statements that discredit, persecute, or incite persecution of such organisations;

(c) expresses its concern for the safety of human rights defenders in Colombia following recent statements by President Álvaro Uribe Velez, who, in a speech on 8 September 2003, described human rights organisations as ‘politickers at the service of terrorism’ and ‘terrorist agents and cowards who hide their political ideas behind human rights’;

(d) notes:

(i) the important role performed by international human rights organisations in Colombia and the positive contribution made by international observers, including the United Nations Human Rights Commission, the Inter-American Commission on Human Rights, Peace Brigades International, Amnesty International and Human Rights Watch, and

(ii) with concern the continuing allegations of collusion between the Colombian military and paramilitary groups and that impunity continues to be a serious problem within Colombia; and

(e) expresses its hope that the Colombian Government will take steps to make clear its commitment to human rights, and to reduce the harassment suffered by human rights defenders and organisations in Colombia.

Senator Brown to move on the next day of sitting:

That the Senate—

(a) notes the continuing horror of the Cormo Express’ passage to the Middle East which has resulted in the death of at least 8 per cent of its cargo of 53,000 sheep; and

(b) calls on the Government to immediately suspend the live sheep and cattle trade from Australia.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.41 p.m.)—I give notice that, on Monday, 13 October 2003, I shall move:

That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Family and Community Services and Veterans’ Affairs Legislation Amendment (2003 Budget and Other Measures) Bill 2003,

Farm Household Support Amendment Bill 2003,

Migration Legislation Amendment (Migration Agents Integrity Measures) Bill 2003 and the Migration Agents Registration Application Charge Amendment Bill 2003,

Maritime Transport Security Bill 2003,

Petroleum (Submerged Lands) Amendment Bill 2003 and the Offshore Petroleum (Safety Levies) Bill 2003,


I also table statements of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statements incorporated in Hansard.

Leave granted.

The statements read as follows—
FAMILY AND COMMUNITY SERVICES AND VETERANS’ AFFAIRS LEGISLATION AMENDMENT (2003 BUDGET AND OTHER MEASURES) BILL

Purpose of the Bill
The bill provides for the Family and Community Services and Veterans’ Affairs 2003 Budget measures (other than further legislative simplification) that require legislation in order to be implemented, and also provides for a small number of related or other measures.
It makes amendments to:
• exempt all Holocaust payments from the social security and veterans’ entitlements means test;
• extend the data-matching program to cover newly available data sources;
• improve and simplify the operation of the Assurance of Support Scheme;
• strengthen the notification arrangements for people departing Australia, and provide for the full recovery of debts that arise when people receive foreign pension lump sums;
• reduce the allowable temporary overseas absence to 13 weeks;
• restore the Child Support Agency’s access to the AUSTRAC database; and
• make minor technical amendments.

Reasons for Urgency
Several measures are required to commence (on Royal Assent) as soon as possible.
(Circulated by authority of the Minister for Family and Community Services)

FARM HOUSEHOLD SUPPORT AMENDMENT BILL 2003

Purpose of the Bill
The bill will provide for the extension of income support applications within the Farm Help—Supporting Families Through Change program to 30 June 2004 from the current deadline of 30 November 2003. It will also provide for enhancements to the Farm Help program that aim to further improve the program’s capacity to facilitate ongoing farm adjustment.

Reasons for Urgency
The bill needs to be passed in the 2003 Spring sittings to ensure that farmers in extreme financial difficulty continue to have access to an adequate welfare safety net and incentives for ongoing farm adjustment after November 2003.
(Circulated by authority of the Minister for Agriculture, Fisheries and Forestry)

MIGRATION LEGISLATION AMENDMENT (MIGRATION AGENTS INTEGRITY MEASURES) BILL
MIGRATION AGENTS REGISTRATION APPLICATION CHARGE AMENDMENT BILL

Purpose of the Bills
These bills implement various recommendations of the 2001-02 Review of Statutory Self-Regulation of the Migration Advice Industry, and implement measures to improve consumer protection and the administration of the complaints process in the industry. The bills will significantly strengthen the powers of the Migration Agents Registration Authority (MARA) to deal with those agents whose exploitative practices threaten the integrity of Australia’s migration system.

Reasons for Urgency
A relatively small number of registered migration agents are lodging large numbers of vexatious visa applications onshore (usually for a Protection Visa). Often their clients use these applications to secure an extended stay in Australia on a bridging visa with permission to work. This activity, in conjunction with the recruitment of women as sex workers and the use of short stay visas offshore, threatens the integrity of Australia’s visa arrangements.
By introducing tough new sanctions against migration agents engaging in such vexatious activity, the Migration Legislation Amendment (Migration Agents Integrity Measures) Bill will target those agents (who may be facilitating the exploitation of prostitutes and other victims of people traffickers) and will ensure their prompt removal by the MARA from the industry. Further, it will protect their vulnerable clients, many of whom are unaware that to obtain “permission to work”
their agent has lodged a further visa application or made often spurious claims for protection on their behalf.
(Circulated by authority of the Minister for Citizenship and Multicultural Affairs)

MARITIME TRANSPORT SECURITY BILL
Purpose of the Bill

Reasons for Urgency
It is advisable to ensure that the legislation is in force from 1 January 2004 so that the Commonwealth can commence its regulatory role with regard to maritime security. This includes requiring Australian port and port facility operators and operators of certain types of Australian flagged ships to undertake security assessments and prepare comprehensive security plans. These plans and associated security assessments will need to be approved by the Commonwealth prior to security measures being implemented by the maritime industry participants. Full compliance will need to be ensured by 1 July 2004, at which time Australia is obliged to report to the IMO on compliance issues.

Failure to implement the measures will adversely affect Australia's ability to trade, particularly with the USA. In addition, the measures will significantly improve security in the maritime sector which is currently vulnerable to attack by terrorists and could be used by terrorists to transport people, weapons or equipment for terrorist purposes.
(Circulated by authority of the Minister for Transport and Regional Services)

PETROLEUM (SUBLIMED LANDS) AMENDMENT BILL
OFFSHORE PETROLEUM (SAFETY LEVIES) BILL
Purpose of the Bills
The bills will:
• establish a National Offshore Petroleum Safety Authority (NOPSA) and
• implement safety improvements;
• implement a mechanism for recovering the costs of the services provided
• by NOPSA; and
• rectify a provision about funds transfer from the Commonwealth to the states
• and the Northern Territory to take account of the GST.

Reasons for Urgency
The Commonwealth, states and Northern Territory (NT) governments have agreed that NOPSA be fully operational by 1 January 2005. This will not be possible unless all states and the NT enact mirror legislation before the operational date to ensure transfer of regulation from current arrangements to the new Authority. Accordingly, it is desirable that sufficient time is allowed between the passage of these bills and the operational date for the states and the NT to enact their legislation.

In addition, the staffing of NOPSA, including the appointment of a Board and Chief Executive Officer, must be completed by September 2004. Consequently, recruitment and training activities and establishment activities including: the design and procurement of information and communications technology systems; office premises; and associated infrastructure and services would need to commence as early as possible.

If the bills are not introduced and passed in the 2003 Spring sittings, it is likely that the timetable for NOPSA to be operational and consequently, the implementation of much needed safety improvements, will not be met.
(Circulated by authority of the Minister for Industry, Tourism and Resources)
SPAM BILL
SPAM (CONSEQUENTIAL AMENDMENTS) BILL

Purpose of the Bills
The bill proposes a series of measures to reduce the volume of unsolicited commercial e-mail ("spam").

Reasons for Urgency
The volume of unsolicited commercial e-mail or "spam" is increasing dramatically, threatening the viability of the Internet as a reliable communications medium and imposing a substantial cost on businesses. After wide public consultation the National Office for the Information Economy released a report on the issue on 16 April 2003. Based on this report the government is pursuing a series of measures to deal with the problem, including legislation.

The exponential growth of the "spam" problem, and the critical point it is reaching, mean that legislation must be passed in the shortest possible timeframe. This will enable action to be taken directly against spammers and provide a basis from which to develop bilateral and multilateral agreements to deal with spamming in other countries of origin. In the longer-term broad international frameworks through APEC, OECD and similar bodies will be pursued, but the rapid escalation of the problem requires more immediate solutions until those frameworks are in place.

(Circulated by authority of the Minister for Communications, Information Technology and the Arts)

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TELECOMMUNICATIONS INTERCEPTION AND OTHER LEGISLATION AMENDMENT BILL

Purpose of the Bill
The bill will amend a number of Commonwealth Acts consequential to the establishment of the Western Australia Corruption and Crime Commission (WACCC) to replace the existing Western Australia Anti-Corruption Commission.

The bill will amend the Telecommunications (Interception) Act 1979 to add references to the WACCC to enable it to receive and disseminate relevant intercepted communications and to intercept communications in its own right. It will also amend the Financial Transaction Reports Act 1988 to enable the WACCC to receive ‘FTR’ information from AUSTRAC. In addition, the bill will amend the Crimes Act 1914 to replace references to the Western Australia Anti-Corruption Commission with references to the WACCC. The amendment to the Crimes Act will enable the WACCC to be defined as a state or territory participating agency so that it may authorise persons to acquire evidence of an assumed identity from a Commonwealth agency or use an assumed identity.

Reasons for Urgency
Western Australia is creating a new agency, the WACCC following a recommendation by the WA Police Royal Commission. The new WACCC will replace the Western Australia Anti-Corruption Commission but because the WACCC will have a new Act and broader powers, references to the Western Australia Anti-Corruption Commission cannot be taken to be references to the new WACCC under the Acts Interpretation Act 1901.

The WACCC is scheduled to commence operation in late 2003. Until this bill amends the Telecommunications (Interception) Act, the Financial Transaction Reports Act and the Crimes Act, the WACCC will be unable to receive and disseminate relevant intercepted communications and to intercept communications in its own right, be unable to receive ‘FTR’ information from AUSTRAC and be unable to authorise approved officers or persons to acquire evidence of, or use, an assumed identity.

If the bill is not passed in the 2003 Spring sittings the WACCC would be without any telecommunication interception capacity and without the capacity to receive ‘FTR’ information for at least 6 months (until the 2004 Autumn sittings). The assumed identities provisions of the Crimes Act allow for a body to be prescribed by Regulation; however, it is desirable that the Crimes Act be amended along with the other legislation.

(Circulated by authority of the Attorney-General)

Senator Brown to move on Tuesday, 14 October 2003:
That the Senate—
(a) notes:
(a) that Australia’s Chief Scientist Dr Robin Batterham is also the chief technologist for mining giant Rio Tinto, and

(b) that Dr Batterham continues to advise the Government on matters relating to Australia’s greenhouse policy;

(b) calls on the Government to conduct an independent review of the advice Dr Batterham has given on greenhouse policy, including carbon trading and geo sequestration, since 1999; and

(c) requests the Minister for Science (Mr Peter McGauran) to make the job of Chief Scientist full-time and conditional on its officeholder having no pecuniary interest which involves real or apparent conflict with any of the duties involved.

Senator Brown to move on the next day of sitting:

That there be laid on the table by the Minister representing the Minister for Science, no later than 5 pm on Monday, 13 October 2003, the following documents:

(a) the undated work in progress working paper containing a preliminary example of modelling based on unpublished data provided to Rio Tinto Technology by Roam Consulting, as identified in the response to question on notice no. 1374 (Senate Hansard, 15 September 2003, p. 14466);

(b) all working documents of the independent working group which operated in 2002 to produce a report for the Prime Minister’s Science, Engineering and Innovation Council on ‘Beyond Kyoto: Innovation and Adaptation’ as identified in the response to Senate question on notice no. 1374; and

(c) correspondence and records of meetings between employees or representatives of Rio Tinto and the Minister for Science, his department or the Office of the Chief Scientist from 1 January 2002 to the present relating to: (a) Dr David Cain’s participation in the Working Group which produced ‘Beyond Kyoto: Innovation and Adaptation’; and (b) the provision by Rio Tinto of data, modelling or other information for use by the Working Group or the Chief Scientist.

COMMITTEES

Environment, Communications, Information Technology and the Arts Legislation Committee

Extension of Time

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.44 p.m.)—by leave—At the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee, Senator Eggleston, I move:

That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts Legislation Committee on the Plastic Bag Levy (Assessment and Collection) Bill 2002 [No. 2] and a related bill be extended to 30 October 2003.

Question agreed to.

LEAVE OF ABSENCE

Senator MACKAY (Tasmania) (3.45 p.m.)—by leave—I move:

That leave of absence be granted to Senators Bishop and Ray, for the period from 7 October to 9 October 2003, on account of parliamentary business overseas.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Extension of Time

Senator FERRIS (South Australia) (3.46 p.m.)—by leave—At the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I move:

That the time for the presentation of the report of the committee on the provisions of the Aviation

Question agreed to.

Economics Legislation Committee
Meeting
Senator FERRIS (South Australia) (3.46 p.m.)—by leave—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I move:
That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate today, from 4.30 pm, to take evidence for the committee’s inquiry into the provisions of the Energy Grants (Cleaner Fuels) Scheme Bill 2003 and a related bill.

Question agreed to.

NOTICES
Postponement
Items of business were postponed as follows:
Business of the Senate notice of motion no. 1 standing in the name of Senator Sherry for today, relating to disallowance of the Migration Amendment Regulations 2003 (No. 6), as contained in Statutory Rules 2003 No. 224, postponed till 8 October 2003.
Business of the Senate notice of motion no. 1 standing in the name of the Leader of the Australian Democrats (Senator Bartlett) for 8 October 2003, relating to the disallowance of the Fisheries Management Amendment Regulations 2003 (No. 3), as contained in Statutory Rules 2003 No. 112, postponed till 16 October 2003.
General business notice of motion no. 601 standing in the name of Senator Hutchins for today, relating to compensation for Hepatitis C sufferers, postponed till 8 October 2003.
General business notice of motion no. 602 standing in the name of Senator Nettle for today, relating to anti-vehicle mines, postponed till 8 October 2003.
General business notice of motion no. 607 standing in the names of the Leader of the Australian Democrats (Senator Bartlett) and Senator Stott Despoja for today, relating to the explosive remnants of war, postponed till 8 October 2003.

IRAQ
Senator BROWN (Tasmania) (3.47 p.m.)—I ask that general business notice of motion No. 612 standing in my name for today, which censures the Prime Minister for involving Australia in the invasion of Iraq, be taken as a formal motion.

The DEPUTY PRESIDENT—Is there any objection to this motion being taken as formal?

Senator Ian Campbell—There is an objection.

Suspension of Standing Orders
Senator BROWN (Tasmania) (3.48 p.m.)—Pursuant to contingent notice, I move:
That so much of the standing orders be suspended as would prevent Senator Brown moving a motion relating to the conduct of the business of this Senate, namely a motion to give precedence to general business notice of motion no. 612.

I have moved this suspension of standing orders because the matter has urgency, is extremely germane to the current business of this country and is extremely important in the matter of the country having a right to believe that its leadership is dealing with it directly and honestly in, above all matters, the decision to use its armed services—in this case 2,000 Australian Defence Force personnel—to invade another country. The Prime Minister has deceived Australia in this matter. In March this year the Prime Minister announced that Defence Force personnel from this country would be joining those sent by President Bush from the United States and Prime Minister Blair from the United Kingdom to invade Iraq. The Prime Minister did that on the basis—and I quote from his speech to the nation:
We are determined to join other countries to deprive Iraq of its weapons of mass destruction, its chemical and biological weapons, which even in minute quantities are capable of causing death and destruction on a mammoth scale.

We know that the Prime Minister was wrong in those matters, that Iraq did not have weapons of mass destruction and therefore was not able to create the death and destruction from weapons of mass destruction on the mammoth scale asserted by the Prime Minister, which of course led to a response of some considerable fear in this country. The Prime Minister then went on to make his second claim, that these weapons threatened Australians. He said:

Iraq has long supported international terrorism ... International terrorism knows no borders ... Australia and Australians anywhere in the world are as much targets as any other Western country and its people.

Therefore the possession of chemical, biological, or even worse still, nuclear weapons by a terrorist network would be a direct undeniable and lethal threat to Australia and its people.

It was under those circumstances of imminent, direct, undeniable and lethal threat to the Australian people that Prime Minister Howard asked our defence forces to take part in the invasion of Iraq. Now with the passage of history it has become abundantly clear that the Prime Minister was not just a bit wrong but totally wrong. Never before in the history of this nation has a leader sent the defence forces of this country to a war, much less the invasion of another country, on a deception, on a complete fabrication which did not relate to and was not germane to the truth of the circumstances in Iraq. This is a matter of enormous moment for this nation. This is a matter of extreme concern for all those who believe that, in a democracy, ultimately one has to depend on the honesty and truthfulness of the leader of the country relying on the available intelligence before putting even the potential for sacrifice of Australian lives at threat.

We know now that Australia was not threatened by Iraq. We know that Australian lives were put at risk unnecessarily. We know that this Prime Minister, even when faced with the truth of those matters, seems to be in denial. He seems incapable of coming to grips with the fact that he was central to this deception. He took upon himself the authority—through his word, which has been shown to be wrong—to send Australians into this invasion. It is, therefore, absolutely imperative that the Prime Minister be censured. It is important that this debate take place; that the Senate look at the record of the last six months and before that, and make a decision to support this censure motion. *(Time expired)*

Question agreed to.

**Procedural Motion**

**Senator BROWN** (Tasmania) *(3.54 p.m.)*—I move:

That general business notice of motion no. 612 may be moved immediately and have precedence over all other business today till determined.

Question agreed to.

**Censure Motion**

**Senator BROWN** (Tasmania) *(3.54 p.m.)*—I move:

That the Senate—

(a) notes:

(i) the claims by the Prime Minister (Mr Howard) about Iraq’s weapons of mass destruction program, in the lead up to the war with that country, have proven false, and

(ii) that the Prime Minister failed to adequately inform the Australian public on intelligence agency warnings that a war with Iraq would increase the likelihood of terrorist activity; and

(b) censures the Prime Minister for misleading the country in his
determination to join the President of the United States of America, Mr G.W. Bush, in the war on Iraq.

I have already outlined the deception engaged in by the Prime Minister in March this year when he sent Australian defence forces good and true to Iraq. I want to continue from there to look at the situation as it obtains now in the Prime Minister’s mind. We have had six months and more in which the Prime Minister has said to the country, ‘Wait! The proof will come through’—but it has not. Most recently, the report of Dr Kay in the United States has, despite the best efforts of 1,200 weapons inspectors, revealed that no weapons of mass destruction have been found. As I have said, what is particularly unbecoming to Prime Minister Howard in this matter is his inability to come to grips with the fact that he was a pivotal part of a mass deception on the most important decision that a Prime Minister can make. He has changed his ground to cover that deception. In other words, he knows about it. On 24 September on the World Today ABC radio program, Prime Minister Howard said:

Those who advocated another course have to accept—that is, those who opposed him—that if their advice had been followed, Saddam Hussein would still be in power in Iraq with all of the torture and the human rights abuses that is involved in that. You can’t have it both ways, because if America and her allies had not acted then Iraq would still be run by Saddam Hussein. This is Prime Minister Howard taking a shot at those people—the majority of Australians—who, in the run-up to the war, opposed his impending action to go to war. At this point, six months later, he is indicating that the outcome justifies the war because Saddam Hussein has been removed. Yet, when we go back to the National Press Club on 14 March this year, it is a different story. Michelle Grattan from The Age asked:

Mr Howard, if as you advocate, countries in the Security Council got behind the resolution and a miracle happened and Iraq said yes it would say the game was up and disarmed, but Saddam Hussein was still there, would this be enough for peace given the strong case you have made today for regime change in the name of the Iraqi people?

Here is the Prime Minister’s reply in March:

Well I would have to accept that if Iraq had genuinely disarmed, I couldn’t justify on its own a military invasion of Iraq to change the regime. I’ve never advocated that.

Here we have our Prime Minister now accusing those who cavil, criticise and accuse him of misleading this nation of in some way having failed to see that the invasion was to justify the removal of Saddam Hussein. But, by his own words, that is patently not the case. The Prime Minister has moved ground because he knows he was wrong when he led this nation into the invasion on the basis of weapons of mass destruction and the spread of terrorism. There is in this—in the Prime Minister’s own mind—a degree of mischief, a degree of manipulation of and a degree of misrepresentation to the people of this country who opposed what he did. Not only was this Prime Minister misleading the country in March but also he is now abusing the country in September and October.

If you went back to the Prime Minister’s earlier asseveration that weapons of mass destruction were in Iraq, that Iraq was part of the web of terrorism and, what is more, that the Australian people were threatened like all the other Western democracies, you might find that now that has been disproved. In May this year the Prime Minister was still saying, ‘Wait,’ but he has given up on that now. The Prime Minister might say, if he were a man of integrity: ‘Well, I got it wrong. I took selectively from intelligence reports from this country, from Britain, from the US and from elsewhere, and I got it
wrong.’ The Prime Minister might say, ‘I made an enormous mistake.’ He might excuse himself on the basis of the selective intelligence that was used at the time, but he might restore faith in his word by doing so. But not this Prime Minister. On last Friday’s PM program, reporter Nick Grimm said:

Regardless, John Howard says he has no regrets about sending Australia to war.

The quote from Mr Howard:

We had clear intelligence assessments that Iraq had a weapons of mass destruction capability. That ... was the basis of the judgement we made at the time we joined the coalition and I don’t retreat from that one iota.

The problem with the Prime Minister is that he does not retreat one iota from what he said in March. He was wrong, but he does not retreat. He was patently misleading the nation, but he does not change his position one iota. He made the greatest political mistake in recent Australian history, which was to commit our defence forces to an invasion of another country on false pretences, but he does not retreat from that one iota. This Prime Minister deserves to be censured because of that attitude to this country, to its defence forces and to the people of this country who have a different point of view and who were right when the Prime Minister was wrong when they turned out in their hundreds of thousands to oppose his trajectory into war at the behest of the White House. That is the mark of a leader who does not deserve to have the faith of a parliament or the faith of the people. He should be censured.

Was the Prime Minister deceived? I contend that he was not. I contend that, like President Bush and like Prime Minister Blair, this Prime Minister selectively took information which supported the political trajectory of the day—the White House’s post-September 11 determination to invade Iraq and remove Saddam Hussein. I still contend that oil was at the centre of that impulsion. I still contend that gaining economic ascendency in the Middle East is entirely central to the need of not just the United States but the rich world to stay rich while the rest of the world stays poor in the coming decades. Whatever turns out to be the truth—and it appears very much that the United States is determined to maintain control over the second biggest oil deposits in the world—we can go back to the year before the war and to material uncovered and released in the United States by John Pilger. John Pilger recently uncovered video footage of Secretary of State Colin Powell saying in Cairo on 24 February 2001:

He (Saddam Hussein) has not developed any significant capability with respect to weapons of mass destruction. He is unable to project conventional power against his neighbours.

That is the US Secretary of State saying in 2001 that Saddam Hussein was disabled. Pilger goes on to say that two months later Condoleezza Rice reportedly said:

We are able to keep his arms from him. His military forces have not been rebuilt.

The intelligence situation which began before the White House manipulated domestic and then world opinion as best it could towards the invasion of Iraq was a recognition that Saddam Hussein had been disabled post the first Iraq war in 1991. What is more, after 1998 when the UN weapons inspectors had found nothing and were expelled, there was no reason to change that assessment. So, by 2001, that assessment stood. There is a lot of conjecture now about defectors from Saddam Hussein giving spin. Supporters of Mr Chalabi—who now enjoys American patronage in the Iraq people’s council—came back saying that chemical, biological and nuclear weapons of mass destruction were here, there and somewhere else. That spin from those politically motivated people seems to be the core of the fabrication of the weapons of mass
destruction story that led to this war, to the
deaths of hundreds of allied service people
and to the deaths of thousands of innocent
Iraqis this year.

I remind you, Mr Acting Deputy Presi-
dent, that before the invasion both the CIA
and ASIO warned that terrorism could in-
crease as the result of an invasion of Iraq,
and they have been found to be right. It is
patently clear that in the intelligence agen-
cies in the US, in the United Kingdom and
here in Australia there were those who had
reservations, to say the least, who had a
countermanding point of view about Saddam
Hussein’s potential in weapons of mass de-
struction, but they were sidelined. We in the
rich and powerful Western world, where we
have a responsibility commensurate with that
richness and that power, are in danger of al-
lowing political spin to override factual
gathering of intelligence information in the
service of those who happen to be in elected
office at any given time. This is an extraor-
dinarily dangerous thing in a world in which
we have one hyperpower and a number of
acolytes.

I do note that President Bush will be com-
ing to this parliament if a bill is passed by
the Senate in the coming three weeks. No
doubt it will be to return to the Prime Minis-
ter of Australia John Major—I am sorry,
John Howard; that mistake was made by the
US State Department last week—some of the
support in his hour of need that John Howard
gave to President Bush—

The ACTING DEPUTY PRESIDENT
(Senator Lightfoot)—It is more appropriate
for you to call him Prime Minister or Mr
Howard.

Senator BROWN—That he gave to
President Bush in the earlier part of this year.
We have here a Prime Minister who is prac-
tised in the art of deception. This is the ‘chil-
dren overboard’ Prime Minister. This is a
Prime Minister who has not learnt from the
Gulf of Tonkin and the deception by the
United States President on that occasion
against his own people to justify the invasion
of North Vietnam. He has not learnt from the
‘babies in the incubator’ fabrication in the
United States which helped to justify the
invasion of Kuwait 12 years ago. But he has
become part of that trajectory which is so
dangerous to the world. It must be stated that
if in the democratic world—and President
Bush has particular responsibility here—we
cannot have utmost probity, utmost honesty
and utmost forbearance against the intrusion
of political spin into the decisions which lead
to war between nations then we are on a per-
ilous course.

President Bush will come in two weeks
time to be feted by the Prime Minister, at
great expense to the Australian people, in
this parliament—a privilege not afforded to
many other heads of state who do not meet
the Australian Prime Minister’s political
predilections. The question should be: should
not President Bush, if he is coming to this
parliament, engage in a debate with the
members of this parliament? I would like to
ask President Bush about how he became so
deceived that he misled his own people—
some hundreds of them to their deaths—by
fabricated words coming from his own
mouth about Saddam Hussein, weapons of
mass destruction and the threat of terrorism
coming from Saddam Hussein.

Has not this President, supported by our
Prime Minister, in one year, converted Iraq
from being one of the least threatening coun-
tries to other countries in the world into one
of the most dangerous countries as far as the
potential for the export of weapons and ter-
rorism to the rest of the world? Has that not
been the outcome of President Bush’s and
Prime Minister Howard’s activities? Will this
President care to engage in a debate with the
representatives of the people of Australia in
their parliament or are we simply going to be treated by this Prime Minister to a President giving an address with the rest of the parliament mummified in their seats and unable to respond? Because that is what the Prime Minister plans. Presidents and prime ministers will come and go, but never will this Prime Minister take from the record his deception of Australia, aided and abetted by the President of the United States and the Prime Minister of the United Kingdom, against the wisdom of most other countries in the world, including France, Germany and China, in invading Iraq at the start of this year.

There are still a good many Australians in Iraq, and there will continue to be Australians working for the benefit of humanity in that country. But the circumstances in which they work are fraught and were made much more dangerous by the decision of the Prime Minister to include this country in that invasion at the start of this year. This Prime Minister’s behaviour, his deceit and then his failure once he recognised that he had got it wrong to be able to accept and say that he had been wrong is the mark of a politician rather than a statesman. It is the mark of a forelock tugger to the White House rather than a leader of the independent nation of Australia.

It is time this nation was led by a person who held Australia foremost. It is time this nation made decisions in foreign affairs and in military matters according to the needs of this nation, but we will not get that from this Prime Minister. I have no doubt that the government will defend the actions of the Prime Minister. I have no doubt that some blame will be placed on members of the Public Service and of the intelligence agencies. I have no doubt that Senator Hill in his speech to follow will try to defend the indefensible. But this Prime Minister stands indicted and should be censured.

Senator HILL (South Australia—Minister for Defence) (4.13 p.m.)—That was a very disappointing contribution from Senator Brown.

Senator Brown—Is that the best you can say?

Senator HILL—That is the start. It was disappointing. It lacked his usual flair and he even seemed to lack enthusiasm. He struggled to fill in 20 minutes, and I should say at the outset that I am not even going to try. This, of course, is a stunt. The history of this motion is that notice was given on 18 September. There was an issue during the last sitting, which of course is now a fortnight ago, in relation to a report of the British joint intelligence community and whether it gave warning to its masters in Britain of potential terrorism consequences related to an invasion of Iraq. That issue was debated in this parliament and, as Senator Brown knows, the Prime Minister was questioned at some length. He provided his answers, and little has been heard of the issue in the last fortnight.

Senator Brown comes in here today and says, ‘Well, what is today’s stunt?’ He goes through the old notices of motion on the Notice Paper and he finds this one, which he gave on 18 September, and tries to create some urgency from it, claiming that something has occurred that justifies him weeks later coming in and trying to censure the Prime Minister. It is legitimate to have a debate on these issues. I do not quarrel with that. The issues are important, but the process that Senator Brown has adopted today is nothing more than a stunt and should be treated as such. Within the notice of motion that he gave a long time ago in this place, Senator Brown said that the government failed to adequately inform the Australian public of any risks that might be associated with being a party to an invasion of Iraq. I
simply remind the Senate what the foreign minister, Mr Downer, said on 10 February in the other place when talking about the specific risks:

There would also be heightened potential for terrorist activity and civil unrest in the event of conflict in Iraq.

There it is: the foreign minister of this country clearly and unambiguously stating that there is a risk and the public should be aware of it. The Prime Minister himself, on 24 March, said in the parliament:

... threat levels against Australian interests in a number of countries overseas—especially in the Middle East—have been raised because of the war in Iraq.

There was no attempt to hide the fact that during a time of conflict there are increased risks associated with that conflict. In circumstances where we believed that Saddam Hussein had weapons of mass destruction, there were particular threats associated with the potential use of weapons of mass destruction. We made that clear to the Australian public.

It was important that it be made clear and that was the reason that both the foreign minister and the Prime Minister did so. That is the clear answer to the allegation that Senator Brown made in his notice of motion on 18 September. The Prime Minister did inform the Australian people of the risk. Whether or not Senator Brown thinks that was done adequately is interesting but it is certainly not a reasonable basis for a censure.

In relation to the broader question of the justification for the action against Iraq, it is interesting to look at the findings of the Iraq survey group, which, as we all know, recently put down an interim report. If Senator Brown wanted to make something a little more current, he might have chosen to debate that report. Then, at least, we would have had a debate that was contemporary. Australia decided, in Australia’s national interest, to join a coalition of the willing in a military action against Iraq in order to enforce various United Nations Security Council resolutions. The ISG interim report in relation to that matter was interesting in that the ISG found many material breaches of United Nations sanctions. They included evidence of dozens of continuing undeclared Iraqi WMD related research and development activities, many pursued separately, so easily denied but reconstructed quickly when UN sanctions eased. They found deep involvement by Iraqi intelligence services of undeclared networks of laboratories suitable for chemical and biological weapons research; evidence of an extensive targeted campaign to conceal, disperse or destroy evidence of these WMD related programs both before, during and after Operation Iraqi Freedom; indications that Saddam Hussein was firmly committed to acquiring nuclear weapons capabilities; and evidence that Iraq was committed to developing proscribed missiles and other WMD capable delivery systems, including new evidence of programs never declared to or discovered by the United Nations.

What we and others believed at that time was that there was a risk in allowing Saddam Hussein to continue with programs and fail to meet obligations that had been put on him by the international community. This is the case of a person who not only had weapons of mass destruction but had actually used them against his own people, in the case of chemical weapons, and used them against his neighbours. This is an instance of a regime where for 12 years the international community, through peaceful means, tried to give itself the confidence that he was no longer a threat but which failed to receive the cooperation from Saddam Hussein that was necessary to satisfy itself that the threat no longer existed. It was with great reluctance that a number of countries said they would no longer be prepared to accept that threat. It
was with reluctance because obviously no-
boby wants to go to war. It was with reluc-
tance also because it was a responsibility that
the Security Council should have taken up
itself. It was the Security Council’s failure to
ensure the resolutions it passed for 12 years
were enforced that left a number of coun-
tries, including Australia, with the view that
in order to properly act in the security inter-
ests of their own people they had no alterna-
tive but to take this action. In our view, on
the basis of his continuing failure to accord
with the obligations placed upon him by the
international community and the intelligence
that was available to us at the time, it was the
correct decision to take in the interests of the
safety and security of the Australian people.
We took that decision, and we still believe
that it was correctly based.

When you come back to the motion that
was moved today, this is an attempted cen-
sure by Senator Brown on the Prime Minis-
ter. He says that the Prime Minister should
be censured because the claims about Iraq’s
weapons of mass destruction have proven
false. The Iraqi survey group has only put
down an interim report after three months. It
says that it is premature to reach such a con-
clusion. It does, however, point to a whole
range of failures of Saddam Hussein to meet
the obligations that had been required of him
by the Security Council and sets out a whole
range of ways in which Saddam Hussein’s
behaviour was clearly threatening to the in-
ternational community.

Senator Brown secondly says that the
Prime Minister should be censured because
he did not explain the risks to the Australian
people of going into such an action. As I
have said and indicated, not only he but also
the Minister for Foreign Affairs publicly ex-
plained those risks. On that basis I would
respectfully put to you, Mr Deputy President,
that there is certainly no basis to censure the
Prime Minister. If there is a basis for any-
thing, it is to applaud the fact that we have a
Prime Minister who has the courage to take
difficult decisions that, in all the circum-
stances that exist at the time, justify an action
as necessary to protect Australia and Austra-
lian interests. The government will certainly
oppose this motion for the stunt that it is.

(Quorum formed)

Senator FAULKNER (New South
Wales—Leader of the Opposition in the Sen-
te) (4.27 p.m.)—I must say this has been a
very lacklustre censure debate. It is very dis-
appointing that the Leader of the Govern-
ment in the Senate could only speak for 10
minutes in defence of Mr Howard. Some
would say that it is a valiant effort for any-
one to manage to stitch together 10 minutes
in relation to this. I was a little disappointed
also, I think, in Senator Brown’s contribu-
tion to the debate. But it is an important issue—a
very important issue—because we are debat-
ing a censure of the Prime Minister for mis-
leading the Australian people about the rea-
sons for going to war with Iraq.

No evidence to date has been produced
that can justify the Prime Minister’s claims
before the war that Iraq possessed stockpiles
of completed biological and chemical weap-
ons, yet the Prime Minister used these claims
to justify why Australia needed to go to war
with Iraq. This is what Mr Howard told the
ABC back in September last year about
Iraq’s possession of weapons of mass de-
struction:

There is no doubt on the evidence, on the intelli-
gence material available to us, that not only does
Iraq possess chemical and biological weapons,
but Iraq also has not abandoned her nuclear aspi-
rations.

Furthermore, Mr Howard told parliament on
4 February 2003:

The Australian government knows that Iraq
still has chemical and biological weapons and that
Iraq wants to develop nuclear weapons.
We share the view of many that, unless checked, Iraq could, even without outside help, develop nuclear weapons in about five years. These days, however, Mr Howard merely refers to weapons programs. Mr Howard told Melbourne radio a few weeks ago:

*I certainly believe there will be evidence found that they had programs.*

They are Mr Howard’s words. That is the spin—not weapons of mass destruction but weapons of mass destruction programs. Bit by bit we are beginning to see the truth emerging, and Mr Howard has misled the public on the reasons for going to war with Iraq. The opposition has consistently called for clarity from the government over its claims that Iraq possesses completed stockpiles of WMD. So far, we have received none. Instead, what we have seen is just another dodge from the Prime Minister. As the months go by information is beginning to emerge that perhaps Iraq did not possess weapons of mass destruction.

Just last week, the Iraq survey group presented its interim report to US Congress. It was yet another torpedo into John Howard’s credibility on the Iraq war. The Iraq survey group, comprising 1,200 weapons inspectors, spent four months trying to confirm the claim that as of March 2003 Saddam Hussein possessed stockpiles of completed chemical and biological weapons. They had access to an increasing number of former regime officials and scientists to assist their task. Yet last week the head of the survey group, David Kay, informed the US Congress that they had found no evidence of stockpiles of completed chemical and biological weapons in Iraq. As the survey group report indicated:

*We have not yet found stocks of weapons, but we are not yet at the point where we can say definitively either that such weapon stocks do not exist or that they existed before the war, and our only task is to find where they have gone.*

This report comes after the US House Intelligence Committee told the CIA director, George Tenet, last week that the intelligence on Iraq before the war was largely outdated, circumstantial and fragmentary and contained too many uncertainties to conclude Saddam Hussein possessed weapons of mass destruction.

It has also been revealed recently that the claim made by Mr Howard and his government prior to the war that Iraq was reconstituting its nuclear capability by trying to import uranium from Africa was false. Mr Howard told parliament on 4 February this year:

*Iraq continues to work on developing nuclear weapons ... *

As evidence of this, he said:

... uranium has been sought from Africa ... 

He also claimed in parliament:

*Iraq is reconstituting its nuclear weapons program ...*

These claims were made by the Prime Minister, Mr Howard, despite the fact that the Office of National Assessments, the Department of Foreign Affairs and Trade and the Defence Intelligence Organisation knew back in January of this year that claims about Iraq’s nuclear weapons program were lacking in credibility. We have discovered that Mr Howard’s claims that attacking Iraq was necessary to reduce the threat of terrorism and to reduce the risk of weapons of mass destruction finding their way into the hands of terrorists were also false. These claims were all made despite intelligence indicating the contrary was true.

The UK parliament Intelligence and Security Committee report in September revealed that the Joint Intelligence Committee in February this year made a very interesting assessment. I would like to quote it to the Senate:
... there was no intelligence that Iraq had provided chemical or biological materials to al-Qaeda.

Or of Iraqi intentions to conduct—and I quote:

... chemical or biological terror attacks using Iraqi intelligence officials or their agents.

However, it judged that in the event of imminent regime collapse there would be a risk of transfer of such material, whether or not as a deliberate Iraqi regime policy.

The JIC assessed that al-Qaeda and associated groups continued to represent by far the greatest terrorist threat to Western interests, and that threat would be heightened by military action against Iraq.

The Joint Intelligence Committee also assessed that any collapse of the Iraqi regime would increase the risk of chemical and biological warfare technology or agents finding their way into the hands of terrorists not necessarily al-Qaeda. Despite that sort of advice, the Prime Minister said the opposite was the case on at least 15 occasions before the war in Iraq. Mr Howard argued that a military attack on Iraq required Australian participation in order to reduce or eliminate the risk of chemical and biological weapons finding their way into the hands of terrorists. As Mr Howard told parliament on 4 February this year:

The ultimate nightmare for us all must be that weapons of mass destruction fall into the hands of terrorists. The more the world leaves unchecked either the possession of such weapons by rogue states or the spread of those weapons, the more likely it becomes that terrorists will acquire and use them.

Then, in his address to the nation on 20 March, Mr Howard said:

We believe that so far from our action in Iraq increasing the terrorist threat it will, by stopping the spread of chemical and biological weapons, make it less likely that a devastating terrorist attack will be carried out against Australia.

The announcement by David Kay last week that to date the Iraq survey group had not yet found stocks of weapons massively under-mines the Prime Minister’s credibility and position on this issue. Again and again we find that Mr Howard is loose with the truth on national security. These days, Mr Howard says to us, ‘The Iraq survey group needs more time. Give the Iraq survey group more time.’ But, when the Labor Party and this Senate chamber argued before the war with Iraq—back in February—that Hans Blix and the United Nations weapons inspectors should be given more time, we were told that that was a sign of weakness. What does Mr Howard do now? He says, ‘Oh, give the Iraq survey group more time.’ That is absolute hypocrisy now that the boot is on the other foot.

After the war, as you would know, Mr Acting Deputy President, Labor called on Mr Howard to recommission the UN weapons inspectors in order to accelerate the weapons inspection process, given that there were already 300 trained UN weapons inspectors with Iraqi field experience. The government declined. On 10 April, after the fall of Baghdad, Mr Howard had the following exchange with a journalist:

JOURNALIST:
Prime Minister, one of the objectives was to rid Iraq of weapons of mass destruction. Where are they and when will they be found?

PRIME MINISTER:
Well I have said all along that we wouldn’t expect to get hard evidence in relation to chemical and biological weapons until well after the hostilities have ceased. There aren’t signs along the road to Baghdad saying WMD five kilometres from here. They’ve been obviously passed around and hidden, and some of them may have been taken out of Iraq...

JOURNALIST:
Do you think they have already fallen into the hands of terrorists, Prime Minister?
PRIME MINISTER:

I don’t know ...

That was in April this year. It is worth remembering. It was all a little too candid on the part of Mr Howard. There was foreknowledge there that the war could have caused the spread of weapons of mass destruction.

How long will it take for Mr Howard to front up to the Australian parliament and the Australian people and come clean? He really ought to admit that he has misled the nation in relation to the reasons for taking Australia into the war with Iraq. He cannot hide behind the usual shabby tactic that this government employs—‘plausible deniability’, as it is now called. He cannot hide behind that tactic when it comes to the Iraq war. To go to war was his decision—Mr Howard’s decision. In fact, he said several times publicly that it was the most serious decision that a Prime Minister could make. At a press conference back in March this year, he waxed lyrical when he announced the commitment of troops. I will never forget it. This is what he said:

Well, I realise very much it’s an extremely serious decision ... If anybody thinks I’ve done this lightly or in some kind of cavalier fashion out of nostalgia for some kind of historical comparison, forget it, it’s nothing of the kind ... I intend to explain it as best I can and to argue it as best I can to the Australian people and to point out as best I can to them in all the ways that I can the reason why the Government has taken this decision and why it is in the long-term interest of our nation.

They were Mr Howard’s words on 18 March this year. To make this decision to commit Australia to this war, Mr Howard would have been fully informed of the situation by overseas and Australian intelligence agencies. He would have been aware of the increased risks of terrorism. He would have been aware that weapons of mass destruction could have spread because of the war. The bottom line is that you do not announce your country is going to war—you do not announce that you are committing Australian Defence Force personnel to a war zone—using what are increasingly looking like false pretexts. That is not on. You have to be sure. You have to be sure that what you are doing is right and that it is being done for the right reasons.

I say that Mr Howard was not sure. He was very loose with the truth. He misled the Australian parliament and the Australian people. I believe that such behaviour does warrant censure by the Australian Senate. The opposition will support an appropriate censure motion today. I move an amendment to the censure motion in Senator Brown’s name that stands before the chair:

Omit subparagraph (a)(i) and paragraph (b), substitute:

(i) that no evidence has been produced to date by the Prime Minister to justify his claims that as at March 2003, Iraq possessed stockpiles of completed biological and chemical weapons that justified going to war;

(b) censures the Prime Minister for misleading the Australian Parliament and the Australian people in his justification for taking this country to war with Iraq.

I have had that amendment circulated in the chamber. I commend the amendment to the Senate. I believe it very much strengthens the censure motion before the chair and it warrants the support of the Australian Senate. I commend the approach of the opposition to the chamber.

Senator ALLISON (Victoria) (4.45 p.m.)—I rise to lend the support of the Democrats to this censure motion and to the amendment moved by Senator Faulkner. There would be few Australians who would not agree that we have been lied to over the pre-emptive attack on Iraq. I will not even call it a war because it was hardly that. It was Australia joining the United States and the
UK on the world stage in attacking another country.

We were told that this attack on Iraq was absolutely essential. Already, there have been a number of quotes drawn on in this debate of what the Prime Minister and the Minister for Foreign Affairs said in the lead-up to this attack on Iraq. It is quite possible, of course, that our Prime Minister and our Minister for Foreign Affairs were also lied to. I accept that this is a strong possibility. That makes it no less irresponsible of this government to have taken us to this pre-emptive attack on another country. Obviously, so keen were they to join the United States on the world stage and to strut their stuff that I, quite frankly, believe the government did not care. They were willing to suspend rationale. The obvious evidence that was available to everyone in this country was put aside. The government chose to go into this attack with its eyes open to some extent but also hiding behind a lot of suggestions that the information was within the jurisdiction of the US administration but, of course, we could not be told about it precisely.

I will go to some of the quotes that we heard from those who took us into this attack. In May this year, the Prime Minister said:

Well Australia supported military action against Iraq for a number of reasons, particularly the possession of weapons of mass destruction. I’m sure evidence of that will be found, it will take time.

This is like a leap of faith that we are all expected to join the Prime Minister in taking. For some reason we believe they are there. We do not know why we believe this, but we believe they are there and we are sure they will be found. In September last year, Mr Downer also said:

Again, there was absolutely no evidence and now we know that not to be the case. In September last year, Mr Downer also said:

The point is that I think that the central point here is, I think that this document produced by the British Labour Government puts beyond any question, the fact that Saddam Hussein does have a chemical and biological weapons capability. How silly does Mr Downer look having said back in September, ‘puts beyond any question’? I do not think there is any doubt that that lie was to reassure Australians that Saddam Hussein was a threat. Mr Acting Deputy President, you are frowning at me. You obviously do not like me calling that a lie but I cannot see anything that can suggest that it was not a lie. Mr Downer answered this question from Barrie Cassidy:

Minister, you mentioned the weapons of mass destruction, but how long does the Coalition need to search for these weapons of mass destruction without success before it can be assumed that they don’t exist?

Senator Kemp—Mr Acting Deputy President, I raise a point of order. There was the use of an unparliamentary term referring to Mr Downer purporting to lie. I do not think it is parliamentary. It has always been ruled to be unparliamentary and it should be withdrawn.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—If that was unparliamentary, Senator Allison, I invite you to withdraw it on the two occasions that you have mentioned it.

Senator ALLISON—If that was unparliamentary, as it appears to be, then I unequivocally withdraw the word ‘lie’. In answer to Barrie Cassidy, Mr Downer said:

Well, I don’t think there’s any doubt that they exist. I mean, after all, Saddam Hussein, we all know, used weapons of mass destruction on a number of occasions, including against his own
people. Nobody has really doubted that such capabilities exist but nobody also has had any illusions it will take a lot of time to try to find these capabilities.

It is fairly clear to those who listened to this debate that if you had to admit that it was going to take a long time to try to find weapons of mass destruction capabilities then you did not know where they were. The intelligence did not stretch to us knowing precisely where they were. It is a strange kind of suggestion for the government to make: they know that they are there but they do not know where they are and they do not know how to find them—but we have the intelligence, of course, that tells us otherwise.

The Democrats have put some hundreds of questions to the government on this very subject over the last few months. Some of them have been answered; most of them have been avoided or evaded in terms of a response from the government. Nonetheless, we have done this because, since the public were not being told the truth here and were not being given the evidence that the government claimed it had, we felt it was important that those questions should be put. Some of those questions are yet to be answered. I will go through some of them which I put on notice on 22 April. I said:

With reference to a claim made by the Prime Minister before the war that only the threat of force by the United States of America (US) allowed the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) weapons inspectors back into Iraq—

the Prime Minister said that it was only the threat of force that put them back—

and given that it was the threat of force by Washington which pulled the weapons inspectors out of Iraq in March 2003 before they could complete their work—

which had been conveniently glossed over by this government and in the debate at the time—

does the Prime Minister now concede that the threat of force failed again to disarm Iraq of its weapons of mass destruction?

The Prime Minister has never conceded this. I asked:

What is the government’s response to the claim of the Executive Chairman of UNMOVIC, Dr Blix, that the US was guilty of ‘fabricating’ evidence against Iraq to justify the war, and his belief that the discovery of weapons of mass destruction had been replaced by the main objective of the US of toppling Saddam Hussein?

Again, that was not answered. I further asked:

With reference to claims made by the Prime Minister before the war that there was no doubt that Iraq had weapons of mass destruction and that this was the primary reason for Australia’s participation in the ‘coalition of the willing’, what is the Prime Minister’s position now that, even after the collapse of the regime in Baghdad, no weapons of mass destruction have been found despite United States Defence Secretary Donald Rumsfeld’s claim to know where they are?

The Prime Minister said to us that regime change—and we have all heard a lot in this chamber about the Saddam Hussein regime—was only a secondary concern for Australia. So the primary concern, supposedly weapons of mass destruction, turned out not to be the primary justification for war after all. The Prime Minister claimed that Iraq had weapons of mass destruction and Saddam Hussein could not be contained or deterred. I asked:

... what is the government’s analysis of why they were not used in the regime’s terminal hours against the invading US, United Kingdom and Australian forces?

If Saddam Hussein had such weapons—and it seems clear that he did not—why would he not use them in response to what was a pretty decisive attack on Baghdad and other parts of Iraq? I asked whether the Prime Minister now regretted saying before the war that Saddam Hussein could stay on in power pro-
vided he got rid of his weapons of mass destruction. Again there was no answer to this question.

The Prime Minister has changed his position many times on this issue to justify taking this country into a war zone and taking part in an attack on a country which killed thousands of civilians. The Prime Minister started by saying that if Saddam Hussein would just comply with weapons inspections and get rid of his weapons of mass destruction then he could stay on. Then suddenly we were convinced that any 45 minutes from now there could be an attack on any other country and that biological, chemical and nuclear weapons might be used. Then we moved to the position which ultimately we went to the war on: we needed to get rid of this regime because of the way they treated their own citizens.

Just in the last 24 hours or so, questions have been raised about the evidence which has been found—that is, the test tube of botulinum which was presented by Washington and London as evidence of Saddam Hussein’s development and concealment of weapons of mass destruction. This test tube was found in an Iraqi scientist’s home refrigerator where it has been for 10 years. That information came out just yesterday. David Kay, the expert appointed by the CIA to lead the hunt for weapons, told a congressional committee last week that the vial of botulinum had been hidden in the scientist’s home and could be used to covertly surge production of deadly weapons. Since that time the discovery of the vial has been at the heart of the debate over prewar claims that Iraq had an arsenal of banned weapons.

This was cited in justifications of the invasion by President Bush and by Britain’s Foreign Secretary, who described this toxin as 15,000 times more toxic than the nerve Agent VX. Mr Straw claimed, after the report came out, that it presented further conclusive and incontrovertible evidence that Saddam had been in breach of the UN resolutions, how dangerous and deceitful the regime was, and that the military action was both justified and essential to remove the dangers. Now we know that the scientist had been asked to hide the botulinum in his refrigerator at home in 1993. So it is hardly likely that this was the basis of a huge capability of Iraq to produce this biological substance.

Since the war we have had the situation where enormous amounts of money have had to be poured in to fix up the mess that has been left behind in Iraq. The White House has ordered a major reorganisation of American efforts to quell violence in Iraq and Afghanistan and to speed up the reconstruction of both countries, according to senior administration officials. This is news as of yesterday. The new effort includes the creation of a so-called Iraq stabilisation group, $US20 billion being required by the Bush administration for reconstruction and $US67 billion for military operations in Iraq and Afghanistan. We are seeing here a legacy of unrest and violence, and a destroyed country that has recently been described by a US army physicist as a toxic wasteland. There is so much depleted uranium and there are so many chemical materials in Iraq—not from weapons of mass destruction but because of the damage which has been done to various chemical facilities in industry—that this is not a safe place for anyone to live.

I think we have been misled, both in this place and more publicly. While all of this has been going on, we have also seen the United States step up its own weapons of mass destruction. On 7 August US government scientists and Pentagon officials gathered at Nebraska Air Force Base to discuss the development of a modernised arsenal of small,
specialised nuclear weapons. According to the *New York Times* of 3 August 2003:

The Pentagon believes that more than 70 nations, big and small, now have some 1,400 underground command posts and sites for ballistic missiles and weapons of mass destruction.

It further says that it wants to:

... develop a class of relatively small nuclear weapons ... that could pierce rock and reinforced concrete and turn strongholds into radioactive dust.

"With an effective earth penetrator, many buried targets could be attacked," the administration said in its Nuclear Posture Review, which it sent to Congress last year.

Back in April the United States produced a weapons grade plutonium pit, the core of a fission bomb, for the first time in 14 years. According to the Los Alamos National Laboratory:

... the move restores the nation’s ability to make nuclear weapons and was needed so the Energy Department could replace pits found unsafe or destroyed through regular check-ups.

So, on the one hand, we have joined the United States in chasing some non-existent weapons of mass destruction and, in the meantime, the United States has pursued its own nuclear agenda with great gusto and at great cost. I think that it is very likely that we are going to see some of those nuclear weapons tested in the United States and, by all accounts, some of those bunker-busters will need to be atmospheric. According to reports that I have read, it is completely unfeasible to test them underground.

We are now back in the realm of nuclear development, facing what I think is the very frightening prospect of nuclear weapons proliferation around the world—because it will not just stop with America. America is certainly a superpower and has a great deal more resources than any other country, and this is a very serious situation we are currently facing with America being reluctant to contain its own development of nuclear weapons of mass destruction. We are going to see a backlash in both the Middle East and around the rest of the world.

All in all, the attack on Iraq has been a gross failure. It has failed to stop terrorism; it has failed to stop the proliferation of weapons. It has destroyed a country and there is no end in sight to the unrest and the mess that has been left behind there. The United States would like the United Nations to come in and help clean up that mess but I sincerely hope that the United States are not going to be relieved of the responsibility that they have towards that country. I think Australia should accept some of that responsibility as well because we have joined the United States on the basis of something which has not been proved and which cannot clearly be proved. I think it is a sorry part of Australia’s history and it is a great pity that our government was not prepared to listen to its parliament and was not prepared to bring to this place the decision to go to war, because it is quite clear that it would have been defeated.

Many of us on this side of the chamber have spoken at length about why this was an ill-conceived war and why we would be left with the kind of mess that we currently are left with. The Democrats are pleased to support this censure motion. I think that, if we have not seen good sense come out of the government over this issue—that is, if we have not seen honesty or clear answers provided to the many questions that have been put about why we went with the US to this attack—it has not been for want of trying in this place. I think the government should take far more heed in the future of the kind of debate that the Senate has typically had over this kind of action.

Senator CHRIS EVANS (Western Australia) (5.04 p.m.)—I rise to speak in support of the censure motion and the amendment
moved by Senator Faulkner on behalf of the Australian Labor Party. I think that this is a most important debate because it goes to the most serious decision a government can make. The Australian government committed 2,000 young Australians to war and put the lives of those 2,000 Australians at risk. It now appears that the decision was taken on the basis of a very misleading argument and that the rationale for invading Iraq without UN sanction was largely not supported by evidence. In fact, there is now evidence that the claims made about Iraq were, as it has been claimed, ‘sexed up’ in order to support the government’s commitment to the USA to go to war in Iraq.

This is the most serious thing that the parliament could possibly debate. It is the most serious decision the government could take and I think the lack of interest by the government in justifying its stance on or debating these issues is an indictment of it. The government has now fallen back to the position where it tries to justify the war with an argument that simply goes, ‘We won. Saddam Hussein was an evil dictator and he has been deposed. What is the problem?’ I think there is a problem. I have no argument that Saddam Hussein was an evil dictator and I for one am happy that he has gone. But the arguments that were used to justify the war were not those the government is now giving. We do not invade every country where we find an evil dictator in charge. If we did, we would be very busy.

We had a government decision to go to Iraq with a very small coalition of the USA and the UK because of the claims of intelligence reports concerning the threat posed by the weapons of mass destruction program run by Saddam Hussein. It was not that he had some remnants of a chemical or biological warfare program but that the weapons he possessed posed a threat to international security and his neighbours. It was seen as a real threat that required the most serious possible response by the coalition forces—that is, the invasion of Iraq. The argument ran that the UN sanctions had failed, that the monitoring of and the international pressure on Iraq had failed and that the most extreme response possible was necessary—the full-scale military invasion of Iraq.

We think that it is fundamentally important that such a significant decision be founded on proper, sober assessment of Australia’s national security interests. There is increasing evidence that that was not the case. What we increasingly see is a change in the government’s rationale for the justification of the war on Iraq and a huge shift in the government’s language about Iraq’s alleged weapons of mass destruction. In an article in the West Australian, Karen Middleton got it dead right when she noted that, according to the government, Iraq definitely had an active weapons of mass destruction program, then they probably had them and then they only had programs to try to buy them. This is degenerating into farce. The government keep shifting the goalposts, changing the argument and wanting to walk away from their original justifications, because the evidence now does not support the claims it made.

These are not minor points of political argument; these are fundamentally important questions about the efficacy of our intelligence services, whether or not intelligence efforts were politicised, whether or not the most serious decision the government can make—that is, to send Australians to war—was made on a sound basis and whether or not the Australian public were misled and the arguments for the war on Iraq manufactured. What we say in the censure motion today is that the Australian public were misled and that, for political purposes, the government manipulated the intelligence and the arguments that they placed before the Australian public in order to support a decision that they
had taken months in advance of the formal announcement of a war against Iraq.

It is highly disturbing that the government have taken that decision, because 2,000 Australian lives were put at risk. There are still some 800 Australians serving in the gulf region whose lives are at risk. Many Australians take the view, now that the war is over, that somehow the risk does not remain for Australians. That is not the case. There are still some 800 Australians whose lives are very much at risk and, while it is a credit to the ADF that we have not lost any Australian lives, no-one from the ADF or the government would fail to accept that they remain at serious risk. While much is down to good management and the professional skills of the ADF, there is also an element of good luck because, as we see nightly on the news reports, American and British troops are being killed on a daily basis. It is still a highly unstable situation and our Australian troops are still at risk, as are those inspectors involved in the inspection program.

We now have a very clear situation where the government have misled the Australian public about their rationale for being involved in the war. The government must be held to account and be called upon to justify that decision. It is disgraceful that the government did not, as a first item of business today, table the Iraq survey group report released by David Kay last week. Here we have a government that said, ‘We went to war because of the weapons of mass destruction contained in Iraq.’ When troops entered Iraq and no weapons of mass destruction were discovered, the government told us that it was a matter of finding the evidence because it had been concealed and it would take some time before the expert group, the weapons inspectors, could uncover it. Last week we had the first formal report from that group, and it did not support the government’s claims. Any reading of the publicly available information that David Kay produced makes clear that it did not support the government’s claims.

A lot of detail is still to be released, and one of the disappointing things about the Kay report is that all we get is a transcript of evidence he gave to a US congressional hearing. The federal government, which committed 2,000 Australian troops who risked their lives at war, did not come into this parliament and say, ‘This is the formal report gained by the Iraq survey group that goes to the heart of the reasons for our involvement in Iraq.’ Why? Because they are embarrassed. They realise now that their claims for the justification of our involvement in Iraq have not stood up. I admit that further evidence may be gathered and that this is an ongoing process, but clearly the Kay report is a critical report that throws damning light on the arguments about our involvement in Iraq.

Today Senator Hill made only passing reference to that report. He was forced to because of this censure motion. There was no coming into this parliament to table the report, provide an explanation and allow the parliament to debate it. It took a censure motion for us to get a proper parliamentary debate about the most serious examination yet of whether the rationale for war on Iraq was justified. That is disgraceful in itself. There should have been a tabling of the full report. We, of course, have not seen the unclassified report of the Iraq survey group, released in the US last week, but what we do know is quite telling.

This report has been compiled by the 1,200 weapons inspectors, including 14 Australians, who have been there for the last three or four months examining the evidence to establish whether or not Saddam Hussein possessed stockpiles of weapons of mass destruction. The head of that survey group,
Mr David Kay, has now informed the US Congress that no evidence of stockpiles of completed chemical and biological weapons have been found—a very different picture from that presented to us before the invasion of Iraq. This all comes on top of claims, which we have now proved to be false, made prior to the war. John Howard’s claims that, just prior to the war, Iraq was reconstituting its nuclear capability by trying to import uranium from Niger in Africa have now proven to be false. John Howard made a false claim prior to the war that attacking Iraq was necessary to reduce the threat of terrorism when in February this year he was already in possession of British intelligence which said exactly the reverse. The Prime Minister also made a false claim prior to the war that attacking Iraq would reduce the risk of weapons of mass destruction finding their way into the hands of terrorists when British intelligence, again in February, had warned the Howard government of exactly the reverse.

The announcement by David Kay last week that to date the Iraq survey group had not yet found stocks of weapons is the fourth major blow in as many months to the Prime Minister’s claims that justified military involvement in Iraq. The Prime Minister now uses the excuse, ‘We need more time.’ It is interesting that that was an unacceptable response when we on this side of the house argued that in fact Hans Blix and the UN inspectors ought to be given more time. That was then seen as a sign of weakness. Now it is seen as absolutely necessary, as the government scrambles for some evidence to support the claims it made in justifying war on Iraq. There is no doubt in my mind that it will not be able to prove the exaggerated claims made prior to the war. There is no doubt that Saddam Hussein was an evil man with a history of involvement in despicable behaviour against his people and neighbouring countries and that he had resorted to the use of chemicals in the past. But what is now clear is that a lot of the claims made in support of the rush to war on Iraq cannot be justified.

The Kay report found that multiple sources have told the Iraq survey group that Iraq did not have a large ongoing centrally controlled chemical weapons program after 1991. According to the report, information found to date suggests that Iraq’s large-scale capability to develop, produce and fill new chemical weapons munitions was reduced, if not entirely destroyed, during previous US-led operations in Iraq in 1991 and 1998. These are terribly telling findings. The Iraq survey group also uncovered information relating to Iraq’s chemical weapons programs that could not confirm that Iraq ever planned to use its weapons during Operation Iraqi Freedom. These are very important findings that undermine some of the most serious claims made to support the war on Iraq. This is a report that should have been tabled in this parliament, that the government should have brought before us for the parliament to debate, because it fundamentally undermines many of the claims made to justify war on Iraq. David Kay’s team has also found that it has not been able to uncover any evidence that Iraq had an active nuclear weapons program since Operation Desert Fox in 1998.

What all this adds up to is a clear indication that the claims made about the threat posed by Saddam Hussein’s WMD programs have been seriously exaggerated. What we have to examine and what we have to understand is whether or not that was because of deliberately misleading claims made on behalf of coalition governments, whether it was as a result of sexed up intelligence reports or whether it was just a complete failure of intelligence. Certainly it seems the evidence is leaning towards the politicisation of intelligence, the manufacturing of claims to sup-
port a political decision and an effort on behalf of a number of governments to justify their position on Iraq by making exaggerated claims about Iraq's WMDs. This is not a question about whether or not you think Iraq under Saddam Hussein should have been left as it is or whether Saddam Hussein was a good or bad person. Clearly the view of the whole international community and any thinking human being is that he was a dictator with evil intent and had a terrible record of oppression against his people.

What we have is a decision by the Australian government—a legally taken decision—to commit 2,000 Australians to war, to put their lives at risk. This parliament has an obligation to examine and explore the justifications given for that. It is not good enough for the current government to say, 'We won. No Australians died. Don’t worry about it. It’s all okay.' It is not good enough. What we now know is that the Australian public do not believe that the war was justified. They know that they have been deliberately misled on this issue. In a recent poll over two-thirds of poll respondents—68 per cent of Australians—said that they believe that the Prime Minister misled the nation about the reasons for going to war on Iraq. Sixty-eight per cent of Australians believe that they were misled by their elected government as to the reasons for going to war on Iraq. I think that is a terrible indictment of this government, and it will cost us dearly. While some people in the government are keen to move the goalposts and change the argument, and think such arguments are niceties they do not have to bother with, we now have Australians who are very cynical about what they are told about national security matters—Australians who believe they were deliberately misled.

We know, for instance, that they and ADF personnel are very concerned about the politicisation of defence—about what occurred in the 'children overboard' affair. We know that they are very concerned that the ADF has been politicised under this government and we know that the Australian public have come to the view that they have been misled about the most serious decision a government can take: the decision to send Australians to war. That will undermine our national security interests in the longer term, because Australians will be much more cynical about what they are told about their national security interests. While we struggle in this place to get bipartisan support for Australia’s interests in national security issues, this sort of thing seriously undermines that effort.

I think it is a very important issue that we should come to terms with. I think it is important that the government be censured over this, because it is a sign that the parliament is reflecting the will of the Australian people and their view that they have been grievously misled, that they are not happy about that, and that it is an important matter and not one to be dismissed by saying that there was nothing lost in the sense of Australian lives. Thousands of lives have been lost—Iraqis and coalition forces. The justification for the
war has proved to be one that was highly misleading. It is important that we debate the Kay Iraq survey report because it is important that the truth comes out.

I think the work being done on the Joint Statutory Committee on ASIO, ASIS and DSD is very important for us getting an understanding of whether those intelligence reports were sexed up and whether we have developed a situation where either intelligence agencies are telling the government what they want to hear or, somewhere in the process, intelligence reports are being manipulated to provide support for political decisions already taken. If that is true, it seriously undermines our national security interests. The issue has clearly undermined Australians’ belief in the political processes and it has undermined their confidence in the government telling the truth about the most serious decision a government can take.

I think it is very important that we censure the government and make it clear that it is not acceptable to mislead the Australian public about a decision to go to war. I think it is important that this parliament continues to pursue the truth—as the US and British parliaments are—about why we were committed to a war in Iraq, because the outcome is not the only issue. The process and the rationale for going to war must be explored and understood. If people were misled—as I think is becoming increasingly obvious—those that misled must be exposed and held to account, because nothing could be more damaging to the Australian body politic than a decision to go to war by misleading the Australian public.

**Senator Murphy** (Tasmania) (5.24 p.m.)—I would just like to say a few words with regard to the motion that we are debating this afternoon. If one thing is clear, it is that this country was led to believe that we were joining forces with the US and Britain to embark upon war in Iraq because of weapons of mass destruction. I do not think there is one Australian who believes anything other than that. For a government to try and change that story is very sad and very unfortunate. We were led to believe that somehow Saddam Hussein had developed huge stockpiles of chemical and other weapons of mass destruction—that, in fact, are probably to be found in every Iraqi’s backyard—and that it was in our national interest and in the interest of national public safety that we participated with the US and the UK.

I find that interesting. It is interesting to ask why countries like Canada, Germany, France and New Zealand couldn’t come to the same conclusion about their national interests and their national security. If this was about what it seems it was about—that is, the removal of Saddam Hussein, which I would not necessarily disagree with—that is what we should have been told. The government says, ‘There has been no smoking gun found yet. It may take some time.’ I accept that it may take some time, but bear in mind that over 12 years we had a series of investigations by UN inspectors. Obviously the Iraqis were unhelpful in that respect and there was the potential for weapons to exist.

I think it was highlighted by Senator Faulkner that the Prime Minister’s approach to this now is to target programs. If we were about ensuring that countries did not have such programs, we would be a very busy country indeed. In fact, we would probably have to triple the size of the defence forces just so that we could participate in the removal of programs from countries that have, or may be working on, programs for weapons of mass destruction or chemical weapons.

Based on our national interest and based on our national security, I ask the government: how has this outcome benefited the
national interest of this country and, indeed, our national security? How has what we embarked upon delivered that? Evidence would seem to suggest, even to the people in the street, that our national security is in a worse state as a result of our participation. It is costing the taxpayers of this country millions of dollars more because of it, and it will be an ongoing cost. You can understand, from the point of view of the security of the world and the security of this country, the action that was taken back in 1991. But every country participated in that action. The same claims existed at that time with regard to Iraq’s potential to have weapons of mass destruction. Indeed, some of them were destroyed. I think I heard Senator Brown mention statements made by Condoleezza Rice and Secretary of State Powell back in 2001 about how the United States have the capacity to keep arms away from Saddam Hussein and his capacity to develop them.

What changed in such a short space of time? If we were about removing this despot then we should have just said that and we should have got on with the job. The public should have been told that this was what it was about. I would not have disagreed with that approach. It would have been an honest approach. All of the evidence to date suggests that this government knew that there was no real evidence of weapons of mass destruction and that this government knew that there was a real potential to put this country’s security in greater jeopardy as a result of actions it took that led us to war in Iraq. That is a very significant thing and a very important thing for the Australian public, because a government taking a decision that may ultimately make their lives less safe is one that this parliament should debate to uncover all of the evidence.

If the government has taken a decision based on whatever objective it had at the time—whether it was a favour for the United States President or whatever, who knows—at the end of the day the truth should come out. It is simply not good enough for a government to say, ‘We started off with weapons of mass destruction but then we freed the Iraqi people from Saddam Hussein.’ If that was the objective, that should have been the stated objective. I go back to my question: how has our participation in what has happened in Iraq assisted the national interest of this country or improved our national security and the safety of the people of this country? It would seem to me that it has not, and the evidence suggests that it has not, and we are going to be paying dearly for that action for a long time to come. I just hope that we will not pay for it with more Australian lives as result of terrorist attacks that come about exclusively because of our participation in Iraq for what would seem to be very questionable reasons.

**Senator Nettle** (New South Wales) (5.32 p.m.)—In rising to support the Australian Greens’ motion that we censure the Prime Minister, I think it is important for us to recognise the significance of what we are doing. This is a Prime Minister who has sent this country to a war on the basis of lies. We have the majority of the Australian population also recognising that the Prime Minister misled them in his case for Australia joining just two other countries to be part of a war that has caused tremendous devastation in Iraq. The Prime Minister did this on the basis of lies, and the Australian population now recognises the lies he told this parliament and the people and which he participated in at a global level, and they recognise the suffering this has caused. There are other world leaders—and others have spoken about them—the President of the United States and the Prime Minister of the United Kingdom, who also participated in this global lie and who also sent their troops, men and women, to be a part of the slaughter of innocent peo-
ple in Iraq and who took part in causing the devastation that now exists in Iraq.

When we look to those other countries, the United Kingdom and the United States, we see leaders who are under tremendous scrutiny because of the people and the parliaments in those countries who are ensuring that their leaders are publicly accountable for the decisions they have made and for the actions they have taken in sending their troops off to war. Many people have commented to me while I have been travelling around the country about the way in which our Prime Minister, Mr Howard, is not under that same level of scrutiny as the UK Prime Minister, Tony Blair, and the President of the United States, George Bush. This debate today is an opportunity for the Senate to send the strongest message it can by supporting this censure motion against the Prime Minister and by recognising the significance of what this Prime Minister has done.

We have heard the Prime Minister and we have also heard George Bush and Tony Blair speak about how they believe they have brought freedom, liberation and democracy to the people of Iraq. These are world leaders who have put themselves out, believing that they are shining beacons of democracy and yet, in making the decision they have made, they have gone against the will of the majority of the people in their countries. The Australian people continue to stand opposed to the decision that John Howard took. We see 51 per cent of the Australian population saying that, when they think about the war on Iraq and its outcome, they do not believe the war was justified. Yet we see these world leaders taking Australia and their respective countries into this illegal and immoral war in Iraq against the will of the population in each country. Therefore, it is extremely important that the Senate has the opportunity through this censure motion today to remind the Prime Minister of the largest demonstrations we have ever seen in this country. People came together saying, 'You do not speak for me. You do not speak in my name when you send men and women off to Iraq to be involved in this illegal and immoral war.'

It is important to recognise the voices of those millions of people who came out onto the streets in Australia, not just in our capital cities but also in small regional centres across the country, and their words of caution were right. It is important to recognise that the advice the Prime Minister heard at the time from ASIO and the advice the President of the United States heard at the time from the CIA to say, 'If you engage in this war on Iraq, you will create more terrorism,' was right, and that that is what we have seen. Heed the millions of people in this country and around the world who say, 'Let us deal with this issue differently. Let us not jump first to a military solution but let us deal with the causes behind the situation, not only in Iraq but also in the war on terrorism, by committing ourselves to a program of reducing the inequality around the world that leads to this sense of frustration that we have seen and continue to see in Iraq.'

We have seen a Prime Minister in this country spend somewhere in the order of $1 billion on a war on the people of Iraq. This is money that could have contributed to rebuilding the infrastructure within Iraq that was destroyed by Western allies through the bombing of no-fly zones in the period during which the Western world continued to have sanctions against Iraq. We have seen a billion dollars being spent on the destruction of the country of Iraq when it could have been spent rebuilding that infrastructure, providing the capacity to ensure an ongoing democracy in Iraq. It is extremely important that in the parliament today the Senate heed the voice of those millions of people here in Australia and around the world who said that this is not the path we want to be taken
We recognise that we need to deal with these issues of global terrorism at the root causes rather than jump to a military solution.

We continue to see the Howard government jump to a military solution on a range of things. We continue to see the Australian government commit to greater defence spending, buying us greater insecurity in our region. We had the instance where the Australian government signed up last year to the purchase of new aircraft to replace FA18s and F111s. They signed a blank cheque to one of the largest arms manufacturers in the world in order that Australia purchase higher weaponry and more advanced military equipment. This does not bring security to our region. When Australia decides to continually upgrade our military technology what is the response of countries in our region? What is the response of countries that feel threatened by Australia’s increasing military technology? They decide to go out and spend more of their money—money that they could spend on health and education and welfare in their own country—on buying themselves greater technology, greater armaments and greater military equipment, and Australia also moves into this arms race within our region.

Why don’t we see a Prime Minister making decisions to commit to improving public education in a country like Indonesia? Why don’t we see a Prime Minister spending money on ensuring that Pacific nations in our region have the capacity to develop strong and environmentally sustainable economies? These are the sorts of things that would bring security to our region. These are the sorts of projects that a Prime Minister and a government committed to building our relations with our neighbours and building our security in our region would undertake. These are the sorts of things that the $1 billion should have been spent on instead of a war in Iraq and instead of buying insecurity in our region. For this reason it is vitally important that the Australian Prime Minister be censured for taking a decision against the view of the majority of Australians and against the view of the Australian Senate.

Senator HARRADINE (Tasmania) (5.42 p.m.)—In February of this year the Senate debated the issue of war in Iraq and I made it perfectly clear then that the decision to go to war is one of the most momentous of all decisions that a government could make. As I indicated then, we should not be motivated by extraneous factors but we should have a look at the whole proposal of going to war on the basis of the principles of a just war.

I outlined those principles at the time. First, there must be a just cause. Second, the decision to go to war must be taken by a legal authority. Third, it must be for the right reason. Fourth, there must be a reasonable chance for success. Fifth, there must be proportionality and, sixth, every other reasonable method must have been used to try to obtain the eventual end, which is peace. On the basis of those principles I came to a decision even then that the war was not justified. Where was the just cause? The cause suggested was that Saddam Hussein had weapons of mass destruction and the whole apparatus surrounding that and that these weapons could be released within a very short time.

It appears from the evidence thus far that that was not the case, but even at the time it was not a threat to the security of this country. It could be said, of course—and it was often said, quite justifiably—that Saddam Hussein was a dictator and wreaked havoc amongst his own people. That is a matter of great concern, but on the issue of the basic reason for choosing to go to war—that Saddam Hussein was developing weapons of mass destruction—the proof was not in, and
it was not in even after the UN inspectors had gone in and looked at the situation. I do not want to recap and go through the rest of the five principles and outline them here again. I would, if anybody is interested, refer to my speech on 4 February on this particular matter.

I am concerned, obviously, that there has been a breakdown of systems which should be there to reveal the truth—particularly the truth or otherwise of the weapons of mass destruction claim. I would just say about every other means being used to obtain the eventual end of a just peace that we did not give to the United Nations the opportunity—at least the room that they needed to move—to ensure an outcome of that nature; in other words, to determine whether or not there were weapons of mass destruction. The decision was made to go to war without exhausting all of those reasonable other means that needed to be used to obtain that end.

What concerns me about this motion is that it proposes to censure the Prime Minister and is suggesting—not the motion, but some of the comments as to the motion—that he acted in bad faith. Censuring an individual, even if it is the Prime Minister, on the basis that he acted in bad faith is a proposition I could not bring myself to support. Certainly I could support severe criticism of the actions of the Prime Minister and so on, but I would be loath to support any censure motion based, as it were, on the bad faith of the Prime Minister or any other person. I could support a condemnation and so on of the failure of the system to reveal the truth until everything was over—with the truth then showing that there is as yet no proof at all of this claim for weapons of mass destruction.

In short, I will not delay the Senate, as we have got a huge amount of work to do. I am concerned, of course, that it appears—unless something comes out of the box somewhere around the place—that the government’s decision to go to war was based on a false premise. For that we should be highly critical—not only of one man but of the government. But, I repeat: I am not prepared to agree to a censure motion which presupposes bad faith.

**Senator BROWN (Tasmania) (5.50 p.m.)**—I draw Senator Harradine’s attention to the amendments that have been proposed by the opposition, which the Greens will be accepting. They mean that the motion will read, in part, that the Senate:

(b) censures the Prime Minister for misleading the Australian Parliament and the Australian people in his justification for taking this country to war with Iraq.

I thank those who have taken part in this extremely important debate. This Prime Minister has not been censured by either house of parliament in his 7½ years in office. It is a very serious matter for either chamber to censure a Prime Minister and cannot be taken lightly, but the Prime Minister stands charged with having been misled, or misleading the people of Australia, in the reasons for taking this country into the invasion of another country, putting 2,000 Defence Force personnel at risk in that process and putting Australians both inside Iraq and right around the world at continuing risk as a result of having made that mistake.

There will be an ongoing debate as to whether the Prime Minister himself was acting on false evidence or whether he had simply succumbed to the temptation to be selective in the evidence that was given to him and turned a blind eye to that evidence which showed and indicated that Iraq was not a holder of weapons of mass destruction, certainly not weapons of mass destruction in a way which threatened Australia, as the Prime Minister averred when he made his statement to the nation in March this year. I would reit-
erate that after 1991, through the United Nations, Iraq’s ostensible weapons of mass destruction were destroyed. In 1995 Saddam Hussein’s son-in-law Kamal defected to Jordan. He there gave information to the intelligence services that, as the minister in charge, he had ordered the destruction of the remaining weapons of mass destruction in Iraq and that there was no intention to reconstruct them. That man, as you will remember, was assassinated by Saddam Hussein when he was lured later back into Iraq.

In 1998, the United Nations weapons inspectors scouring Iraq had found no weapons of mass destruction. In 2001 the Secretary of State of the United States of America, Colin Powell, said in an interview in Egypt that Saddam Hussein had not regained the ability to be the threat that he had been before the Gulf War. In 2003 the United Nations weapons inspectors in Iraq had failed to uncover weapons of mass destruction. There was a consistent trajectory over the decade repeatedly by those people who were on the ground in Iraq reporting back to responsible authorities that weapons of mass destruction neither had been stockpiled nor were being reproduced in Iraq. We know in the event that those reports were correct. On top of that came this enormous impulsion following September 11 by some in the United States administration—and it was a small component but very powerful—to invade Iraq as a response, and a misguided response, to the September 11 attack. That led to the invasion of Iraq. It no doubt influenced the Prime Minister to send Australians to take part in that invasion.

I note that the Prime Minister went on to argue about the possibility of Iraq developing nuclear weapons which would, inter alia, threaten Australia, despite the fact that on 7 March, Mohamed ElBaradei, head of the International Atomic Energy Authority, said to the United Nations:

We have ... found no evidence or plausible indications of the revival of a nuclear weapons program in Iraq.

The consequences of the decision by the Prime Minister, which was not based on fact but at best based on assumption, of leading Australians to the invasion of Iraq are immense, both for the need in a democracy for the populace to have faith and to have belief that governments are acting on good advice from their intelligence agencies. I note here—and this is a very important matter—that there is a feeling, from at least some sections of the intelligence community in this country, that we ought to be very careful when getting involved in conflicts beyond
our region when we are totally dependent upon intelligence coming from other countries which cannot be corroborated or checked by our own intelligence agents. One argument the Greens were using, and which I used time and again, in arguing against the war earlier this year was that Australia should be maintaining its defence forces for the defence of its own region, partly because we have excellent intelligence on matters of defence and the movements of governments in our own region.

We finally come to the argument put forward by Senator Hill, who in 10 minutes failed to defend the Prime Minister and then left the chamber. He said that, as far as he was concerned, the government and he stood by the misinformation upon which the government prosecuted its argument for war earlier this year: ‘We still believe it was correctly based, that decision.’ What an incredible incapability to come to grips with reality we have heard from the Minister for Defence. All the information shows that the government made a decision based on mistaken evidence that was before it. That is the kindest way we can put it. That is the way Senator Harradine has been arguing. Yet the Prime Minister said he would not change the decision and does not believe that the decision was wrong—he would not alter it one iota. The Minister for Defence said today that as far as he is concerned the Prime Minister, the government and he still believe that the decision was rightly based. Manifestly, it was not correctly based. It was wrongly based. It was a huge failure of information and it was a mammoth political mistake by Prime Minister Howard. One would be able to accept that a little more if at this stage the Prime Minister and the Minister for Defence were able to accept that they were wrong in March. Whatever the reason for that, wherever the information on which they based their decision came from, nevertheless the decision was wrong.

The decision to attack Iraq on the basis that its weapons of mass destruction threatened Australia is now known to have been wrong. It was wrongly based. Yet our Prime Minister and our Minister for Defence, eyes wide open, can say in this parliament that they would not change that decision. What an extraordinary failure of self-analysis by leaders of our country. We can all make mistakes on the basis of the information we have. We are all tempted to ignore information when it comes to pursuing a political point of view. But never must we be more careful in not allowing ourselves to be influenced by political trajectory than when we are asking our defence forces to invade another country. Then, having done so on false information, never should we be in the position where we cannot accept that, because that is to say that, deceived once, one is open to being deceived again or to deceiving again, misleading again. We must expect better of our national leaders than that.

Senator Nettle and I will vote for the amendment that the opposition has moved to this motion. We moved the motion to censure the Prime Minister with great forethought and with great misgivings about the affairs of a nation which can be led to a war on wrong information, compounded by wrong decision making by the leader of that nation, without reference to the parliament in terms of a deliberation by the parliament. But this censure is deserved. Prime Minister Howard deserves to be censured for having led the defence forces of this country to invade another country with all the risk and cost involved on a mistaken assessment of the facts. He was wrong then. He ought to be able to say that he was wrong in that decision, that it was based on wrong information, but he cannot and therefore he is wrong now. The Prime Minister should be censured.
The ACTING DEPUTY PRESIDENT (Senator Chapman)—The question is that Senator Faulkner’s amendment to Senator Brown’s motion be agreed to.

Question agreed to.

The ACTING DEPUTY PRESIDENT—The question now is that Senator Brown’s motion, as amended, be agreed to.

The Senate divided. [6.08 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes……………. 33
Noes……………. 30
Majority………. 3

AYES

Allison, L.F.        Bolkus, N.
Brown, B.J.         Buckland, G. *
Campbell, G.        Cherry, J.C.
Collins, J.M.A.     Conroy, S.M.
Cook, P.F.S.        Crossin, P.M.
Denman, K.J.        Evans, C.V.
Faulkner, J.P.      Forshaw, M.G.
Greig, B.           Hogg, J.J.
Kirk, L.            Lees, M.H.
Ludwig, J.W.        Mackay, S.M.
Marshall, G.        McLacais, J.E.
Moore, C.           Murphy, S.M.
Murray, A.J.M.      Nettle, K.
O’Brien, K.W.K.     Ridgeway, A.D.
Sherry, N.J.        Stephens, U.
Stott Despoja, N.   Webber, R.
Wong, P.            

NOES

Alston, R.K.R.      Barnett, G.
Boswell, R.L.D.     Brandis, G.H.
Calvert, P.H.       Campbell, I.G.
Chapman, H.G.P.     Colbeck, R.
Cooman, H.L.        Eggleston, A. *
Ellison, C.M.       Ferris, J.M.
Harris, L.          Heffernan, W.
Humphries, G.       Johnston, D.
Kemp, C.R.          Lightfoot, P.R.
Macdonald, I.       Macdonald, J.A.L.
Mason, B.J.         McGauran, J.J.
Patterson, K.C.     Payne, M.A.
Santoro, S.         Scullion, N.G.

Tchen, T.          Tierney, J.W.
Troeth, J.M.       Vanstone, A.E.

PAIRS

Bartlett, A.J.J.    Abetz, E.
Bishop, T.M.       Ferguson, A.B.
Carr, K.J.         Minchin, N.H.
Hutchins, S.P.     Hill, R.M.
Lundy, K.A.        Watson, J.O.W.
Ray, R.F.          Knowles, S.C.

* denotes teller

Question agreed to.

COMMITTEES

Superannuation Committee

Report: Government Response

The PRESIDENT—Pursuant to standing order 166, I present the government’s response to the report of the Senate Select Committee on Superannuation—Taxation treatment of overseas superannuation transfers—which was presented to the President, since the Senate last sat. In accordance with the terms of the standing orders, the publication of the document is authorised. In accordance with the usual practice and with the concurrence of the Senate I ask that the government response be incorporated in Hansard.

Leave granted.

The response read as follows—

Government Response to the Senate Select Committee On Superannuation—Taxation Of Transfers From Overseas Superannuation Funds

Recommendation 1

The Committee recommends that the ATO collect and maintain data as to the number and size of transfers of foreign superannuation into Australia

Noted. The Government considers that by accepting Recommendation 2 (refer below) the need for this type of data collection is lessened. Nevertheless the Government will further consider the costs and benefits of seeking such data in the
context of developing the legislative changes outlined below.

Recommendation 2
The Committee recommends that when a lump sum is transferred from a non-resident non-complying superannuation fund to an Australian complying superannuation fund, the amount that is calculated under section 27CAA should be included in the Australian fund’s assessable income as a taxable contribution. In this way, that amount should not be included in the assessable income of the individual resident for whom it is transferred.

Supported in principle. The Government will consult with the superannuation industry and interested parties to finalise the detail of the recommended change and to ensure there are no unintended consequences of such a change.

Under the Government’s approach, the section 27CAA amount of a transfer (i.e. the growth in overseas superannuation since the individual became a resident) will not be included in the individual’s assessable income at the time of transfer. Instead, the fund will treat the amount as a taxable contribution, with the amount included in the fund’s assessable income and subject to tax in that manner (at the usual 15% rate). Benefit tax on the 27CAA amount will apply in the normal manner when the benefit is ultimately paid out (i.e. it will not receive any special treatment and thus can be expected to form part of the post June 1983 component). The other part of the transfer will remain unchanged as an undeducted contribution.

Recommendation 3
The Committee recommends that the tax law be amended to average the income assessed under section 27CAA along the lines of the averaging that applied to net capital gains derived by individuals on or before 21 September 1999. That is, amend the tax law so that the total tax payable under section 27CAA would be five times the tax payable if only one fifth of the income assessable under section 27CAA were included in taxable income.

Not supported. In the context of the Government’s proposal that the 27CAA amount be taxed at a flat 15% rate as part of a fund’s assessable income and thus be paid by the fund (see recommendation 2), there is no need for averaging.

Recommendation 4
If Recommendation 2 is accepted by the Government, the Committee recommends that a superannuation fund be permitted to release so much of the superannuation entitlement as is needed to meet the section 27CAA tax liability when that tax is levied, similar to some superannuation contributions surcharge arrangements.

Not supported. It is unnecessary to make specific provision for the fund to release an amount to meet the section 27CAA liability if the section 27CAA amount is instead to be subject to tax in the fund as a taxable contribution (as the Government is proposing—refer Recommendation 2). The fund will impose the appropriate tax and remit to the ATO in accordance with existing procedures.

Recommendation 5
If Recommendation 2 is not accepted by Government, the Committee recommends that an individual be permitted to access so much of the superannuation entitlement as is needed to meet the section 27CAA liability when the tax is levied.

Not supported. See Recommendations 2 and 4.

Recommendation 6
The Committee recommends that the changes proposed by Recommendation 2 (that funds be liable to tax on transfers), Recommendation 3 (that the tax on individuals be averaged) and Recommendations 4 and 5 (relaxation of the preservation rules) apply prospectively, from the date of commencement of any legislative change.

Supported in relation to Recommendation 2 only. Those amendments will apply prospectively from the commencement of legislative change.

Recommendation 7
The Committee recommends that, to prevent double taxation, section 23AK of the ITAA 1936 be amended to allow for the exemption of amounts referred to under paragraph 603(1)(h) paid ‘in relation to a taxpayer’ rather than ‘to a taxpayer’.
Not supported. The Commissioner of Taxation issued draft ruling 2003/D2 on 9 April 2003, which clarifies that there is no double taxation in this circumstance.

**Recommendation 8**
The Committee recommends that as an interim measure, the Commissioner of Taxation issue a ruling or determination to clarify that a liability for tax under section 27CAA will be reduced by any tax raised under the Foreign Investment Fund (FIF) regime and so double taxation will not be imposed.

Noted. The Commissioner of Taxation issued draft ruling 2003/D2 on 9 April 2003, which clarifies that double taxation will not be imposed.

**Recommendation 9**
The Committee recommends that APRA, the ATO and Treasury (in consultation with the superannuation industry) develop with their foreign counterparts bilateral protocols for the transfer of superannuation between the countries. In particular, priority should be given to developing a protocol with the UK.

Noted. The Government has asked relevant agencies to facilitate the exchange of information between countries to make the operation of the provisions more efficient.

**Recommendation 10 and 11**
The Committee recommends that the period in which the payment of a lump sum from a foreign superannuation fund is exempt from tax under section 27CAA be extended from six months to two years.

The Committee recommends that the law be amended to give the Commissioner of Taxation the discretion to further extend the period for a tax-free transfer in instances where the member has taken reasonable steps to have the benefits transferred and has suffered undue delays which were beyond their control.

Not supported. The six-month period is already a concession. The ATO will be taking steps to improve the level of taxpayer understanding and awareness of section 27CAA (refer to Recommendation 17). In this context, and also recognising the Government’s proposal to relax the tax treatment on such transfers and provide for the tax to be paid by the superannuation fund (refer to Recommendation 2), a further extension of this concessional period is not warranted.

**Recommendation 12**
The Committee recommends that section 27CAA be amended to ensure that where an individual becomes an Australian resident, then becomes a non-resident before becoming a resident once more, the growth since an individual first became a resident is apportioned according to the periods of residence and non-residence that occur after that time. That is, tax should only apply to that growth in the lump sum which is attributable to a period of residence in Australia.

Supported in principle. The Government will further examine the implications of this proposal for the overall complexity of the treatment of transfers.

**Recommendation 13**
The Committee recommends that the definition of ‘relevant day’ in section 27CAA be amended prospectively so that, for lump-sums paid after the date of commencement of any legislative change, only growth since the later of 1 July 1994 and the date an individual became a resident is subject to tax.

Not supported. Amounts accrued and transferred prior to 1 July 1994 would have been subject to the Australian taxation arrangements in place at that time. It would therefore be inappropriate to now treat amounts accrued prior to that time as tax free. Further, the Government’s changes as outlined in Recommendation 2 will provide for the fund, rather than the individual, to pay any tax on transfer of a benefit, removing concerns that the individual may not have the money to pay the tax debt.

**Recommendation 14**
The Committee recommends that the Commissioner of Taxation issue a public ruling that sets out the Australian Taxation Office’s interpretation of the meaning of ‘properly payable’. In particular the ruling should address the situation where a foreign fund from which an amount is transferred refuses to
give information about the value of the accumulated entitlement.

Noted. The Commissioner of Taxation issued draft ruling 2003/D2 on 9 April 2003 which clarifies the meaning of ‘properly payable’ and addresses the situation where a foreign fund refuses to provide information about the value of the accumulated entitlement.

Recommendation 15

The Committee recommends that, where a lump-sum is paid from a foreign defined benefit scheme and the amount which is properly payable cannot be determined, the Government examine the feasibility of apportioning the total growth in the scheme over periods of residence and non-residence of a member, so that a member is only taxed on that growth that is attributable to a period of residence.

Supported in principle (consistent with the response to Recommendation 12).

Recommendation 16

The Committee recommends that permanent visa applications:

• Require applicants to disclose the foreign superannuation entitlements they hold; and
• Advise applicants (in some general way) of the taxation treatment applying to their foreign superannuation entitlements.

Not supported. In light of the Government’s response to recommendation 2 and the ATO improving taxpayer understanding and awareness of section 27CAA, the Government does not see a need for this action.

Recommendation 17

The Committee recommends that the TaxPack be redrafted to give more complete and accurate guidance on the circumstances in which a liability may arise under section 27CAA. In particular, question 19 of the TaxPack Supplement should note that it applies to both direct payments and transfers of foreign superannuation.

Noted. The Government’s proposed changes, once effective, will need to be reflected in the TaxPack and the ATO will be taking steps to improve the level of taxpayer understanding and awareness of section 27CAA.

Recommendation 18

The Committee recommends that the Commissioner of Taxation issue a public ruling or determination to clarify that tax will not be imposed twice under section 27CAA when a foreign superannuation entitlement is transferred from one foreign fund to another and is subsequently transferred to Australia.

Noted. The Commissioner of Taxation issued draft ruling 2003/D2 on 9 April 2003, which clarifies that tax will not be imposed twice in these circumstances.

DOCUMENTS

Tabling

The PRESIDENT—Pursuant to standing order 166, I present the following documents which were presented to the President, Deputy President and temporary chairs of committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised:


Auditor-General’s Reports

Report No. 7 of 2003-04

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Pursuant to standing order 166, I present the following report of the Auditor-General which was presented to
the Deputy President since the Senate last sat. In accordance with the terms of the standing orders, the publication of the document was authorised:


Tabling

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Pursuant to standing order 166, I present the following documents which were presented to the Deputy President and temporary chairs of committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised:

Statements of compliance with the continuing order of the Senate of 30 May 1996, as amended on 3 December 1998 relating to indexed lists of files is tabled by:

- Australia Council
- Australian Broadcasting Authority
- Australian National Maritime Museum
- National Gallery of Australia
- National Library of Australia
- National Archives of Australia
- Special Broadcasting Service
- Australian Broadcasting Corporation
- Australian Film Commission
- Australian Communications Authority
- National Museum of Australia
- Australian Sports Drug Agency
- Australian Sports Commission
(presented to the Deputy President on 24 September 2003).

- Department of Family and Community Services
- Child Support Agency
- Australian Institute of Family Studies
- Centrelink

Social Security Appeals Tribunal (presented to Temporary Chair of Committees, Senator Lightfoot, on 26 September 2003).

Auditor-General's Reports

The ACTING DEPUTY PRESIDENT (Senator Chapman)—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General:

- Australian National Audit Office—Annual report for 2002-03

COMMITTEES

Foreign Affairs, Defence and Trade Legislation Committee

Membership

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

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women (6.13 p.m.)—by leave—I move:

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

Question agreed to.

MIGRATION LEGISLATION AMENDMENT (IDENTIFICATION AND AUTHENTICATION) BILL 2003

STATISTICS LEGISLATION AMENDMENT BILL 2003

First Reading

Bills received from the House of Representatives.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women (6.14 p.m.)—I indicate to the Senate that these bills are be-
ing introduced together. After debate on the
motion for the second reading has been ad-
journed, I will be moving a motion to have
the bills listed separately on the Notice Pa-
per. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator PATTERSON (Victoria—
Minister for Family and Community Ser-
vices and Minister Assisting the Prime Min-
ister for the Status of Women (6.15 p.m.)—I
move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

MIGRATION LEGISLATION AMENDMENT
(IDENTIFICATION AND AUTHENTICATION)
BILL 2003

This bill amends the Migration Act 1958 to
strengthen and clarify existing statutory powers to
identify non-citizens.

Australia, like other countries, faces the challenge
of being able to accurately identify persons who
seek to enter and remain in Australia, whilst at the
same time minimising delays in immigration
processing and inconvenience to the person.

Events over recent years have highlighted the
increasing importance of ensuring that we can
accurately identify persons who seek to enter and
stay in Australia. Persons may seek to travel to
Australia through our normal visa processes, or
they may attempt unauthorised entry without
identity documents—the latter, in many cases,
having destroyed the documents to avoid accurate
identification.

Identity and document fraud facilitates the
movement of terrorists and transnational crime to
Australia. There are risks to government if these
fraud issues are not confronted upfront, in that
various levels of government and private sector
administrative and financial systems rely upon the
identities established by DIMIA to confer various
benefits and entitlements.

Strong border security and enhanced proof of
identity requirements are therefore critical to Aus-
tralia’s national security, and to the integrity of its
services and programs.

This bill is part of a whole of government ap-
proach to tackle the growing incidence of identity
fraud worldwide. It seeks to strike a balance be-
tween the need for robust identification testing
measures in an immigration context, and the pro-
tection of individual rights.

The bill amends the Migration Act to provide a
framework for the collection of personal identifi-
cers such as photographs, signatures and finger-
prints from certain non-citizens at key points in
the immigration process. The measures proposed
in this bill are important and necessary develop-
ments in migration law.

The Migration Act already enables the collection
of some personal identifiers from non-citizens in
certain circumstances.

For example:

• Photographs and signatures are required in
order to make a valid visa application for
some classes of visa;

• Prescribed identity documents are required to
be provided on entry to Australia in order to
obtain immigration clearance; and

• An authorised officer can photograph or
measure an immigration detainee for identi-
fication purposes.

However, the Act as it stands does not define a
personal identifier, the circumstances in which a
personal identifier may be required, or how it is to
be provided. Nor does it contain safeguards for
retention and disclosure.

This bill will implement a more comprehensive
and transparent legislative framework for requir-
ing certain non-citizens to provide personal iden-
tifiers such as photographs and signatures.

The bill will clarify and enhance the govern-
ment’s ability to accurately identify, and authenti-
cate the identity of, non-citizens at key points in
the immigration process in a way that is consistent with the current requirements of the act for proof of identity.

At the same time, it will provide protection for non-citizens who are required to provide their personal identifiers.

The bill will set out the types of personal identifiers that are able to be collected from certain non-citizens:

- fingerprints and handprints;
- photographs or other images of the face and shoulders;
- measurements of height and weight;
- audio or video recordings;
- signatures;
- iris scans; and
- other identifiers as prescribed in the regulations.

Allowing new types of personal identifiers to be prescribed in the regulations will permit the adoption of new technologies in a rapidly developing environment. It will also allow the government to respond to new risks or concerns as they arise.

However, the bill specifically excludes the use of intimate test procedures. Consequently, the regulations cannot prescribe a new type of personal identifier if it involves an intimate test procedure. This will exclude, for example, the taking of blood tests or saliva samples.

Broadly, the new provisions will provide a flexible and effective structure. They will enable the application of future technological advances to the accurate identification of persons seeking to enter Australia. They will also facilitate quick and unobtrusive entry processes at Australian borders.

Under the bill, the following non-citizens may be required by regulation to provide specified types of personal identifiers:

- immigration detainees;
- visa applicants and persons to be granted visas;
- non-citizens who enter and depart Australia, or travel on an overseas vessel from port to port in Australia;
- non-citizens in questioning detention; and
- persons in Australia who are known or reasonably suspected to be non-citizens.

The amendments will, where appropriate and necessary, require certain non-citizens to provide specified types of personal identifiers. The types of personal identifiers and the circumstances in which they must be provided will be set out in the regulations.

It is anticipated that the regulations prescribing the situations in which non-citizens must provide personal identifiers, and the types of identifiers required, will largely mirror the current situations where proof of identity is required. However, the bill will allow expansion of these requirements in line with future technological developments.

For example, it is envisaged that photographs and signatures will continue to be required in relation to most visa applications, including applications for visitor visas and most permanent visas. In these cases, a non-citizen will be able to provide these personal identifiers to an officer of the department by attaching their photo, signing the visa application and submitting it to the department. In the case of protection visa applications, it is likely that fingerprints, photographs and signatures will be required.

There will be some visa applications for which it is unlikely that any personal identifiers will be prescribed—for example, electronic travel authority visas.

The bill will provide a range of safeguards to non-citizens who are required to provide their personal identifiers.

First, a non-citizen in immigration detention will always be offered the opportunity to have an independent person present during the conduct of an identification test. As long as an independent person is readily available and willing to attend within a reasonable time, then the test must be carried out in the presence of an independent person.

In addition, if requested by the non-citizen in immigration detention, the test must be conducted by an authorised officer of the same sex as the non-citizen.

If a non-citizen in immigration detention who is required to provide their personal identifier refuses to do so, and all reasonable measures to
carry out the test without the use of force have been exhausted, reasonable force may be used to collect the personal identifier.

Reasonable force will only be used as a measure of last resort and only if authorised by a senior authorising officer. It cannot be used on a minor or an incapable person.

If reasonable force is to be used to obtain the personal identifier from an immigration detainee, an independent person must be present at the test.

All identification tests will be conducted in circumstances that afford reasonable privacy to the non-citizen. Identifying information will be treated in accordance with the Privacy Act 1988.

There are special provisions for minors and incapable persons. For example, minors aged less than fifteen and incapable persons can only be required to provide photographs of their face and shoulders, and measurements of their height and weight. They cannot be required to provide any other type of personal identifier.

Further, in certain circumstances, minors and incapable persons who are not in immigration detention cannot be tested without the consent of their parent or guardian, or an independent person. No minor or incapable person can be tested unless their parent or guardian, or an independent person, is present.

Reasonable force cannot be used on a minor or an incapable person to obtain their personal identifiers.

Importantly, the bill will protect the privacy of non-citizens by placing limits on the access and disclosure of identifying information provided under the Act.

It will be an offence to access identifying information without authorisation. Specified persons will be authorised to access the identifying information for certain purposes—for example, to determine whether a person has previously applied for protection in an overseas country.

Another authorised purpose for access will be decision-making under the Australian Citizenship Act 1948. A person who applies for Australian citizenship by grant of certificate will be asked to provide their personal identifier(s). Those identifiers will be cross-matched with information held by the department. This will reduce the incidence of identity fraud-related activities in citizenship processing.

It will be an offence to disclose identifying information unless it is a permitted disclosure. For example, it would be permitted to disclose identifying information for the purposes of data-matching in order to identify, or authenticate the identity of, a non-citizen.

Another example of a permitted disclosure includes disclosure to a foreign country, or to law enforcement agencies and border control bodies of a foreign country, to inform their government of the identity of a person being removed or deported from Australia. A further example of a permitted disclosure is disclosure to an international organisation such as the United Nations High Commissioner for Refugees.

In addition, this bill contains provisions to ensure that identifying information will not be disclosed in certain circumstances.

For example, identifying information will not be disclosed to a foreign country if a person has made a protection visa application in relation to that country.

However, this prohibition on disclosure will not apply if the person requests, or agrees, to return to the foreign country. It will also not apply if the person’s application for a protection visa is refused, and has been finally determined.

Generally, identifying information will be destroyed once it is no longer required to be kept under the Archives Act 1983.

However, there will be some circumstances where an individual’s identifying information will be kept indefinitely.

One of these circumstances is where the minister is satisfied that the non-citizen is a threat to the security of the Commonwealth or a State or Territory, and issues a certificate to that effect.

In summary, the proposals contained in this bill are important and necessary initiatives. They will enhance Australia’s ability to combat identity fraud and improve the integrity of migration processes.

Other countries have already responded to the growing incidence of fraud in the immigration
context by enhancing their identification and client registration powers. Problems with fraudulent documentation and the need to track histories of identities in client processing has led many countries to introduce identification testing measures similar to those proposed in this bill.

It is crucial that Australia has the opportunity and ability to participate internationally in combating immigration fraud using current and evolving technologies. In this international environment, Australia cannot afford to be seen as a ‘soft target’ by terrorists, people smugglers, forum shoppers and other non-citizens of concern.

It is for these reasons that I ask all parties to support this bill.
I commend the bill to the chamber.

STATISTICS LEGISLATION AMENDMENT BILL 2003
The Australian Bureau of Statistics (ABS) has a long tradition and history. The statistics it produces inform discussion and debate within government and the wider community. Indeed, information produced by the ABS is fundamental to the democratic process.

The ABS enjoys the trust and confidence of the people and businesses who provide information about themselves and their activities. It is this information that allows us to make decisions about the economy. And decisions about the services that people need to sustain and enhance their well-being.

The ABS appreciates and acknowledges the ongoing contribution of businesses and the public who assist with its censuses and surveys.
Fundamental to the trust of the community in the ABS is the knowledge that the ABS will protect their data and keep it confidential. This protection is underpinned by a secrecy provision in the Census and Statistics Act 1905. Every ABS officer is required to give an undertaking of fidelity and secrecy when they join the Bureau. This is a lifelong commitment that goes beyond their tenure at the ABS. The Bureau’s reputation for the protection of data is untarnished.

I now turn honourable senators’ attention to the substance of this bill before Parliament—the Statistics Legislation Amendment Bill 2003. Its main purpose is to rectify a number of technical deficiencies in statistics legislation. These arose as an unintended consequence of previous amendments to the Australian Bureau of Statistics Act 1975. Deficiencies arising from amendments in 1987 and 1999 have placed in doubt whether all current and former ABS staff are covered by the secrecy provisions of the Census and Statistics Act 1905. This bill seeks to rectify this. It also seeks to validate practices of the ABS since the deficiencies arose. This will put beyond doubt the protection of ABS data absolutely, as Parliament has intended.

The ABS has been described by the former head of the United Nations Statistics Division as the “world’s best international statistical citizen”. As a consequence, from time to time other agencies who are interested to learn from the ABS seek the opportunity for their staff to work with the ABS for a period of time. Similarly, the ABS occasionally has the opportunity to benefit from the particular expertise of staff of other agencies and international organisations. This bill also makes provision for the ABS to second officers for these purposes.

Debate (on motion by Senator Mackay) 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:
Taxation Laws Amendment Bill (No. 3) 2003

ASSENT
Messages from His Excellency the Governor-General were reported informing the Senate that he had assented to the following laws:
Health Legislation Amendment Act (No. 1) 2003 (Act No. 84, 2003)
Environment and Heritage Legislation Amendment Act (No. 1) 2003 (Act No. 88, 2003)
Education Services for Overseas Students (Registration Charges) Amendment Act 2003 (Act No. 89, 2003)
Migration Amendment (Duration of Detention) Act 2003 (Act No. 90, 2003)

**AUSTRALIAN PROTECTIVE SERVICE AMENDMENT BILL 2003**

**Report of Legal and Constitutional Legislation Committee**

**Senator EGGLESTON** (Western Australia) (6.16 p.m.)—On behalf of the Chair of the Legal and Constitutional Legislation Committee, Senator Payne, I present the report of the committee on the proposed government amendments to the Australian Protective Service Amendment Bill 2003, together with the *Hansard* record of proceedings, and documents presented to the committee.

Ordered that the report be printed.

**SEX DISCRIMINATION AMENDMENT (PREGNANCY AND WORK) BILL 2002**

**Consideration of House of Representatives Message**

Consideration resumed from 11 September.

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (6.17 p.m.)—I move:

That the committee does not insist on the Senate amendments disagreed to by the House of Representatives.

Question agreed to.

**Senator Stott Despoja**—Can I record in the *Hansard* the vote for the noes of the Australian Democrats. I will not seek a division. I do not think I have the numbers.

Resolution reported; report adopted.

**BUSINESS**

**Rearrangement**

**Senator PATTERSON** (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women (6.18 p.m.)—I move:

That intervening business be postponed till after consideration of the government business order of the day relating to the Crimes (Overseas) Amendment Bill 2003 and government business order of the day no. 5 (Taxation Laws Amendment Bill (No. 7) 2003).

Question agreed to.

**CRIMES (OVERSEAS) AMENDMENT BILL 2003**

**Second Reading**

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

That this bill be now read a second time.

**Senator LUDWIG** (Queensland) (6.19 p.m.)—The Crimes (Overseas) Amendment Bill 2003 makes amendments to the Crimes (Overseas) Act 1964. The 1964 act provided that certain criminal laws applying in the Jervis Bay territory apply to Australian citizens and residents serving overseas under arrangements made between the Commonwealth and the United Nations. This bill would amend the 1964 act to ensure that these same laws also apply to Australian non-military personnel working under a variety of agreements, and in a variety of roles, in any jurisdiction outside the Commonwealth of Australia.

As the opposition does not oppose this bill, I will not take up a significant portion of time tonight—not that we have it available in
any event—but it is necessary to make a number of brief statements about the bill and to raise a couple of issues that we will pursue later in the committee stage. The amendments contained in this bill intend to extend the operation of the Crimes (Overseas) Act 1964 to cover two categories of Australian non-military personnel working outside the Commonwealth of Australia. It is not necessary for the bill to cover military personnel because members of the Australian Defence Force are already covered by the Defence Force Discipline Act 1982 that establishes a regime of extraterritoriality along the same lines as the jurisdictional regime outlined in these amendments.

The first category of personnel covered by the proposed amendments is personnel working under agreements where multilateral or bilateral agreements, signed by Australia and the relevant host state, specifically grant immunity for criminal offences to Australian personnel operating in these jurisdictions. These amendments are uncontroversial in that regard and are supported by the opposition. The opposition recognises these amendments are necessary to ensure that Australian personnel operating with immunity overseas are, nonetheless, held responsible for criminal acts committed while they are covered by immunity agreements. The opposition, as I have said, supports these amendments because such an extension of jurisdiction is necessary to close the jurisdictional gap that currently exists for Australian non-military personnel operating with immunity.

Although the overwhelming majority of Australian personnel who undertake roles associated with the Commonwealth government overseas do so professionally and also with the highest regard for the laws and customs of the nations in which they operate, it is an issue—unfortunate as it may be but inevitable in some instances—that a very small minority break local laws while serving under an immunity agreement. As such, it is necessary for Australian courts to have the ability to apply Australian criminal jurisdiction over individuals accused of offences covered by immunity agreements.

This extension was expressly recommended by a unanimous report of the Joint Committee on Foreign Affairs, Defence and Trade, handed down in 1999. This report recommended that the Crimes (Overseas) Act 1964 ‘be amended to extend its jurisdiction to Australian civilians serving overseas in situations not covered by the agreement of the United Nations’. Just as the opposition supported this recommendation in 1999 we continue to support amendments to the 1964 act that close the jurisdictional gap and ensure that no Australians are above the law. Rather than a condemnation of the great service of Australians who have represented this country in dangerous and challenging roles, the opposition believes that these amendments affirm the integrity of the vast majority of fine Australians who have represented Australia overseas by holding them to the vigorous test of the rule of law. This is a test which they have passed with flying colours and which, in many cases, they have been instrumental in upholding and strengthening in the nations in which they have served.

The second category of personnel covered by the amendments contained in this bill are Australian non-military personnel who are serving in overseas jurisdictions under agreements that do not specifically grant immunity or who operate in countries without any agreement involving the host nation and Australia. In these circumstances the Attorney-General has the power to declare an agreement under which Australians are serving, or a country in which Australians are serving, a declared agreement or a declared country. This prescription by regulation, at the discretion of the Attorney-
General, automatically activates the jurisdictional provisions of this act. Once again, this amendment implements a recommendation of the unanimous report of the Joint Committee on Foreign Affairs, Defence and Trade handed down in 1999, which recommended replacing “under agreement between the United Nations and the Government of that country” with, “a prescribed arrangement”. The opposition supported the recommendation handed down by the joint committee then and continues to support an amendment that implements this recommendation now.

The opposition supported the recommendation handed down by the joint committee then and continues to support an amendment that implements this recommendation now.

The use of the principle of extraterritoriality in criminal law matters is not without precedent in either Australian law or the laws of other nations, and the opposition believes that this instance is one of the occasions when the utilisation of this novel jurisdictional strategy is not only legitimate but, in the circumstances, demanded by the principles of justice. Australian law already utilises this principle of extraterritoriality in the prosecution and punishment of child sex offenders who commit offences outside the criminal jurisdiction of Australia. The requirements of justice in the case of offenders who commit sexual offences against children in countries where they are effectively above the law demands that the principle of jurisdiction be interpreted in such a way as to facilitate their prosecution when they return to Australia. The factual contingencies contemplated by this bill also demand such an interpretation of the principle of jurisdiction. However, in this case the principle of extraterritoriality needs to be applied offensively in the pursuit of Australian non-military personnel guilty of committing offences in countries where they enjoy immunity and defensively in the protection of Australian non-military personnel who are the subject of hostile or mala fide prosecutions.

The opposition also cites the recent moves by the American legislature to implement a similar regime regarding its own civilians posted overseas in connection with the United States Department of Defense as evidence of the growing trend among nations concerned with protecting the rule of law to implement legislation to ensure that no-one escapes liability for unlawful acts by falling through the jurisdictional gaps opened up by the increasing overseas posting of non-military personnel. In particular, the opposition draws the Senate’s attention to the Military Extraterritorial Jurisdiction Act of 2000, enacted by the United States Congress on 22 November 2000. This act was designed to extend federal criminal jurisdiction over civilians who are accompanying the armed forces and who commit serious offences overseas when a host country does not exercise criminal jurisdiction.

For the reasons that I have already cited, the amendments proposed by the Crimes (Overseas) Amendment Bill 2003 are supported by the opposition. There has not been a committee stage in this bill. There was an issue raised by Senator Brown earlier today because he was curious about why we did not go through that stage, and I think I have clearly explained that this matter was dealt with by a joint standing committee as far back as 1999. It has taken a little while for these matters to come forward but they are embodied in these amendments now. The difference is that they apply to non-military personnel.

If I understood Senator Brown correctly when he raised this matter today, he was talking about military personnel, and I think it was necessary to draw the senator’s attention to whom the amendment to this bill will cover and the operation in relation to which it will be utilised. Of course, the committee matter was dealt with by the Joint Foreign Affairs, Defence and Trade Committee in 1999, when it made a unanimous report. It was supported by the opposition and there-
fore this bill is non-controversial in nature and has gained the support of Labor. I will conclude on that note.

Senator GREIG (Western Australia) (6.28 p.m.)—The Crimes (Overseas) Amendment Bill 2003 seeks to ensure that Australian citizens working overseas under an agreement between Australia and an international organisation, or between Australia and another country, are subject to Australian criminal law rather than the criminal law of the country in which they were working. As the briefing provided by the government notes, the bill responds to recommendations of the Joint Standing Committee on Foreign Affairs, Defence and Trade regarding a possible jurisdictional gap for Australian non-military personnel serving overseas.

In its present form, the Crimes (Overseas) Act provides for the application of Australian criminal law to Australian civilians working in a foreign country as part of a United Nations peacekeeping force. It requires there to be an immunity agreement between the UN and the government of a foreign country. In recent years, and particularly in recent months, we have seen Australia’s foreign policy develop in such a way that it is now not unusual for non-military personnel to be deployed to other countries under arrangements that do not involve the United Nations. The example cited by the Joint Standing Committee on Foreign Affairs Defence and Trade was the Bougainville peace monitoring group, which operated under an agreement between Papua New Guinea and a range of other countries, including Australia. That agreement expressly provided that members of the peace monitoring group were immune from the laws of Papua New Guinea and subject to the laws of their own country in relation to any offence that they might commit.

This bill extends the scope of the Crimes (Overseas) Act to four additional categories of Australians, depending on the arrangements under which they are working in a foreign country. Firstly, the bill applies to Australians working in a foreign country who have been granted diplomatic and consular immunities or who have been granted immunity due to their relationship with an international organisation. This extension of Australian criminal law is clearly necessary in order to fill a jurisdictional gap. If a person working under these arrangements were to commit a crime, there is a risk that that person could not be prosecuted either under the law of the foreign country or in Australia. The passage of this bill will rectify that situation.

Secondly, the bill applies to Australians working in a foreign country under an arrangement or agreement between Australia and another country or between Australia and the United Nations where that person is not subject to criminal proceedings as a result of the agreement. Thirdly, the bill applies to Australians working in a foreign country under an agreement or arrangement between Australia and another country or between Australia and the United Nations which is a declared arrangement or agreement. The government may make regulations providing that a particular agreement or arrangement is declared an agreement or arrangement for the purposes of this particular legislation.

The fourth category of persons to whom this bill applies is very broad. This category covers any Australian working overseas, not necessarily on behalf of the Commonwealth but simply on terms determined by the Commonwealth or pursuant to commitments or directions given by the Commonwealth. Such Australians will be subject to Australian criminal law if the country in which they are working is a declared foreign country.
Again, the government may make regulations providing that a particular country is a declared foreign country. These third and fourth categories are wide ranging and will enable Australian law to be applied to public servants such as AusAID staff working overseas as well as to private consultants and the employees of private companies who perform contractual work for the Commonwealth. They essentially enable the Australian government to unilaterally declare a particular agreement or a particular country for the purposes of this legislation, whether or not there is any agreement with the foreign government which provides immunity for Australians.

Unlike the first and second categories, which contain express provisions addressing the issue of double jeopardy, these additional categories do not appear to address that issue and it is unclear to the Democrats why that should be the case. This double jeopardy rule is an important safeguard which protects individuals against the cost, anxiety and uncertainty associated with repeated criminal trials, let alone multiple convictions and sentences for the same offence. The basis for the rule also extends to broader considerations relating to the integrity of the criminal process, as it is vitally important for the community to be able to have confidence in the final outcome of a criminal trial. It is imperative that Australians who might be prosecuted for an offence in a foreign country do not face the prospect of being prosecuted for the same offence under Australian law. The Democrats will be moving amendments to put that beyond any doubt.

Our other concern in relation to the bill is the proposed retrospective commencement of schedule 1 from 1 July 2003. On 26 June 2003, the Attorney-General, the Minister for Foreign Affairs and the Minister for Justice and Customs issued a joint media release in which they announced the legislative changes contained within this bill. The release referred specifically to Australians deployed to Iraq and stated that, in relation to Iraq, the act would commence from 1 July this year.

As the Scrutiny of Bills Committee noted in its Alert Digest No. 11 of this year, the explanatory memorandum does not provide any reason to justify the retrospective commencement of the schedule. The only obvious point of reference is the joint press release of 26 June, but it remains unclear why the government chose 1 July as this commencement date. The Democrats agree with the Scrutiny of Bills Committee that this appears to be yet another example of ‘legislation by press release’, which has become a frequent practice of the government in recent times. The Democrats strongly oppose this practice as it seeks to usurp the democratic process by assuming that the parliament will vote a particular way before legislation has been introduced. This is an example of the government’s arrogance and the Democrats take this opportunity to make it very clear to the government that it cannot and must not make pre-emptive assumptions about how the parliament will vote on any given piece of legislation.

While there have been some occasions when the Democrats have been prepared to support retrospective provisions, these have been limited to circumstances in which there is an overwhelming, imperative justification for retrospectivity and provided that there is no significant retrospective alteration to the rights and liberties of individuals. This bill does not meet those requirements. The government has failed to provide any compelling reason for the retrospective commencement of the schedule and, in this case, the bill does involve a very serious retrospective alteration to the rights and liberties of individuals. What we are talking about here is criminal liability—in other words, liability to be sen-
tenced to imprisonment. This is not something which, as a legislature, we can tinker with retrospectively. I find it incredible that the government expects us to consider this seriously in the absence of any genuine and compelling reason for retrospectivity. The government ought not to pre-empt the decisions of the parliament as the Attorney-General, the Minister for Foreign Affairs and the Minister for Justice purported to do on 26 June. Ministers should refrain from making announcements which ultimately depend entirely on the decision of the parliament as a whole, otherwise the veracity of their media releases needs to be questioned.

The support of the Democrats for any retrospective legislation can never be assumed. In fact, the government should assume that we will oppose such legislation unless it can provide a compelling reason in support of retrospectivity. In this case, it has failed to do so and, unless the minister is able to provide any additional information during the committee stage, we Democrats will move amendments to remove the retrospective operation of this legislation.

Although we oppose the retrospective commencement of the bill, we Democrats are generally supportive of the thrust of the bill itself. As I understand it, the primary motivation behind the bill is to protect the rights of Australians working in countries whose criminal law does not provide the same level of protection as that afforded to an accused person under Australia criminal law. Australia’s criminal law does incorporate a range of important protections—the independence of the courts, the right to silence, the presumption of innocence and the right to legal representation—although it should be noted that a number of these rights have suffered blows as a result of the government’s antiterrorism measures. It is also important to remember that, if convicted of an offence under Australian law, individuals do not face the prospect of the death penalty as punishment for their crime.

In my view, it is completely hypocritical for the government to grant these protections to some Australians in foreign jurisdictions but not to others. I think, in particular, of David Hicks and Mamdouh Habib, who remain locked up by the US military in Guantanamo Bay. The government has ignored the consistent calls from the Australian Democrats to bring Mr Hicks and Mr Habib home to Australia and either charge them and try them under Australian law or release them. The US’s treatment of Mr Hicks and Mr Habib flies in the face of the most basic concepts of justice that Australians take for granted, even after the passage of the ASIO legislation.

Mr Hicks and Mr Habib are among 600 others, including a number of children, who have been held at Guantanamo Bay for over 18 months without charge. They have been stripped of their rights under international and domestic law, with the US refusing to recognise them as prisoners of war or charge them with offences under US law. They are housed in tiny wire cages which are exposed to the elements on all sides. For the first few months of their detention, they were released just once a week for a one-minute shower. This was eventually increased to a five-minute shower and 10 minutes of exercise once a week. From the outset, it was alleged that some of the detainees at Guantanamo Bay had no involvement whatsoever with terrorism. This was confirmed earlier this year when more than 40 of them were released without charge, including two elderly farmers who were taken into custody because they happened to be in the wrong place at the wrong time.

A few months ago, the US announced that Mr Hicks would be among the first of those to be tried before a secret military tribunal.
Despite that announcement, Mr Hicks has still not been charged with any offence, and there is no indication as to a likely time frame for the commencement of his trial. If and when any trial does ensue, the rules governing the proceedings will be the very antithesis of those that apply in criminal proceedings under Australian law. Apart from being completely secretive, the entire proceedings will be subject to presidential direction. They will have been set in motion as a result of a directive from the President and, if the President disagrees with the ultimate finding of the tribunal, he can simply reverse it. All the while, the government passively watches on, allowing Australian citizens to be treated in a way that would no doubt provide grounds for repatriation if they were being held in certain other countries.

It was only as a result of increasing community pressure and outrage that the Minister for Justice and Customs was eventually despatched to the United States to discuss this with the US authorities. Although some concessions were won, they were very minor. The government proudly announced that it had secured an assurance from the US that the death penalty would not be applied to Mr Hicks. However, when questioned further, it reluctantly conceded that no such assurance was secured in relation to Mr Habib.

I take this opportunity to again make the point that the government should seek to protect the rights of all Australians who are alleged to have committed crimes, not just those covered by the scope of this legislation. If Mr Hicks and Mr Habib are guilty of acts of terrorism then of course they must be brought to justice and punished accordingly. But, at this stage, they are merely alleged to have committed acts of terrorism, and it appears that the US is struggling to bring together enough evidence with which to prosecute them. It is imperative that the allegations against these men are tested and proven beyond reasonable doubt in a fair and independent trial according to law.

Finally—and I understand Senator Stott Despoja will speak to this further—it is important for the government not to simply confine its efforts to protecting the rights of Australians but to be a vigilant defender of the rights of all human beings. Unfortunately, the government’s track record on human rights in recent years has left a lot to be desired and, although his record on the rights of asylum seekers does not bode well, I hope that the new Attorney-General, Mr Ruddock, might demonstrate greater concern for the protection of human rights than did his predecessor.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.43 p.m.)—In speaking in this debate on the Crimes (Overseas) Amendment Bill 2003, Senator Greig has raised the question of Mr Habib and Mr Hicks, a matter I was personally involved in. I point out to the Senate that the President of the United States had indicated that Mr Hicks was eligible for trial. Mr Habib was not in that category. In fact, his status is yet to be determined. Discussions about what might transpire or how he might be dealt with were therefore somewhat premature. In relation to Mr Hicks, the situation was quite different, because we were looking at a situation where he had been determined to be eligible for trial. A number of concessions were obtained and the undertaking by the United States not to impose the death penalty was a major one. But the reason it was obtained for Mr Hicks was that he was eligible to stand trial. Mr Habib was not in that category. Therefore, the same level of negotiation could not take place in relation to Mr Habib as could take place in relation to Mr Hicks.

The government stand by our record in relation to that. We obtained a good many
agreements and undertakings in relation to how Mr Hicks would be dealt with in the event of a trial. One of the agreements—or concessions, if you like—obtained was that if any other country might obtain a benefit which was greater than that which we obtained for Mr Hicks then Mr Hicks would enjoy the same benefit. So if the United Kingdom, for instance, obtained some benefit for one of its citizens which Mr Hicks did not enjoy then the United States agreed that he would have that benefit. We thought that was a very good catch-all concession. Negotiations have been continuing between Washington and officials here in Canberra, and the matter is being progressed, as of course the United Kingdom is progressing its discussions with the United States. That really does not concern the bill, but Senator Greig raised that issue and I thought I should just clarify those issues.

The government believes that this bill will protect Australian civilian personnel who are deployed overseas in a number of circumstances. This includes operations which are currently being conducted in Iraq and the Solomon Islands. I saw first-hand recently, with the Minister for Defence, Senator Robert Hill, the great work that is being done by our personnel in the Solomon Islands and also the reaction of the people of the Solomon Islands. They greatly appreciated the efforts that were being made. It was obvious that the decision that we took was the right one.

Without this amendment, Australian civilians may be at risk of becoming subject to the local criminal justice system of the country to which they have been deployed in certain situations. In many cases, the local criminal justice system may be unstable or in a state of collapse, making prosecution of deployed Australian civilians by local courts undesirable. For some overseas operations, the Australian government has been able to negotiate immunity for deployed Australian civilian personnel. In cases where Australian civilian personnel are immune from prosecution in a foreign country it is important that Australia has the ability to exercise jurisdiction over crimes which may have been committed during that deployment. If Australia is unable to exercise its own jurisdiction, Australia may face pressure to waive immunity and to allow the overseas courts to prosecute. If Australia does not waive immunity, a jurisdictional gap exists. The amendment bill resolves this jurisdictional gap and ensures that Australia is able to prosecute Australian personnel who are accused of offences while on overseas deployment.

In other cases, Australia may be unable to negotiate immunity for Australian civilians serving overseas but may be able to ensure that Australian jurisdiction will take priority over the jurisdiction of the local courts in that country. In these cases, it is important that Australia has the capacity to exercise jurisdiction over Australian civilian personnel who are deployed on overseas operations by the Australian government. If Australia is unable to exercise jurisdiction, Australian civilian personnel deployed overseas in such circumstances will be subject to prosecution in the local courts. This amendment will become particularly relevant in the future as Australia is faced increasingly with calls to send civilian experts, including policing experts, to overseas deployments. Of course we are seeing that in relation to New Guinea.

Australian Defence Force personnel are already protected by a similar provision in the Defence Force Discipline Act 1982. The Australian Defence Force has long understood the importance of protecting ADF personnel through provisions like this, and it is now appropriate that Australian civilians who perform humanitarian, security and law enforcement duties should be similarly protected. The amendment bill will ensure that
the Australian civilian personnel who are working with diplomatic, consular and similar immunities in foreign countries can be brought to justice in Australia. This will address the jurisdictional gap that such personnel are currently subject to. It is in Australia’s interests to protect Australian civilian personnel deployed overseas by the Commonwealth. This bill ensures that protection.

There has been some comment as to why this took so long. A range of issues have been involved. Firstly, the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade was handed down in 1999. Of course extensive consultation had to take place, and in 2000 the government responded to that report. Policy approval was given in January 2001, and of course the bill had to remain in abeyance while the Intelligence Services Act 2001 was dealt with.

Debate interrupted.

Senate adjourned at 6.51 p.m.

DOCUMENTS

Tabling

The following government document was tabled:

Crimes Act 1914—Report on controlled operations for 2002-03.

Tabling

The following documents were tabled by the Clerk:


Civil Aviation Act—

Civil Aviation Safety Regulations—Airworthiness Directives—Part—


Commonwealth Authorities and Companies Act—Notice under paragraph 45(1)(c)—Variation in Commonwealth’s rights as a member of Ceramic Fuel Cells Limited.


Defence Act—


Defence Force (Home Loans Assistance) Act—

Declaration of Warlike Service (Operation Citadel), dated 16 September 2003.

Declaration of Warlike Service (Operation Falconer), dated 16 September 2003.


Fisheries Management Act—

Northern Prawn Fishery Management Plan Amendment 2003 (No. NPF 04).

Fuel Quality Standards Act—
Migration Act—Regulations—Statutory Rules 2003 No. 239.
Primary Industries (Customs) Charges Act—Primary Industries (Customs) Charges (Designated Body) Declaration 2003.
Privacy Act—Determination under paragraph 11B(1)(d)—Determination 2003 No. 3.
Radiocommunications Act—
2.1 GHz Band Frequency Band Plan Variation 2003 (No. 1).
Radiocommunications (Frequency Assignment Certificates) Determination 2003.
Superannuation Guarantee Determination—
Notices of Withdrawal—
SGD 93/2, SGD 93/3, SGD 93/8, SGD 93/9, SGD 93/12 and SGD 93/13.
SGD 94/1, SGD 94/2 and SGD 94/5.
SGD 95/3.
Taxation Determination—
TD 2002/4 (Addendum).
Terrorism Insurance Act—Regulations—Statutory Rules 2003 No. 244.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Taxation: Investment Projects**

(Question No. 388)

Senator Harris asked the Minister for Revenue and Assistant Treasurer, upon notice, on 19 June 2002:

(1) Can the Treasurer confirm whether minutes were kept by the Australian Taxation Office Part IVA Panel of the meeting in which a recommendation was made against the first cooperative investment project considered by the panel in late 1997; if so, can a copy of those minutes be provided.

(2) How do the loans in the cooperative investment projects differ from those in Lau’s case.

Senator Coonan—The answer to the honourable senator’s question is as follows:

As these questions deal with matters that are the responsibility of the Australian Taxation Office, I have asked the Commissioner for advice. The advice in relation to the honourable senator’s question is as follows:

(1) Reports are kept of all matters considered by the Part IVA Panel. These reports contain taxpayer information and therefore cannot be released. Individual taxpayers may request access to the reports through the Freedom of Information Act.

(2) The loan arrangements referred to generally give rise to a liability that is claimed to be deductible although it is not, in fact, fully paid. The difference between the loan in Lau and the loans in cooperative investment projects are as a matter of law a question of fact and degree. In lay terms the differences may be barely perceptible, in terms of the actual tax consequences there are marked differences.

**Taxation: Active Cattle Project and Australian Tea Tree Oil Research Institute**

(Question No. 450)

Senator Harris asked the Minister for Revenue and Assistant Treasurer, upon notice, on 11 July 2002:

(1) Is it a fact that loans to investors in the Active Cattle project were found by the Federal Court never to have been made.

(2) Is the Australian Taxation Office (ATO) now a shareholder in Active Cattle on the basis that tax has nevertheless been levied on the loan amounts as income in the hands of the project manager, and could not be paid.

(3) Is the ATO still the largest creditor of the Australian Tea Tree Oil Research Institute, even though the Federal Court found in the Phai See case that the Australian Research and Development Board had wrongly decided that the institute did not qualify as a research institute, and hence it was actually entitled to tax exempt status.

Senator Coonan—The answer to the honourable senator’s question is as follows:

As this question deals with matters that are the responsibility of the Australian Taxation Office (ATO) I have asked the Commissioner for advice. The advice in relation to the honourable senator’s question is as follows:


(2) No, the ATO is not a shareholder of Active Cattle.

(3) At this stage the creditor status of the Australian Tea Tree Oil Research Institute is unresolved.

QUESTIONS ON NOTICE
QUESTIONS ON NOTICE

Taxation: Infrastructure Borrowings
(Question No. 451)

Senator Harris asked the Minister for Revenue and Assistant Treasurer, upon notice, on 11 July 2002.

(1) Is it the case that it was possible up until 30 June 2002 to invest in an existing infrastructure bond, relinquished by another investor, through the Commonwealth Bank of Australia (CBA) or Westpac.

(2) Did that investment, by offering a large loan, potentially allow an upfront tax deduction such that the cash amount contributed was exceeded by the tax refund and hence would confer a tax benefit.

(3) Was that loan non-recourse, and for a term of as little as one year.

(4) Did the loan which could be taken out actually include an amount to be paid tax free to the investor as interest on the loan at the end of 12 months.

(5) Is it the case that the Economics References Committee inquiry into mass-marketed tax effective schemes was told by First Assistant Commissioner, Mr Peter Smith, that some of these infrastructure borrowings could fall under Part IV A of the Income Tax Assessment Act.

(6) Has any action been taken by the Australian Taxation Office to investigate whether Part IV A applies to the infrastructure bonds offered in 2002 to investors by the CBA and Westpac.

Senator Coonan—The answer to the honourable senator’s question is as follows:

As these questions deal with matters that are the responsibility of the Australian Taxation Office, I have asked the Commissioner for advice. The advice in relation to the honourable senator’s question is as follows:

(1)-(4) & (6) Investments in existing Infrastructure Borrowings are possible through a range of financial institutions. I am unable to comment on specific financial institutions, their products and financing arrangements entered into by individual investors in respect of these products.

(5) A review of Hansard, on the Senate Economics References Committee into mass marketed tax effective schemes and investor protection does not show this.

Taxation: Rulings and Determinations
(Question No. 1014)

Senator Harris asked the Minister for Revenue and Assistant Treasurer, upon notice, on 10 December 2002:

(1) Is the Minister aware that in the recent decision of the Federal Court of Australia in the case of MLC Limited v Deputy Commissioner of Taxation [2002] FCA 149, in responding to the Commissioner’s statement of reasons which accompanied notification of the disallowance of the applicants’ objections, the judge stated: ‘It may be said that it is hard to see how the applicants or their agent could have taken into account in preparing the returns lodged in 1996 and 1997 the views expressed in TD 1999/1 when those views did not appear publicly for some years after the returns were lodged.’

(2) Is the Minister prepared to make any changes to tax law to avoid the need for a taxpayer to have the crystal ball the Commissioner apparently expects.

Senator Coonan—The answer to the honourable senator’s question is as follows:

As this question deals with matters that are the responsibility of the Australian Taxation Office (ATO) I have asked the Commissioner for advice. The advice in relation to the honourable senator’s question is as follows:
(1)-(2) The Senator has quoted from a recent decision of the Federal Court of Australia in the case of *MLC Limited v Deputy Commissioner of Taxation* [2002] FCA 149.

In the MLC case the ATO did not argue that penalties were payable by reason of MLC’s failing to take into account the subsequent issue of the Taxation Determination.

ATO administrative practice is to take account of the date when relevant Taxation Rulings and Taxation Determinations were made public as part of the process of deciding the level of penalties (if any) that is appropriate for a particular case.

**Taxation: Investment Projects**

(Question No. 1036)

Senator Cook asked the Minister for Revenue and Assistant Treasurer, upon notice, on 13 December 2002:

(1) (a) How many taxpayers, in circumstances similar to those of Julie Vincent’s have settled and agreed to pay amounts to the Australian Taxation Office (ATO) that have now been found not to be owing, as a result of the Full Court decision in *Vincent v Commissioner of Taxation* [2002] FCA 656; and (b) what is the amount of money that has been, will be or would otherwise have been collected irrespective of the Vincent case.

(2) (a) Is it the case that most taxpayers issued with amended assessments for 1994, 1995 and 1996 potentially fall within the ambit of the Vincent decision based on the Commissioner’s own assessment of the deductibility of their claimed expenditure; and (b) what is the amount of money collected from taxpayers during these years of income.

(3) (a) Has the ATO accepted settlement offers from taxpayers after the decision in the Vincent case in circumstances in which the taxpayers are agreeing to settle for an amount that the full court decision has shown is not owing; and (b) how many have they accepted in these circumstances.

(4) Can the ATO provide any statistics on the number of taxpayers who have entered into bankruptcy in circumstances where the decision in the Vincent case indicates that the amended assessments issued to them were in fact not owing.

(5) Has the ATO notified taxpayers that one of the implications of the decision in the Vincent case is that a tax deductible loss may be claimed on the cessation of their projects, in circumstances where their projects were commercial failures.

(6) If the decision of Justice Stone in *Cooke v Commissioner of Taxation* [2002] FCA 1315 is upheld on appeal, how much money will have been collected from taxpayers in circumstances where the court has found that no money is owing by these taxpayers.

(7) Why did the ATO refuse test case funding for the Vincent appeal.

(8) Why did the ATO select ‘Budplan’ as a so-called representative test case when the Vincent case and the Cooke case have shown it was not representative of other tax effective investment projects.

(9) Given that immediately prior to the settlement offer closing the Commissioner was suggesting that the first instance decision in the Vincent case had broad application to all taxpayers, now that the decision has been overturned on appeal, why is the Commissioner now stating that the decision of the Full Court in the Vincent case has limited application to other taxpayers.

(10) Does the Assistant Treasurer believe that the Commissioner, in forcing ordinary taxpayers to settle prior to court appeals being decided, is acting as a model litigant in accordance with the Attorney-General’s policy statement.

Senator Coonan—The answer to the honourable senator’s question is as follows:

**QUESTIONS ON NOTICE**
As this question deals with matters that are the responsibility of the Australian Taxation Office (ATO) I have asked the Commissioner for advice. The advice in relation to the honourable senator’s question is as follows:

(1) (a) & (b) Taxpayers who have settled have done so wishing to finalise their involvement in the investment. A settlement is not affected by subsequent court decisions. The Vincent decision only impacts on investors in the Active Cattle Management scheme who did not settle.

(2) (a) No. There are very few taxpayers who are affected by the decision, ie those who invested in the Active Cattle Management scheme, their returns were amended outside the four year period and they did not accept the settlement offer. These investors have had their returns amended to reflect the decision. (b) The majority of these amendments have been finalised and any money which has been collected and found not to be owing has been returned.

(3) (a) & (b) The Full Federal Court decision in Vincent was handed down on 16 September 2002. The settlement offer closed on 21 June 2002. No affected investors have accepted the settlement offer after the date of the court decision.

(4) The ATO has not instituted any bankruptcy proceedings in relation to tax debts arising from mass marketed investment schemes.

(5) The ATO advises that it does not agree that taxpayers are entitled to deductions in respect of their scheme investment at the time of cessation of the investment project.

(6) The ultimate decision in the Cooke case will only apply to taxpayers in that arrangement. For those taxpayers who have outstanding objections and appeals we will amend assessments in accordance with the final decision.

(7) & (8) The Commissioner decided to fund Budplan and a film scheme as they involved a large number of investors and to facilitate progress to the Federal Court.

In the Commissioner’s view the Vincent case did not raise materially different principles in respect of the application of Part IVA to the general deductible provisions to those raised in the Budplan scheme cases. The taxpayer’s application for test case funding was considered by the ATO’s Test Case Litigation Panel which recommended that funding not be approved.

(9) The decision of the Federal Court in Vincent was not overturned by the Full Federal Court. The Full Court confirmed that the arrangements employed in this particular mass marketed scheme were not tax effective. The Court allowed Ms Vincent’s appeal in the 1995 year only because the ATO did not disallow the deductions claimed within the four year period provided by the tax law. This aspect of the decision has only limited application.

(10) Appendix B to the Legal Services Directions issued by the Attorney-General sets out directions on the Commonwealth’s obligation to act as a model litigant. The obligation to act as a model litigant does not require the Commissioner to defer the making of a settlement with a taxpayer until another taxpayer’s matter is heard by a court. A legitimate characteristic of a settlement is to bring a particular matter to finality, avoiding the need to await the outcome of separate court proceedings. A taxpayer was free to reject the Commissioner’s offer of settlement and to pursue their case through the courts. A feature of accepting an offer is to forgo the ability to rely on any future decision of a court in relation to any other taxpayer. Settling matters is an entirely legitimate and common way of avoiding litigation. The Commonwealth routinely attempts to settle matters in appropriate circumstances and, in doing so, acts consistently with its model litigant obligations. Moreover, where there are many cases of a particular kind it is common, as was the case here, to make a generic settlement offer.
Gippsland Electorate: Programs and Grants  
(Question No. 1119)

Senator O’Brien asked the Minister Assisting the Prime Minister for the Status of Women, upon notice, on 17 January 2003:

(1) What programs and/or grants administered by the department provide assistance to the people living in the federal electorate of Gippsland.

(2) When did the delivery of these programs and/or grants commence.

(3) What funding was provided through these programs and/or grants for the people of Gippsland in each of the following financial years: (a) 1999-2000; (b) 2000-01; and (c) 2001-02.

(4) What funding has been appropriated for these programs and/or grants in the 2002-03 financial year.

(5) What funding has been appropriated and/or approved under these programs and/or grants to assist organisations and individuals in the electorate of Gippsland in the 2002-03 financial year.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) Nil

(2) n/a

(3) n/a

(4) n/a

(5) n/a

Taxation: Investment Projects  
(Question No. 1340)

Senator Harris asked the Minister for Revenue and Assistant Treasurer, upon notice, on 24 March 2003:

With reference to the recent decision in the Federal Court determining that Ms Julie Vincent was not liable to pay taxes to the Australian Taxation Office (ATO) and did not owe the tax debt attributed to her:

(1) Will the ATO contact Ms Vincent’s fellow investors who have made settlement offers to the ATO and inform them that they are not liable to pay the tax claimed by the ATO on their amended assessments.

(2) Can assurance be given that no other taxpayers will be financially disadvantaged as a result of ATO actions against them, particularly those who have made settlement offers to the ATO.

(3) Why did the settlement process require that taxpayers make an offer to the ATO on a document prepared by the ATO which could not be accepted if there were any deletions or additions.

(4) Has the ATO undertaken a review of the approximately 174 tax effective projects on which it has disallowed deductions, to determine the categories that would define projects in good, bad or alternative groups (eg structure, investor investment/ deductions ratios, investor risk, profitability potential, export potential, certification and endorsement levels and employment opportunities); if so, will the ATO release the results of that review.

(5) Has the ATO undertaken a review of the project type and/or such ratings, against the decisions made by the Federal Court to date.

(6) How does the ATO explain the original letters sent to investors, with the prominent use of Budplan and Vincent case names, implying that these projects were typical and applied to all tax effective projects, given that rulings in the Federal Court to date paint a completely different picture and suggest that the average mum and dad investor has been misled by the ATO.
(7) Does the ATO intend to issue to all investors a letter of explanation and an opportunity to withdraw any settlement offer.

Senator Coonan—The answer to the honourable senator’s question is as follows:

As this question deals with matters that are the responsibility of the Australian Taxation Office (ATO) I have asked the Commissioner for advice. The advice in relation to the honourable senator’s question is as follows:

(1) Investors in the Active Cattle arrangement whose circumstances are identical with those of Ms Vincent have been contacted by the ATO and amended assessments issued.

(2) The terms of the settlement offer, and the fact that the offer was final, were fully explained to taxpayers.

(3) The Commissioner made an offer of settlement to investors. Those investors then decided whether they wished to accept the terms of the settlement or not.

(4- (5) The ATO has not undertaken such a review.

(6) Investors have not been misled by the ATO.

(7) No.

Taxation: Investment Projects
(Question No. 1341)

Senator Harris asked the Minister for Revenue and Assistant Treasurer, upon notice, on 24 March 2003:

(1) Following Ms Julie Vincent’s win before the Full Bench of the Federal Court, does the Minister accept that the amended assessment sent to her was wrong.

(2) Does the Minister accept that Ms Vincent would have been required to pay tax for which she was not liable had she followed the settlement process provided by the ATO.

(3) Can a guarantee be given that not one of the approximately 45 000 people caught up in this campaign will be similarly disadvantaged.

(4) Does the Minister believe that the ‘one size fits all’ approach taken by the Commissioner of Taxation to the mass marketed tax effective investments campaign has resulted in gross unfairness to taxpayers who sought professional advice and told the truth when filling out their returns.

(5) What is the Minister prepared to do about the growing feeling that the Commissioner of Taxation has taken advantage of his powers by bullying and intimidating taxpayers into accepting offers that can seriously disadvantage them.

Senator Coonan—The answer to the honourable senator’s question is as follows:

As this question deals with matters that are the responsibility of the Australian Taxation Office (ATO) I have asked the Commissioner for advice in relation to the honourable senator’s question.

(1) to (3) Ms Vincent did not accept the settlement offer as is the right of all investors. Amended assessments for the 1995 and 1996 years reflecting the decision in the Full Federal Court in the Vincent case have been issued.

(4) and (5) No. The Commissioner’s administrative powers include the ability to resolve tax disputes by way of settlement in appropriate circumstances. His offer of settlement on 14 February 2002 was consistent with the recommendations of the Senate Inquiry into Mass Marketed Schemes and Investor Protection.
Taxation: Mass Marketed Schemes
(Question No. 1342)

Senator Harris asked the Minister for Revenue and Assistant Treasurer, upon notice, on 24 March 2003:

With reference to mass marketed tax effective investment (MMTEI) schemes.

(1) Does the Minister believe that the Taxpayers’ Charter of Rights should be dissolved.

(2) Can the Minister confirm: (a) that the Australian Taxation Office (ATO) had concerns about the charter in the early 90s or even earlier; and (b) that the ATO took no action.

(3) Does the Minister agree that if the taxpayer has to ‘get it right’ or face the repercussions then so, too, the ATO must also ‘get it right’ or also face the repercussions.

(4) (a) Is the Minister aware that the settlement process document provided by the ATO to taxpayers states that the Budplan and Vincent court wins for the ATO prove the ATO was right, however in a letter to Australians for Tax Justice, the ATO states that the result of the Federal Court win for Ms Vincent was confined to a small number of participants in the project; and (b) why is this the case.

(5) Does the Minister agree that the actions of the ATO in regard to the freedom of information (FOI) requests from MMTEI taxpayers, including originally attempting to charge five and six figure fees, were designed to avoid the ATO’s obligations under FOI law.

(6) Will the Minister admit that the failure on the ATO’s side to meet FOI requests by the deadline for settlement meant that MMTEI taxpayers were forced to decide on settlement without being fully informed.

(7) Does the Minister agree that the ATO failed to comply with directions from the AAT to provide documents to at least one appellant and sought repeated stays of hearing as the deadline for settlement approached.

(8) Why does the ATO operate on the basis that it does not have to apply the principles of natural justice (i.e. procedural fairness) when conducting an internal review of a taxation decision.

(9) Can the Minister confirm that the decision to disallow MMTEIs was taken at Casselden Place, Melbourne 5 months before the ATO had informed the public of its views by issuing Draft Ruling TR97/D17.

(10) Will the Minister confirm that the ATO issued at least seven Private Binding Rulings (PBR) concerning the following primary production MMTEIs between 3 December 1992 and 19 January 1998, as follows:

(a) 1/ Main Camp Tea Tree Oil Project No. 1 (at least 2 PBRs were issued);
(b) 2/ Main Camp Tea Tree oil Project No. 2;
(c) 3/ Tumut River;
(d) 4/ Orchard Project;
(e) 5/ Golden Vintage 1996;
(f) 6/ WA Paulownias;
(g) and 7/ Plantations and Red Claw Partnerships.

(11) Does the Minister agree that all but one of these seven PBRs are unqualified as to Part IVA provisions of the Income Tax Assessment Act, and that the financing arrangements (associated companies, non recourse loans, round robin of cheques) are specifically acknowledged in four of them.
(12) Does the Minister agree that the Commonwealth’s stated position (after the Sherman report) on the applicability of PBRs is that they should be available to ATO officers and taxation advisers for guidance, and ‘legally binding on the Commissioner for a taxpayer whose circumstances are comparable to those dealt with by the ruling’.

(13) Why is it that the ATO continues to resile from the applicability of these (and possible other) PBRs to many of the 174 disallowed MMTEIs.

Senator Coonan—The answer to the honourable senator’s question is as follows:

As this question deals with matters that are the responsibility of the Australian Taxation Office (ATO) I have asked the Commissioner for advice. The advice in relation to the honourable senator’s question is as follows:

(1) No.

(2) The Taxpayer’s Charter was not in existence in the early 90s. It was developed in July 1997 in response to a recommendation from the Joint Committee of Public Accounts inquiry into the ATO.

(3) The law embodies a self-assessment system. To protect the community’s interest and the integrity of the system, the law gives the ATO the power to investigate the validity of returns, and a time limit within which to act.

(4) (a) The Vincent decision confirmed that deductions were not allowable under the general provisions of the law. This was reflected in the letters sent to investors during the settlement process and the press releases issued by the Commissioner.

(b) The Vincent decision only impacts on investors in the Active Cattle Management scheme who did not settle.

(5) No. Fixed rates are payable by an applicant in respect of an FOI request. The initial amounts notified by the Commissioner were calculated on the basis of these fixed rates as well as the time it would take to fully consider all the relevant documents. However, the Commissioner did make a later decision to release as much information as he could to investors in mass marketed investment schemes who had made an FOI application for a nominal fee of a maximum of $200.

(6) Information provided by the Commissioner prior to the settlement deadline gave investors the information they needed to be able to decide whether they would settle their dispute or not.

(7) I am not aware of an AAT hearing where the ATO sought repeated stays as the deadline of the settlement approached. If the Honourable Senator is able to provide me with specific details concerning a situation such as this I will ask the Commissioner for his comments.

(8) The ATO does not operate on this basis.

(9) No single decision was taken to disallow claims made for mass marketed investment schemes. Each decision was made on a scheme by scheme basis and then applied to individual investors.

(10) Six Private Binding Rulings were issued concerning the following schemes:

MainCamp Tea Tree Project No 1
MainCamp Tea Tree Project No 2
Golden Vintage Scheme, and
Paulownia Tree Plantations 1996.

(11) to (13) These six Private Binding Rulings were issued to individual taxpayers and not released publicly. They only provide protection for those taxpayers (and not others). ATO precedential decisions are contained in such documents as Public Rulings and ATO Interpretative Decisions (ATO ID). These are accessible by the public, and in the case of an ATO ID, allows them to see how the Commissioner applies the law in particular circumstances.
Taxation: Mass Marketed Schemes
(Question No. 1343)

Senator Harris asked the Minister for Revenue and Assistant Treasurer, upon notice, on 24 March 2003:

With reference to mass marketed tax effective investment (MMTEI) schemes, upon notice, on 24 March 2003:

(1) Can details be provided of how much the Australian Taxation Office (ATO) has spent on the MMTEI campaign.

(2) Has the Treasurer allocated additional funds to the ATO to carry out this campaign; if so, can details of additional funds be provided.

(3) Can the Minister confirm that the ATO has spent over $100 million on the MMTEI investigations.

(4) (a) Has the Minister failed in her duty to the Parliament by not taking earlier action; and (b) why should Australian taxpayers pay for this level of inadequacy.

(5) Will the Minister make a commitment that she will not waste any more public money when it is clear that the ATO has been proven wrong in the eyes of the law.

(6) (a) Does the Minister accept the ruling of the Federal Court in the cases Vincent, Puzey and Cooke; and (b) will the Minister put a plan in action if it becomes more obvious that the ATO cannot sustain arguments in the court.

(7) If a taxpayer has availed himself of the settlement process issued by the ATO and it is subsequently found that investors in the project have their deductions allowed by the court, as in the Vincent case, can the Minister confirm that the ATO will contact the acceptors and inform them that their deductions are allowed.

(8) Will the Minister inform the Senate what mischief there is in aggressive tax planning.

(9) Is aggressive planning illegal; if so, under what head of power.

(10) Is it possible for an ATO product ruling to allow a project manager to go out and mass market an aggressive tax planning strategy.

(11) Is tax minimisation illegal; if so, under what head of power.

(12) Is it true that, in May 1997, officers of the ATO met in Casselden Place, Melbourne to discuss the disallowance to the deductions in MMTEIs.

(13) Why was a further $2 billion in tax deductions recovered by the ATO and accepted as claims in the following 2 years before the market effectively knew that the ATO had agreed to disallow the deductions.

(14) Was the Treasurer made aware of the ATO’s intentions in this matter before action was taken; and, if so, what was his reaction.

(15) Given that the Treasurer re-appointed the Commissioner of Taxation for another 7 years, a full year before he was required to, and given that, in a press release, he stated that the re-appointment was because of his work on aggressive tax planning; is this just another way of securing 7 years for the Commissioner to promise the Treasurer hundreds of millions of dollars.

Senator Coonan—The answer to the honourable senator’s question is as follows:

As this question deals with matters that are the responsibility of the Australian Taxation Office (ATO) I have asked the Commissioner for advice. The advice in relation to the honourable senator’s question is as follows:

(1) No separate costing for the work done on mass marketed investment schemes is available as the area with this responsibility does other work and does not break up their expenses in this manner.
(2) The Treasurer did not allocate any additional funds to the ATO for their work on mass marketed investment schemes.

(3) Refer to the answer for question 1.

(4) (a) No. (b) There has been no inadequacy.

(5) and (6) The settlement offer put forward by the Commissioner was designed to ensure investors could bring their tax dispute to a conclusion without the need to individually litigate the issue. The Commissioner’s settlement offer is consistent with the recommendations of the Senate Inquiry into Mass Marketed Schemes and Investor Protection. Those investors who did not accept the settlement offer and who have proceeded to litigation either have or will have, where the matter has finally been decided by the courts, amended assessments issued reflecting that court decision.

(7) It has always been standard practice that when a taxpayer accepts a settlement offer that acceptance means the settled position is final and is not affected by subsequent decisions.

(8) and (9) Where an aggressive tax planning arrangement does not comply with the tax law it is tax avoidance and impacts on the integrity of the tax system and the community’s revenue base.

(10) A product ruling is made to provide certainty to investors of the tax outcome in the arrangement described in the ruling.

(11) A range of sanctions apply to arrangements that do not comply with the tax law.

(12) and (13) No single decision was taken to disallow deductions claimed for mass marketed investment schemes. Each decision was made on a scheme by scheme basis and then applied to investors in those schemes.

(14) The Commissioner is statutorily independent and accordingly has responsibility to administer the income tax laws. The actions taken against mass marketed investment scheme participants was an administration action.

(15) No.

Agriculture: Dairy Australia Ltd

(Question No. 1366)

Senator Harris asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 27 March 2003:

(1) With reference to the establishment of Dairy Australia Limited as a corporate entity: What procedures does the department have to ensure that legislation, regulations or principles and guidelines for the establishment of a new entity are followed; and (b) can a copy of those procedures be provided.

(2) With reference to the imposition of a levy payable to Dairy Australia Limited: What procedures does the department have to ensure that legislation, regulations or principles and guidelines for the implementing of levies payable to a corporation are complied with; and (b) can a copy of those procedures be provided; if there are no departmental procedures, why do they not exist.

(3) What measures have been taken to ensure that the existing levy payers were consulted, regarding the proposed establishment of Dairy Australia Limited.

(4) Can the following information be provided: (a) Full details of the public meetings held to discuss the formulation of Dairy Australia Limited; (b) details of the numbers present at these meetings; and (c) the details of the votes taken at each public meeting supporting or opposing the establishment of Dairy Australia Limited, expressed in both numerical terms and as a percentage of attendees.

(5) Can a list be provided of any departmental media advertisements placed for these meetings.
Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The Department of Agriculture, Fisheries and Forestry (AFFA) has a designated unit that provides advice in respect to the establishment of industry owned companies and the funding arrangements between the Commonwealth and the companies. The funding arrangements are designed to meet prevailing Commonwealth legislative and accountability requirements in respect to the use of appropriated monies, including Commonwealth matching R&D grants. There are no written procedures for the establishment of new entities, as each needs to be treated on an individual basis taking into consideration the particular circumstances of industry requirements. The accountability arrangements required by AFFA, however, tend to mirror those that apply to Commonwealth statutory authorities and companies under the Commonwealth Authorities and Companies Act 1997.

(2) A checklist developed by the AFFA Levies Revenue Service (LRS) is used to inform levy payers of the implementation of new levies and changes to existing levies, and to assist with compliance against relevant levy legislation. A copy of this checklist is attached.

In addition, AFFA LRS has Investigation Officers located throughout Australia who are authorised to audit levy payers. Their job is to both ensure compliance and inform levy payers about the levy system.

With respect to the dairy reforms, the Dairy Industry Service Reform Act 2003 provides that current dairy promotion, research and corporation levies are to be amalgamated into one new levy, the Dairy Service Levy. This is not the imposition of a new levy, but rather a consolidation of the existing levies to reflect the new structure being implemented.

(3) AFFA has undertaken regular consultations with dairy industry representatives on the form and funding of Dairy Services Australia.

(4) AFFA does not have the details of meetings held to discuss the formulation of Dairy Australia as these meetings were held by the industry representative bodies, the Australia Dairy Industry Council and the Australia Dairy Farmers’ Federation.

(5) AFFA has not conducted any public meetings on this matter and no media advertisements were placed for meetings as meetings held were the responsibility of the industry itself.

Veterans: Legal Aid
(Question No. 1463)

Senator Mark Bishop asked the Minister representing the Attorney-General, upon notice, on 14 May 2003:

(1) For each of the past 5 years, what sum has been spent from Commonwealth funds on legal aid to veterans by each state Legal Aid Commission.

(2) What is the current rate payable in each state for veterans’ matters.

(3) For each of the past 5 years: (a) how many applications were received from veterans for legal aid in each state, (b) what percentage were rejected in each year, and (c) how many were for: (i) Federal Court, (ii) High Court, and (iii) state Supreme Court applications.

(4) For each of the past 5 years, what sum was spent by state on: (a) Federal Court; (b) High Court; (c) Supreme Court; and (d) other court applications.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

The Attorney-General’s Department does not maintain records of legal aid for war veterans’ matters to the level of detail required to provide all the information sought. The questions were referred to each
State and Territory legal aid commission and this response reflects information provided by these commissions, except as noted below for the ACT.

Except in the case of NSW, commission responses relate to assistance provided to war veterans under the Commonwealth’s legal aid guideline under which legal aid may be granted to war veterans or their dependants in relation to appeals from decisions of the Veterans’ Review Board about war-caused disability pension entitlements or assessment claims under Part II of the Veterans’ Entitlement Act 1986. This includes claims for disability pension from veterans with ‘warlike service’ and ‘non-warlike service’ after December 1972.

Expenditure information for NSW includes the costs of the NSW Legal Aid Commission’s in-house Veteran’s Advocacy Service which also provides legal advice and assistance to veterans and their dependants on entitlements to disability and service provisions, gold card eligibility, war widows pensions, allowances and entitlements from the Department of Veterans’ Affairs.

Legal aid commissions do not separately identify assistance provided to veterans for other legal aid matters.

(1) For each of the past 5 years, what sum has been spent from Commonwealth funds on legal aid to veterans by each state Legal Aid Commission.

<table>
<thead>
<tr>
<th>Year</th>
<th>ACT</th>
<th>NSW†</th>
<th>NT§</th>
<th>QLD*</th>
<th>SA**</th>
<th>TAS*</th>
<th>Vic*</th>
<th>WA‡</th>
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<td>$20,551</td>
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<td>$1,285,173</td>
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<td>$88,350</td>
<td>$65,479</td>
<td>$1,223,136</td>
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<td>$1,213,886</td>
<td>$39,729</td>
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<td>$148,440</td>
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<td>$159,601</td>
<td>$45,698</td>
<td>$881,904</td>
<td>$23,632</td>
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† NSW Expenditure on war veterans’ matters includes the cost of all services provided by the in-house Veteran’s Advocacy Service and matters referred to private lawyers. These services may extend beyond assistance provided under the Commonwealth War Veterans’ guideline.

^ All veterans’ matters are referred to private lawyers.

** Expenditure figures for South Australia do not include the cost of matters handled in-house by the Commission.

‡ Current practice in WA is for war veterans’ matters to be referred to private lawyers. Prior to 1 July 2000 some matters were handled in-house. The cost of these matters is not included in the expenditure figures.

# Figures are from Attorney-General’s Department records as the Financial Assistance Section of the Department operated the war veterans’ assistance scheme for the ACT at that time.

± ACT Expenditure figures for 2001/02 and 2002/03 are payments to private lawyers and legal disbursements on in-house matters. They do not include other in-house solicitor costs.

* Figures for 2002-03 may not be full year figures.

(2) What is the current rate payable in each state for veterans’ matters.

For non-complex matters, the Commonwealth legal aid guidelines permit a maximum number of hours per stage of matter, for which some commissions pay an hourly rate and others make a lump sum payment. Stage 1 allows a maximum of 10 hours for work up to and including the second preliminary conference (including all attempts to settle the matter). Stage 2 allows a maximum of 12 hours work for the hearing (including all preparation and either the costs of a solicitor or the fees of a barrister for appearing at the hearing).

For complex matters, some commissions pay an hourly rate to reflect the level of work required, whilst others negotiate a lump sum payment to cover the work.

The rates in the table below are hourly rates.
New South Wales Legal Aid Commission

Scale of fees for work in relation to appeals from decisions of the Veterans Review Board in respect to war-caused disability pension entitlements or assessment claims under Part II of the Veterans’ Entitlement Act.

‘Legal practitioners’ includes solicitors and counsel.

Legal practitioners shall be paid at the rate of $120.00 per hour except where advocacy work is undertaken when the rate shall be $150.00 per hour.

Where the Commission determines a matter to be complex, appropriate lump sum fees will be negotiated with the legal practitioner.

Work undertaken by clerks will be paid at one-third of the legal practitioner rate.

Scale of fees for work in relation to appeals from the Administrative Appeals Tribunal to the Federal Court, Federal Magistrates Service or the High Court in War Veterans Matters.

‘Legal practitioners’ includes solicitors and counsel.

Legal practitioners will be paid the following rates for professional costs:

(a) $200.00 per hour or $220.00 per hour where time is spent in hearing as an advocate (payable at 80%*).

This rate applies where costs are awarded in favour of the legally assisted person or where there is a component for costs included in the successful settlement.

(b) $150.00 per hour or $187.50 per hour where time is spent in hearing as an advocate (payable at 80%*).

This rate applies where:

(i) proceedings are discontinued (except where costs are agreed to be paid in favour of the legally assisted person);

(ii) costs are not awarded in favour of the legally assisted person;

(iii) the matter is concluded unsuccessfully;

(iv) there is no component for costs included in the successful settlement;

(v) the legal practitioner’s retainer is terminated prior to the conclusion of the proceedings and the legal practitioner requires payment of costs prior to releasing the file;

(vi) costs are awarded in favour of the legally assisted person but are not able to be recovered by the party ordered to pay those costs; or

(vii) payment of interim accounts is requested by the legal practitioner.

Senior Counsel will be paid at 150% (payable at 80%*) of the above rates.

Work undertaken by clerks will be paid at one-third of the legal practitioner rate.
*Payable at 80% refers to 80% of that amount being paid to the practitioner with the remaining 20% retained by the NSW Legal Aid Fund to pay for other matters.

**Legal Services Commission of South Australia**

**Solicitor Fees**

**Lump Sums**

Initial Preparation $728  
Subsequent Extension $624  
Complex Extension $1,144  
Veterans Appeal $1,040  
Veterans-Subsequent Extension $1,768

Lump sums are based on the rate of $104 per hour up to the maximum number of hours.

**Counsel Fees**

AAT on brief $764  
Federal Court on brief $1,248  
AAT subsequent days $572  
Federal Court subsequent days $749

Hourly rate

AAT $114  
Federal Court $125  
Queens Counsel $177

**Victoria Legal Aid**

**Non Complex Matters**

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<th>Stage 1</th>
<th>Up to and including second preliminary conference</th>
<th>Maximum $1400</th>
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<td>Professional costs</td>
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<tr>
<th>Stage 2</th>
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<tr>
<td>Professional costs</td>
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**War Veterans – Administrative Appeals Tribunal**

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<th>Stage 1</th>
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<tr>
<th>Stage 2</th>
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<tr>
<th>Mediation</th>
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<tr>
<td>Appearance</td>
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<td>$587</td>
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**Legal Aid Western Australia**

Stage 1 grants - $1150 for representation on AAT applications up to and including the second preliminary hearing.

Stage 2 grants - $1400 for representation from second preliminary hearing up to and including a one day hearing before the AAT.
Complex matters – additional hours at $115 per hour.

(3) For each of the past 5 years:
   (a) how many applications were received from veterans for legal aid in each state,
   (b) what percentage were rejected in each year, and (c) how many were for:
      (i) Federal Court,
      (ii) High Court, and
      (iii) state Supreme Court applications.

The information below refers to applications from war veterans for legal aid in war veterans’ matters.

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<thead>
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<th>State/Territory</th>
<th>Year</th>
<th>(a) Applications Received</th>
<th>(b) Applications Refused by Number and Percentage</th>
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<tbody>
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<tr>
<td></td>
<td>2002/03*</td>
<td>6</td>
<td>2 (33.3%)</td>
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<tr>
<td>NSW</td>
<td>1998/99</td>
<td>618</td>
<td>59 (9.5%)</td>
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<td>1999/00</td>
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<td></td>
<td>2001/02</td>
<td>378</td>
<td>43 (11.4%)</td>
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<td>2002/03*</td>
<td>348</td>
<td>19 (5.5%)</td>
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<td>NT</td>
<td>1998/99</td>
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<td>2002/03*</td>
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<tr>
<td>SA</td>
<td>1998/99</td>
<td>54</td>
<td>3 (5.6%)</td>
</tr>
<tr>
<td></td>
<td>1999/00</td>
<td>78</td>
<td>3 (3.85%)</td>
</tr>
<tr>
<td></td>
<td>2000/01</td>
<td>77</td>
<td>4 (5.19%)</td>
</tr>
<tr>
<td></td>
<td>2001/02</td>
<td>76</td>
<td>4 (5.26%)</td>
</tr>
<tr>
<td></td>
<td>2002/03*</td>
<td>102</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>TAS</td>
<td>1998/99</td>
<td>34</td>
<td>0 (0%)</td>
</tr>
<tr>
<td></td>
<td>1999/00</td>
<td>40</td>
<td>1 (2.5%)</td>
</tr>
<tr>
<td></td>
<td>2000/01</td>
<td>34</td>
<td>1 (2.94%)</td>
</tr>
<tr>
<td></td>
<td>2001/02</td>
<td>38</td>
<td>0 (0%)</td>
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<tr>
<td></td>
<td>2002/03*</td>
<td>36</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>Vic</td>
<td>1998/99</td>
<td>370</td>
<td>9 (2.4%)</td>
</tr>
<tr>
<td></td>
<td>1999/00</td>
<td>369</td>
<td>10 (2.7%)</td>
</tr>
<tr>
<td></td>
<td>2000/01</td>
<td>297</td>
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</tr>
<tr>
<td></td>
<td>2001/02</td>
<td>241</td>
<td>3 (1.2%)</td>
</tr>
<tr>
<td>State/Territory</td>
<td>Year</td>
<td>(a) Applications Received</td>
<td>(b) Applications Refused by Number and Percentage</td>
</tr>
<tr>
<td>----------------</td>
<td>--------</td>
<td>---------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2002/03* 154</td>
</tr>
<tr>
<td>WA</td>
<td>1998/99</td>
<td>51</td>
<td>4 (7.8%)</td>
</tr>
<tr>
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<td>1999/00</td>
<td>46</td>
<td>5 (10.8%)</td>
</tr>
<tr>
<td></td>
<td>2000/01</td>
<td>58</td>
<td>6 (10.3%)</td>
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<tr>
<td></td>
<td>2001/02</td>
<td>26</td>
<td>4 (15.4%)</td>
</tr>
<tr>
<td></td>
<td>2002/03*</td>
<td>8</td>
<td>0 (0%)</td>
</tr>
</tbody>
</table>

* Figures for 2002-03 may not be full year figures.

### (c)

<table>
<thead>
<tr>
<th>State/Territory</th>
<th>Year</th>
<th>(i) Federal Court</th>
<th>(ii) High Court</th>
<th>(iii) State Supreme Court</th>
<th>District Court (see SA only)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACT</td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1998/99</td>
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<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1999/00</td>
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<td>1</td>
<td>0</td>
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</tr>
<tr>
<td></td>
<td>2000/01</td>
<td>3</td>
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</tr>
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<td>2001/02</td>
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<td>2002/03*</td>
<td>4</td>
<td>1</td>
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</tr>
</tbody>
</table>

### NT

The Northern Territory Legal Aid Commission has advised that 80 to 90 per cent of veterans’ matters are dealt with by the AAT. The remainder are heard in the Federal Court with a number having been appealed to the Full Court of the Federal Court. No matters have been dealt with in the Northern Territory Supreme Court or in the High Court. A more detailed breakdown is not available.

### Qld

<table>
<thead>
<tr>
<th>Year</th>
<th>(i) Federal Court</th>
<th>(ii) High Court</th>
<th>(iii) State Supreme Court</th>
<th>District Court (see SA only)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998/99</td>
<td>2</td>
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<td></td>
</tr>
<tr>
<td>1999/00</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td></td>
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<tr>
<td>2000/01</td>
<td>4</td>
<td>0</td>
<td>0</td>
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</tr>
<tr>
<td>2001/02</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>2002/03*</td>
<td>13</td>
<td>0</td>
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</table>

### SA

<table>
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<th>(i) Federal Court</th>
<th>(ii) High Court</th>
<th>(iii) State Supreme Court</th>
<th>District Court (see SA only)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998/99</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
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<td></td>
</tr>
<tr>
<td>2000/01</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>2001/02</td>
<td>1</td>
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</tr>
<tr>
<td>2002/03*</td>
<td>6</td>
<td>0</td>
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</table>

### TAS#

<table>
<thead>
<tr>
<th>Year</th>
<th>(i) Federal Court</th>
<th>(ii) High Court</th>
<th>(iii) State Supreme Court</th>
<th>District Court (see SA only)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998/99</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1999/00</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>2000/01</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>2001/02</td>
<td>5</td>
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<td>0</td>
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</tr>
<tr>
<td>2002/03*</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

### Vic^)

<table>
<thead>
<tr>
<th>Year</th>
<th>(i) Federal Court</th>
<th>(ii) High Court</th>
<th>(iii) State Supreme Court</th>
<th>District Court (see SA only)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998/99</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1999/00</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

### QUESTIONS ON NOTICE
State/Territory | Year   | (i) Federal Court | (ii) High Court | (iii) State Supreme Court | District Court (see SA only)
--- | ------ | ------------------ |-----------------|--------------------------|-----------------------------------
WA | 2000/01 | 9 | 0 | 0 |
| 2001/02 | 2 | 0 | 0 |
| 2002/03* | 9 | 0 | 0 |

WA: Legal Aid Western Australia is unable to provide data on applications for Federal Court, High Court and the State Supreme Court matters.

* Figures for 2002-03 may not be full year figures.

# The information provided by the Legal Aid Commission of Tasmania indicates that in addition to these cases it handled 3 cases where the court type has not been recorded. This constitutes 1 case in each of the years 1998-99, 2000-01 and 2002-03.

^ Victoria Legal Aid has also provided the following information on cases which commenced in the AAT and had a subsequent hearing in the Federal Court.

<table>
<thead>
<tr>
<th>Year</th>
<th>AAT to Federal Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998/99</td>
<td>5</td>
</tr>
<tr>
<td>1999/00</td>
<td>5</td>
</tr>
<tr>
<td>2000/01</td>
<td>1</td>
</tr>
<tr>
<td>2001/02</td>
<td>3</td>
</tr>
<tr>
<td>2002/03*</td>
<td>-</td>
</tr>
</tbody>
</table>

(4) For each of the past 5 years the following sums were spent by each State on
(a) Federal Court
(b) High Court
(c) Supreme Court
(d) other court applications.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>ACT</td>
<td>All cases were heard in the Administrative Appeals Tribunal. None were held in the Federal Court, High Court or Supreme Court.</td>
<td>Federal Court</td>
<td>$37,490</td>
<td>$11,668</td>
<td>$44,630</td>
<td>$114,232</td>
</tr>
<tr>
<td>NSW</td>
<td>Expenditure includes all referred practitioner and disbursement costs. The in-house practice does not capture expenditure by court type.</td>
<td>Federal Court</td>
<td>$37,490</td>
<td>$11,668</td>
<td>$44,630</td>
<td>$114,232</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Full Federal Court</td>
<td>$21,348</td>
<td>-</td>
<td>$160</td>
<td>$44,053</td>
</tr>
<tr>
<td></td>
<td></td>
<td>High Court</td>
<td>-</td>
<td>$6,305</td>
<td>$23,372</td>
<td>$9,428</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Supreme Court</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other Court / Tribunal Applications</td>
<td>$654,326</td>
<td>$901,655</td>
<td>$1,074,004</td>
<td>$779,930</td>
</tr>
<tr>
<td>NT</td>
<td>The Northern Territory is unable to provide the information sought.</td>
<td>Federal Court</td>
<td>$6,864</td>
<td>$3,880</td>
<td>$3,503</td>
<td>$34,316</td>
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<tr>
<td>QLD</td>
<td>High Court</td>
<td>No matters were heard.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>State Supreme Court</td>
<td>No matters were heard.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SA</td>
<td>Expenditure does not include costs associated with matters handled in-house</td>
<td>Federal Court</td>
<td>-</td>
<td>$980</td>
<td>-</td>
<td>$2,135</td>
</tr>
<tr>
<td></td>
<td>Other Court</td>
<td>$2,300</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
### QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>State/Territory</th>
<th>Court Type</th>
<th>1998/99</th>
<th>1999/00</th>
<th>2000/01</th>
<th>2001/02</th>
<th>2002/03</th>
</tr>
</thead>
<tbody>
<tr>
<td>TAS</td>
<td>Federal Court</td>
<td>-</td>
<td>$15,030</td>
<td>$4,000</td>
<td>$7,788</td>
<td>$8,000</td>
</tr>
<tr>
<td></td>
<td>Supreme Court</td>
<td>-</td>
<td>-</td>
<td>$2,490</td>
<td>$2,500</td>
<td>-</td>
</tr>
<tr>
<td>Tas</td>
<td>Not recorded#</td>
<td>$13,856</td>
<td>$11,787</td>
<td>$6,817</td>
<td>$10,902</td>
<td>$3,447</td>
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<tr>
<td>Federal Court</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Supreme Court</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Vic^</td>
<td>Federal Court</td>
<td>$8,957</td>
<td>$14,142</td>
<td>$13,170</td>
<td>$19,295</td>
<td>$23,265</td>
</tr>
<tr>
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<td>-</td>
<td>-</td>
<td>$1,440</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Victorian Civil &amp; Administrative Tribunal</td>
<td>$15,771</td>
<td>$8,661</td>
<td>$57,490</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

* Figures for 2002-03 may not be full year figures.

# The information from the Legal Aid Commission of Tasmania includes expenditure on a number of matters where the court type has not been recorded.

^ Victoria Legal Aid has also provided the following information on cases which commenced in the AAT and had a subsequent hearing in another court or tribunal. The expenditure figures provided are the costs incurred across both jurisdictions. The figures for 2002/03 are not full year figures.

### Defence: Aircraft Charters

(Question No. 1502)

Senator Chris Evans asked the Minister for Defence, upon notice, on 10 June 2003:

Can a list be provided of all Defence aircraft charters over the past 5 financial years, indicating in each instance: (a) the date of the charter; (b) the cost of the charter; (c) the purpose of the charter; (d) the company from which the aircraft was chartered; and (e) the type of plane that was chartered.

Senator Hill—The answer to the honourable senator’s question is as follows:

The specific information sought in the honourable senator’s question is not readily available. To collect and assemble such information solely for the purpose of answering the question would be a major task and I am not prepared to authorise the expenditure and effort that would be required.

Before 2002, all Australian Defence Force aircraft charter records were placed on individual operation, exercise or activity files and have been archived.

From 2002, all aircraft charters records have been held centrally by Defence’s 1st Joint Movements Group. The aircraft charters are detailed in the table attached.
<table>
<thead>
<tr>
<th>Charter/ Contract No</th>
<th>Date to/ from</th>
<th>Aircraft Type</th>
<th>Contract Cost AUD</th>
<th>Contract Cost USD</th>
<th>Purpose</th>
<th>Company Contracted</th>
</tr>
</thead>
<tbody>
<tr>
<td>A001/02</td>
<td>15-Feb-02</td>
<td>IL76</td>
<td>$240,000.00</td>
<td>$187,582.00</td>
<td>The movement of equipment to the Middle East in support of Operation SLIPPER</td>
<td>ALLTRANS International</td>
</tr>
<tr>
<td>A002/02</td>
<td>28-Feb-02</td>
<td>IL76</td>
<td>$390,600.00</td>
<td>$293,507.50</td>
<td>The movement of equipment to the Middle East in support of Operation SLIPPER</td>
<td>Alfa Aerospace</td>
</tr>
<tr>
<td>A005/02</td>
<td>18-Feb-02</td>
<td>B767</td>
<td>$165,000.00</td>
<td>$123,518.40</td>
<td>Exercise TIMOR DUSK support</td>
<td>QANTAS</td>
</tr>
<tr>
<td>A006/02</td>
<td>22-Feb-02</td>
<td>HS 748</td>
<td>$5,508.00</td>
<td>$4,128.50</td>
<td>Defence Industry Study Course support</td>
<td>Independent Aviation</td>
</tr>
<tr>
<td>A004/02</td>
<td>Mar 02 to Jun 03 ongoing</td>
<td>AN124/B727 IL76</td>
<td>$21,102,980.00</td>
<td>$21,102,980.00</td>
<td>The movement of equipment to the Middle East in support of Operation SLIPPER</td>
<td>ADAGOLD Aviation</td>
</tr>
<tr>
<td>A010/02</td>
<td>Mar-02</td>
<td>AN124 IL76</td>
<td>$615,000.00</td>
<td>$460,546.30</td>
<td>The movement of equipment to the Middle East in support of Operation SLIPPER</td>
<td>Altrans International</td>
</tr>
<tr>
<td>A011/02</td>
<td>Mar 02 to Apr 02</td>
<td>B747</td>
<td>$445,000.00</td>
<td>$337,098.70</td>
<td>The movement of personnel to the Middle East in support of Operation SLIPPER</td>
<td>ADAGOLD Aviation</td>
</tr>
<tr>
<td>A012/02</td>
<td>22 - 26 Mar 02</td>
<td>Aero Commander</td>
<td>$6,121.50</td>
<td>$4,374.50</td>
<td>Maintenance support</td>
<td>Reefwatch Airtours</td>
</tr>
<tr>
<td>A015/02</td>
<td>19-Apr-02</td>
<td>B737-400</td>
<td>$67,800.00</td>
<td>$50,185.20</td>
<td>EX CHURINGA support</td>
<td>ALLTRANS International</td>
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<tr>
<td>A017/02</td>
<td>23-Apr-02</td>
<td>BAE 146-200</td>
<td>$40,594.00</td>
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<td>EX CHURINGA support</td>
<td>ALLTRANS International</td>
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<tr>
<td>A008/02</td>
<td>May-02</td>
<td>B737 &amp; Fokker F100</td>
<td>$1,770,600.00</td>
<td>$1,331,416.60</td>
<td>The movement of personnel to East Timor in support of Operation TANAGER</td>
<td>Patrick Defence Logistics</td>
</tr>
<tr>
<td>A016/02</td>
<td>01-May-02</td>
<td>Metro III / Merlin</td>
<td>$13,234.00</td>
<td>$9,794.30</td>
<td>Operation TANAGER Helicopter Underwater Escape Trainer (HUET) Support</td>
<td>Independent Aviation</td>
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<tr>
<td>A017/02</td>
<td>15-16 May 02</td>
<td>B737</td>
<td>$90,000.00</td>
<td>$66,807.80</td>
<td>Exercise NORTHERN STATION support</td>
<td>QANTAS</td>
</tr>
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<td>A018/02</td>
<td>06-May-02</td>
<td>B767</td>
<td>$158,000.00</td>
<td>$116,273.30</td>
<td>Rifle Company Group Butterworth support</td>
<td>QANTAS</td>
</tr>
<tr>
<td>A020/02</td>
<td>20-May-02</td>
<td>B737-400</td>
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<td>$57,044.00</td>
<td>EX CHURINGA support</td>
<td>ADAGOLD Aviation</td>
</tr>
<tr>
<td>A021/02</td>
<td>May 02 B39</td>
<td>AN124</td>
<td>$670,000.00</td>
<td>$487,055.90</td>
<td>The movement of equipment in support of Operation SLIPPER</td>
<td>Alltrans International</td>
</tr>
<tr>
<td>A023/02</td>
<td>27-28 May 02</td>
<td>Metro III / Cessna 414</td>
<td>$23,145.00</td>
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<td>HUET Support</td>
<td>Independent Aviation</td>
</tr>
<tr>
<td>Charter/Contract No</td>
<td>Date to/from</td>
<td>Aircraft Type</td>
<td>Contract Cost AUD</td>
<td>Contract Cost USD</td>
<td>Purpose</td>
<td>Company Contracted</td>
</tr>
<tr>
<td>---------------------</td>
<td>--------------</td>
<td>---------------</td>
<td>-------------------</td>
<td>-------------------</td>
<td>---------</td>
<td>--------------------</td>
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<tr>
<td>A02602</td>
<td>21-May-02</td>
<td>Dash 8/ Beech 1900/ Cessna Conquest</td>
<td>$34,797.00</td>
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<td>Exercise FRONTLINE SUPPORT</td>
<td>Alltrans International</td>
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<td>22 - 24 May 02</td>
<td>B737</td>
<td>$64,000.00</td>
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<td>State Funeral support.</td>
<td>QANTAS</td>
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<tr>
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<td>11-Jun-02</td>
<td>Metro III</td>
<td>$7,180.00</td>
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<td>HUET Support</td>
<td>Independent Aviation</td>
</tr>
<tr>
<td>A03002</td>
<td>26-Jun-02</td>
<td>Fairchild Metro 23</td>
<td>$7,141.20</td>
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<td>HUET Support</td>
<td>National Jet Systems</td>
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<tr>
<td>A03102</td>
<td>25-Jun-02</td>
<td>Merlin / Metro III</td>
<td>$11,060.00</td>
<td></td>
<td>HUET Support</td>
<td>Independent Aviation</td>
</tr>
<tr>
<td>A01402</td>
<td>Jun 02-Jun 03 Ongoing</td>
<td>Brasilia EMB0120</td>
<td>$2,880,000.00</td>
<td></td>
<td>The movement of personnel and equipment in support of Operation CITADEL</td>
<td>Airmouth</td>
</tr>
<tr>
<td>A02402</td>
<td>Jul-02</td>
<td>Fokker 100</td>
<td>$118,000.00</td>
<td></td>
<td>The movement of personnel and equipment in support of Operation CITADEL</td>
<td>Patrick Defence Logistics</td>
</tr>
<tr>
<td>A02802</td>
<td>Jul-02</td>
<td>B767</td>
<td>$191,400.00</td>
<td></td>
<td>Exercise PACIFIC RESERVE support</td>
<td>Alfa Aerospace</td>
</tr>
<tr>
<td>A03203</td>
<td>31-Jul-02</td>
<td>MetroIII/Conquest</td>
<td>$12,183.00</td>
<td></td>
<td>HUET Support</td>
<td>National Jet Systems Group</td>
</tr>
<tr>
<td>A03802</td>
<td>29 Jul - 4 Aug 02</td>
<td>B737</td>
<td>$81,000.00</td>
<td></td>
<td>State Funeral support.</td>
<td>QANTAS</td>
</tr>
<tr>
<td>A03402</td>
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<td>B737</td>
<td>$77,000.00</td>
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<td>Exercise PREDATORS GALLOP Support</td>
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<tr>
<td>A03602</td>
<td>Aug-02</td>
<td>B747</td>
<td>$554,000.00</td>
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<td>The movement of personnel to the Middle East in support of Operation SLIPPER</td>
<td>ALLTRANS International</td>
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<tr>
<td>A03702</td>
<td>14-Aug-02</td>
<td>MetroIII</td>
<td>$9,050.00</td>
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<td>Independent Aviation</td>
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<tr>
<td>A03802</td>
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<td>$57,000.00</td>
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<tr>
<td>A04102</td>
<td>31-Aug-02</td>
<td>Fokker F100</td>
<td>$60,800.00</td>
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<tr>
<td>A03502</td>
<td>10 - 15 Sep 02</td>
<td>2 x Embraer EMB-120</td>
<td>$8,000.00</td>
<td></td>
<td>Defence Industry Study Course support</td>
<td>ADAGOLD Aviation</td>
</tr>
<tr>
<td>A04002</td>
<td>16-Sep-02</td>
<td>A330-300 / L100</td>
<td>$385,000.00</td>
<td></td>
<td>Exercise STARDEX Support</td>
<td>ADAGOLD Aviation</td>
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<tr>
<td>A04202</td>
<td>Sep-02</td>
<td>AN124</td>
<td>$425,000.00</td>
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<td>The movement of equipment from the Middle East in support of Operation SLIPPER</td>
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</tr>
<tr>
<td>A04302</td>
<td>06-Sep-02</td>
<td>Fokker F100</td>
<td>$88,500.00</td>
<td></td>
<td>Exercise PREDATORS GALLOP Support</td>
<td>Patrick Defence Logistics</td>
</tr>
<tr>
<td>Charter/Contract No</td>
<td>Date to/ from</td>
<td>Aircraft Type</td>
<td>Contract Cost AUD</td>
<td>Contract Cost USD</td>
<td>Purpose</td>
<td>Company Contracted</td>
</tr>
<tr>
<td>---------------------</td>
<td>--------------</td>
<td>---------------</td>
<td>------------------</td>
<td>------------------</td>
<td>---------</td>
<td>--------------------</td>
</tr>
<tr>
<td>A044/02</td>
<td>Oct 02-Nov 02</td>
<td>B737</td>
<td>$ 1,134,200.00</td>
<td>The movement of personnel and equipment in support of Operation CITADEL</td>
<td>Patrick Defence Logistics</td>
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<tr>
<td>A046/02</td>
<td>16-Oct-02</td>
<td>Metro III</td>
<td>$ 6,914.00</td>
<td>The movement of personnel and equipment in support of Operation BEL ISI</td>
<td>Independent Aviation</td>
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<tr>
<td>A047/02</td>
<td>Nov-02</td>
<td>B767</td>
<td>$ 242,742.00</td>
<td>Exercise CROIX DU SUD support</td>
<td>QANTAS</td>
<td></td>
</tr>
<tr>
<td>A049/02</td>
<td>Dec-02</td>
<td>B747</td>
<td>$ 965,000.00</td>
<td>The movement of personnel from the Middle East in support of Operation SLIPPER</td>
<td>QANTAS</td>
<td></td>
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<tr>
<td>A048/02</td>
<td>Jan-03</td>
<td>AN124</td>
<td>$ 835,000.00</td>
<td>The movement of equipment to the Middle East in support of Operation SLIPPER</td>
<td>Alltrans International</td>
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<tr>
<td>A050/02</td>
<td>Jan-03</td>
<td>AN124, Fokker 100</td>
<td>$ 293,000.00</td>
<td>The movement of equipment and personnel to the Middle East in support of Operation SLIPPER</td>
<td>ADAGOLD Aviation</td>
<td></td>
</tr>
<tr>
<td>A051/03</td>
<td>Jan-03</td>
<td>B757</td>
<td>$ 75,000.00</td>
<td>The movement of personnel and equipment in support of Operation CITADEL</td>
<td>ADAGOLD Aviation</td>
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<tr>
<td>A052/02</td>
<td>Jan-03</td>
<td>AN124, Fokker 100</td>
<td>$ 1,800,000.00</td>
<td>The movement of equipment and personnel to the Middle East in support of Operation SLIPPER</td>
<td>Alltrans International</td>
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<tr>
<td>A03/03</td>
<td>Feb-03</td>
<td>AN124</td>
<td>$ 48,500.00</td>
<td>The movement of equipment to the Middle East in support of Operation SLIPPER</td>
<td>Alltrans Aviation</td>
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</tr>
<tr>
<td>A05/03</td>
<td>Mar - May 03</td>
<td>Brasilia EMB-120</td>
<td>$ 480,000.00</td>
<td>The movement of personnel and equipment in support of Operation CITADEL</td>
<td>Airnorth</td>
<td></td>
</tr>
<tr>
<td>A012/03</td>
<td>15-Apr-03</td>
<td>AN124</td>
<td>$ 35,000.00</td>
<td>Movement of F111 Airframe</td>
<td>ADAGOLD</td>
<td></td>
</tr>
<tr>
<td>611/1/30/1</td>
<td>1 Apr 02 - 30 Jun 03</td>
<td>Bell 212 helicopter</td>
<td>$ 7,660,115.00</td>
<td>Aviation Support to the Peace Monitoring Group, Operation BEL ISI</td>
<td>Hevilift (PNG) Ltd</td>
<td></td>
</tr>
<tr>
<td>A007/03</td>
<td>May-03</td>
<td>Fokker F100 / MD83</td>
<td>$ 1,146,950.00</td>
<td>The movement of personnel and equipment in support of Operation CITADEL</td>
<td>Patrick Defence Logistics</td>
<td></td>
</tr>
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</table>
### QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>Charter/Contract No</th>
<th>Date to/ from</th>
<th>Aircraft Type</th>
<th>Contract Cost/ USD</th>
<th>Purpose</th>
<th>Company Contracted</th>
</tr>
</thead>
<tbody>
<tr>
<td>A009/03</td>
<td>May-03</td>
<td>B757, B767</td>
<td>$3,221,214.00</td>
<td>The movement of personnel from the Middle East in support of Operation FALCONER</td>
<td>QANTAS</td>
</tr>
<tr>
<td>A010/03</td>
<td>May-03</td>
<td>AN124</td>
<td>$2,184,500.00</td>
<td>The movement of cargo from the Middle East in support of Operation FALCONER</td>
<td>Patrick Defence Logistics</td>
</tr>
<tr>
<td>A014/03</td>
<td>20 - 21 Jun 03</td>
<td>B767-300</td>
<td>$420,000.00</td>
<td>The movement of personnel in support of the Operation FALCONER welcome home parade</td>
<td>QANTAS</td>
</tr>
<tr>
<td>A015/03</td>
<td>18-Jun-03</td>
<td>Fokker 100</td>
<td>$39,000.00</td>
<td>The movement of personnel in support of the Operation FALCONER welcome home parade</td>
<td>Patrick Defence Logistics</td>
</tr>
</tbody>
</table>

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### Telstra: Cable Air Pressure Program

**Question No. 1534**

Senator Mackay asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 June 2003:

1. How many staff are being assigned to work on this program in each of the priority areas of Illawarra, Newcastle, Sydney, Perth, Adelaide, Tasmania and Canberra.
2. Can figures be provided on how many of those assigned under the program, for each of the above priority areas, are: (a) Network Design and Construction staff; (b) National Network Solutions staff; (c) contractors; and (d) Telstra field staff.
3. How many cables were in alarm in each of these priority areas at the start of this program.
4. How many cables in the categories of platinum, gold and silver, were identified as being in alarm in New South Wales.
5. How many cables are now in alarm in each of these priority areas.
6. How many of the cables in alarm are due to inaccessible leaks.
7. What is the process for repairing inaccessible leaks.
8. How many inaccessible leaks in New South Wales are being repaired by cable length replacement under this program.
9. Given that cables in Tasmania are not under APCAMS but under the AMS system, are AMS reports available; if so, can a copy of the most recent AMS report be provided; if not, how are the priority areas being determined in Tasmania.
10. What broadly is the state of the cables in Tasmania as far as this issue is concerned.
11. Is the APCAMs alarm system being installed in any new areas; if so, where.
12. How much is being spent on APCAMS installation.

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**QUESTIONS ON NOTICE**
Senator Alston—The answer to the honourable senator’s question is as follows:

This answer is based on advice from Telstra and is substantively the same as the Telstra response to parts 1-8 of Question on Notice 125 and parts 1-3 of Question on Notice 126 from the Budget Estimates Hearings in May 2003.

(1) Telstra has advised that the number of people undertaking this work fluctuates in each region due to varying availability of resources, changing customer service workload and as the number of cables requiring attention fluctuates (due to air pressure in cables being lifted). Staff may also be required to undertake a number of different functions relating to CPAS maintenance.

Telstra has provided the following table showing the average number of staff working on the CPAS Accelerated Work Program as at 12/06/2003. The numbers are subject to daily variation.

<table>
<thead>
<tr>
<th>Priority Area</th>
<th>Average Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>SA</td>
<td>26</td>
</tr>
<tr>
<td>WA</td>
<td>26</td>
</tr>
<tr>
<td>Tasmania</td>
<td>10</td>
</tr>
<tr>
<td>Illawarra</td>
<td>21</td>
</tr>
<tr>
<td>Newcastle / Central Coast</td>
<td>29</td>
</tr>
<tr>
<td>Sydney</td>
<td>101</td>
</tr>
<tr>
<td>Canberra</td>
<td>14</td>
</tr>
</tbody>
</table>

(2) (a)–(d)

Telstra has indicated that the mix of staff from different organisations, (along with the overall number of people undertaking this work) fluctuates in each region due to varying availability of resources, changing customer service workload and as the number of cables requiring attention varies (due to air pressure in cables being lifted).

Telstra has advised that in the current Area Management organisation the NNS group functions have been (and are being) integrated into Service Delivery and Network Design Construction Group (NDGC).

Telstra has indicated that in addition to the Accelerated program, CPAS staff may also be deployed to other activities directly relating to CPAS functions.

Telstra has provided the following table, showing the organisational split of the average resources working on the Accelerated Works Program as at 12/06/2003.

<table>
<thead>
<tr>
<th>Priority Area</th>
<th>NNS</th>
<th>Telstra Service</th>
<th>ANCC</th>
<th>NDC</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>SA</td>
<td>8</td>
<td>6</td>
<td>12</td>
<td>0</td>
<td>26</td>
</tr>
<tr>
<td>WA</td>
<td>6</td>
<td>6</td>
<td>14</td>
<td>0</td>
<td>26</td>
</tr>
<tr>
<td>Tasmania</td>
<td>3</td>
<td>0</td>
<td>7</td>
<td>0</td>
<td>10</td>
</tr>
<tr>
<td>Illawarra</td>
<td>0</td>
<td>9</td>
<td>10</td>
<td>2</td>
<td>21</td>
</tr>
<tr>
<td>Newcastle / Central Coast</td>
<td>0</td>
<td>6</td>
<td>20</td>
<td>3</td>
<td>29</td>
</tr>
<tr>
<td>Sydney</td>
<td>0</td>
<td>21</td>
<td>62</td>
<td>18</td>
<td>101</td>
</tr>
<tr>
<td>Canberra</td>
<td>0</td>
<td>0</td>
<td>10</td>
<td>4</td>
<td>14</td>
</tr>
</tbody>
</table>

(3) Telstra has advised that the number of cables in alarm at the start of the program was as follows:

<table>
<thead>
<tr>
<th>Priority Area</th>
<th>In Alarm</th>
</tr>
</thead>
<tbody>
<tr>
<td>SA</td>
<td>549</td>
</tr>
<tr>
<td>WA</td>
<td>631</td>
</tr>
<tr>
<td>Tasmania</td>
<td>53</td>
</tr>
<tr>
<td>Illawarra</td>
<td>86</td>
</tr>
</tbody>
</table>
(4) Telstra has indicated that of the 1,435 cables listed for NSW above, the split between the three categories as at 17 February, 2003 is:

<table>
<thead>
<tr>
<th>Category</th>
<th>Number of Cables</th>
</tr>
</thead>
<tbody>
<tr>
<td>Platinum</td>
<td>304</td>
</tr>
<tr>
<td>Gold</td>
<td>646</td>
</tr>
<tr>
<td>Silver</td>
<td>449</td>
</tr>
<tr>
<td>Total</td>
<td>1,399</td>
</tr>
</tbody>
</table>

Note: 36 cables are currently being assessed to ensure the appropriate category is assigned.

(5) Telstra has indicated that the number of cables in alarm as at 23 June 2003 is as follows:

<table>
<thead>
<tr>
<th>Priority Area</th>
<th>In Alarm 23 June</th>
</tr>
</thead>
<tbody>
<tr>
<td>SA</td>
<td>498</td>
</tr>
<tr>
<td>WA</td>
<td>585</td>
</tr>
<tr>
<td>Tasmania</td>
<td>45</td>
</tr>
<tr>
<td>Illawarra</td>
<td>759</td>
</tr>
<tr>
<td>Newcastle / Central Coast</td>
<td>51</td>
</tr>
<tr>
<td>Sydney</td>
<td>73</td>
</tr>
<tr>
<td>Canberra</td>
<td>254</td>
</tr>
</tbody>
</table>

(6) Telstra has advised that where the leaks are in the section of the cables in the conduits that run between the man-holes, the areas of cable sheath that require repair are not easily accessible. Telstra call these inaccessible leaks (IALs).

Telstra has indicated that, in these cases, the leak location has to be detected using test equipment and the repair can be effected in one of two ways. The first is to dig down on the conduit run and expose the cable sheath at the point of the leak for repair. The second is to install in the conduit run a new section of cable between the man-holes either side of the leak. This generally means installing between 200 and 500 metres of new cable. As part of the cable maintenance program the IAL’s have been identified and a program of works to undertake these repairs is under way. This program will continue as Telstra continue its maintenance upgrade work.

Telstra has indicated that to effect the repair, a number of steps need to occur including testing to locate the leak; analysis to determine whether digging down on the conduit run or cable replacement is the most effective option; and organising the resources including the material and people.

(7) Telstra has advised that of the 20 IALs completed under the CPAS accelerated work program in NSW to 11 June 2003, 6 were repaired by replacement of cable length. The remaining 14 IALs were repaired by either “digging down” to the cable at the site of the damage and undertaking repairs, or replacement/repair of a pillar tail.
(9) Telstra has indicated that the AMS system within Tasmania has been used to monitor the status of the compressors within exchanges. This system does not produce reports. Telstra has advised that the “priority areas” within Tasmania are being determined with the assistance of local field staff and are based on local knowledge and information. Items such as air flow levels, excessive compressor machine hours (i.e., heavy or abnormal duty cycles), observable condition of cable sheaths (normally based on observations made during visits for other reasons), as well as any faults reported have been assessed to gain an understanding of the repair requirements.

(10) Telstra has indicated that the condition of the Tasmanian CPAS network is consistent with the general or average condition of CPAS plant as a whole across Australia.

(11) Telstra has advised that it continues to enhance the monitoring of the CPAS network with additional exchanges being targeted for installation of APCAMS. Exchanges currently being brought into the APCAMS environment are located as follows:
   - New South Wales (108 Exchanges)
   - Tasmania (34 Exchanges)
   - South Australia (32 Exchanges)
   - Northern Territory (12 Exchanges)
   - Victoria (17 Exchanges)

(12) Telstra has indicated that approximately $4m is programmed to further expand the number of cables monitored by APCAMS monitoring equipment (both transducers on cables and monitors in exchanges).

Telstra: Aged and Disability Services
(Question No. 1537)

Senator Mackay asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 June 2003:

(1) (a) How much money did Telstra spend on advertising its specialised services for the aged and disabled in the last year; (b) what advertising medium did Telstra use to promote these services; and (c) where did Telstra predominantly advertise these services.

(2) (a) Where are the aged and disability managers located in Australia; and (b) how many staff work with the managers.

(3) (a) Will Telstra be training other staff in dealing with aged and disability problems; if so, where will these staff be located; and (b) how much training will be provided per staff member, for example, days or weeks.

Senator Alston—The answer to the honourable senator’s question is as follows:

This answer is based on advice from Telstra and is substantively the same as the Telstra response to Question on Notice 129 from the Budget Estimates Hearings in May 2003.

(1) (a) Telstra has advised that its budget on promotion and advertising of its aged and disability services for 2002/03 was approximately $300,000. It includes a number of elements.
   - Telstra sponsors various disability organisations from which the Disability Services Unit receives promotion through advertorials, website links and advertising in the organisations’ newsletters and magazines.
   - It also produces a catalogue of products and services for older people and people with a disability. According to Telstra, the catalogues provide detailed information on Telstra’s Disability Equipment Program and other products and services that may provide solutions to specific needs.
Telstra has undertaken a number of ongoing and ad-hoc promotional and advertising activities, including press and radio ads, presentations to aged and disability groups, and promotion by way of targeted brochures about Telstra’s services for older people and people with a disability. The webpage: www.telstra.com.au/disability also includes information promoting Telstra’s services.

(b) The following advertising media were used to promote these services:

- Paid advertising and advertorials in targeted publications such as The Australian Senior Newspaper, Australian Retirement Press, Aged Pension News for Seniors, certain guides to aged care in metropolitan and regional areas, and LINK magazine.
- Advertisements on Radio for the Print Handicapped network throughout Australia.
- Ongoing consultation and outreach programs with peak disability organisations including:
  - Australian Association of the Deaf
  - Australian Federation of Disability Organisations
  - Better Hearing Australia
  - Blind Citizens Australia
  - Carers Australia
  - Communication Aid Users Society
  - Deafness Forum
  - National Council on Intellectual Disability
  - National Ethnic Disability Alliance
  - National Indigenous Disability Network
  - Physical Disability Council of Australia
  - Telecommunications Disability Project (TEDICORE)
  - Women with Disabilities (Aust.)

Telstra has advised that it tracks customer awareness of its specialist products and services for people with disabilities. According to Telstra, results of regular surveys, of approximately 300 customers, indicates that around 70% have an awareness of Telstra providing these products and services.

(c) See answer to part (1), (a) & (b) above.

(2) (a) and (b) Telstra’s Disability Enquiry Hotline (DEH) is the primary point of contact for people with a disability and their carers, providing specialist advice about Telstra’s Disability Equipment Program and other Telstra products and services that may provide solutions for their telecommunications needs. The DEH staff process applications for Telstra’s Disability Equipment Program, provide details of access points for Telstra’s disability products and services and can also arrange for a customer to trial a product.

The DEH is supported by two Disability Liaison Managers based in Melbourne and Adelaide who manage the more complex enquiries and liaison with customers, and 47 disability representatives in Telstra Country Wide offices around Australia.

Telstra has also entered into arrangements with a number of organisations and service providers that provide services to people with a disability. This arrangement provides over 30 additional locations for Telstra customers who are aged or have a disability to view and try Telstra Disability
(3) (a) Telstra has an online Disability Awareness Program. (b) Over 12,000 staff had completed the course to end July 2003. Most of the staff who have completed the course are in customer contact roles. For example, 90 per cent of Telstra Shop staff have undertaken Telstra’s disability awareness course. Staff in a Telstra Shop or a Telstra Licensed Shop can also access information online at any time regarding Telstra’s disability services to assist in handling customer enquiries.

The Telstra Country Wide Disability Representatives referred to above have also been fully briefed about Telstra’s disability products, services and information policy and operational procedures. Disability Enquiry Hotline staff also provide ongoing support to the TCW staff.

Telstra: Resources
(Question No. 1538)

Senator Mackay asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 June 2003:

(1) With reference to Environment, Communications, Information Technology and the Arts Legislation Committee Hansard, 27 May 2003 page 142, can the Minister confirm the statement by Mr Rix that it is only in ‘contingency’ workload that Telstra has ‘an opportunity to look for additional resources such as the use of overtime.’

(2) (a) Does Telstra use additional resources such as overtime or external contractors under any other workload condition, such as low workload, normal workload, high workload or contingency; and (b) can details be provided of each category of additional resources for each workload for each area this financial year, including Network Design and Construction, National Network Solutions resources.

(3) (a) If no preventative maintenance work is done under contingency, is preventative maintenance work done under any other workload condition, such as low workload, normal workload or high workload; and (b) can details be provided of the percentage of resources for preventative maintenance work under each other workload condition.

(4) How many days of normal workload were there this financial year for each Telstra region including: (a) Sydney Metro; (b) NSW Regional; (c) Melbourne Metro; (d) Vic Regional; (e) Brisbane Metro; (f) Qld Regional; (g) Perth Metro; (h) WA Regional; (i) Adelaide Metro; (j) SA Regional; (k) NT; and (l) Tas.

(5) How many days of high workload were there this financial year for each Telstra region including: (a) Sydney Metro; (b) NSW Regional; (c) Melbourne Metro; (d) Vic Regional (e) Brisbane Metro; (f) Qld Regional; (g) Perth Metro; (h) WA Regional; (i) Adelaide Metro; (j) SA Regional; (k) NT; and (l) Tas.

(6) How many days of low workload were there this financial year for each Telstra region including: (a) Sydney Metro; (b) NSW Regional; (c) Melbourne Metro; (d) Vic Regional; (e) Brisbane Metro; (f) Qld Regional; (g) Perth Metro; (h) WA Regional; (i) Adelaide Metro; (j) SA Regional; (k) NT; and (l) Tas.

(7) How many days of contingency were there this financial year for each Telstra region including: (a) Sydney Metro; (b) NSW Regional; (c) Melbourne Metro; (d) Vic Regional; (e) Brisbane Metro; (f) Qld Regional; (g) Perth Metro; (h) WA Regional; (i) Adelaide Metro; (j) SA Regional; (k) NT; and (l) Tas.

(8) What is the fault level at which each of these regions would be considered in contingency if in Melbourne Metro contingency is above 1 900 faults: (a) Sydney Metro; (b) NSW Regional; (c)
(9) With reference to evidence by Mr Rix, Environment, Communications, Information Technology and the Arts Legislation Committee Hansard, 27 May 2003, page 144, if the normal range of faults for Melbourne is between 850 and 1,300 faults, what is the normal range of faults for each other area including: (a) Sydney Metro; (b) NSW Regional; (c) Brisbane Metro; (d) Qld Regional; (e) Perth Metro; (f) WA Regional; (g) Adelaide Metro; (h) SA Regional; (i) NT; and (j) Tas.

Senator Alston—The answer to the honourable senator’s question is as follows:

This answer is based on advice from Telstra and is substantively the same as the Telstra response to Questions on Notice 130, 131, 132, 133, 134, 135 and 136 from the Budget Estimates Hearings in May 2003.

(1) According to Telstra, as set out in Hansard page ECITA 142, Mr Rix did not say that it is ‘only’ in ‘contingency’ workload that Telstra has ‘an opportunity to look for additional resources such as the use of overtime’. This would be one example of a situation where Telstra may look to augment resources but there are others - such as to meet customer demand or to work on a large cable cut.

(2) (a) & (b)
Telstra has informed the Government that data of this specific nature is not readily available. However, Telstra has advised that external contractors may be utilised under Low, Normal, High, and Contingency workloads. The extent of use will depend on prevailing circumstances.
National Network Solutions is no longer a business unit within Telstra - staff from this group were integrated into the Service regions and also into the Network Design and Construction group.
Telstra’s Infrastructure Services business utilises the most cost-effective combinations of internal and external workforces to deliver services. In exploring least cost Telstra workforce options, resources are often shared, and/or moved between business units to optimise utilisation.

(3) (a) & (b)
Preventative Maintenance work is completed by Telstra’s service field workforce in all Metro Regions under Low, Normal and High workloads. Telstra has advised that details on quantities are not readily available, as the work is not dispatched via Telstra’s automated dispatch system.

(4) (a) – (l)
The number of days in normal workload for 2002/03 for each Telstra region stated is as follows:
- NSW Regional (147 out of 219)
- Vic Regional (144 out of 198)
- Qld Regional (169 out of 219)
- WA Regional (170 out of 220)
- SA Regional (160 out of 220)
- NT (160 out of 220)
- Tas (115 out of 152)
- Sydney Metro (73 out of 248)
- Melbourne Metro (131 out of 248)
- Brisbane Metro (63 out of 223)
- Perth Metro (101 out of 248)
- Adelaide Metro (87 out of 247)
Note: The variation in how many days in total were measured is due to the fact that Telstra’s systems are not designed to record this data and the periods for which data was available were not consistent across regions.

(5) (a) – (l)
The number of days in high workload for 2002/03 for each Telstra region is as follows:
- NSW Regional (29 out of 219)
- Vic Regional (22 out of 198)
- Qld Regional (17 out of 219)
- WA Regional (18 out of 220)
- SA Regional (23 out of 220)
- NT (22 out of 220)
- Tas (15 out of 152)
- Sydney Metro (59 out of 248)
- Melbourne Metro (96 out of 248)
- Brisbane Metro (47 out of 223)
- Perth Metro (42 out of 248)
- Adelaide Metro (57 out of 247)

Note: The variation in how many days in total were measured is due to the fact that Telstra’s systems are not designed to record this data and the periods for which data was available were not consistent across regions.

(6) (a)- (l)
The number of days in low workload for 2002/03 for each Telstra region is as follows:
- NSW Regional (38 out of 219)
- Vic Regional (30 out of 198)
- Qld Regional (19 out of 219)
- WA Regional (24 out of 220)
- SA Regional (32 out of 220)
- NT (10 out of 220)
- Tas (15 out of 152)
- Sydney Metro (72 out of 248)
- Melbourne Metro (8 out of 248)
- Brisbane Metro (28 out of 223)
- Perth Metro (65 out of 248)
- Adelaide Metro (90 out of 247)

Note: The variation in how many days in total were measured is due to the fact that Telstra’s systems are not designed to record this data and the periods for which data was available were not consistent across regions.

(7) (a)–(l)
The number of days in contingency for 2002/03 for each Telstra region is as follows:
• NSW Regional (5 out of 219)
• Vic Regional (8 out of 198)
• Qld Regional (14 out of 219)
• WA Regional (8 out of 220)
• SA Regional (6 out of 220)
• NT (14 out of 220)
• Tas (7 out of 152)
• Sydney Metro (44 out of 248)
• Melbourne Metro (13 out of 248)
• Brisbane Metro (85 out of 223)
• Perth Metro (40 out of 248)
• Adelaide Metro (13 out of 247)

Note: The variation in how many days in total were measured is due to the fact that Telstra’s systems are not designed to record this data and the periods for which data was available were not consistent across regions.

(8) (a)-(j)

The fault level at which each of these regions would be considered in contingency is as follows:

<table>
<thead>
<tr>
<th>Regional</th>
<th>Contingency Workload</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW Regional</td>
<td>&gt;3988</td>
</tr>
<tr>
<td>QLD Regional</td>
<td>&gt;1662</td>
</tr>
<tr>
<td>WA Regional</td>
<td>&gt;862</td>
</tr>
<tr>
<td>SA Regional</td>
<td>&gt;865</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>&gt;865</td>
</tr>
<tr>
<td>Tasmania</td>
<td>&gt;1585</td>
</tr>
<tr>
<td>Metro</td>
<td>Contingency Workload</td>
</tr>
<tr>
<td>Sydney Metro</td>
<td>&gt;2200</td>
</tr>
<tr>
<td>Brisbane Metro</td>
<td>&gt;1350</td>
</tr>
<tr>
<td>Perth Metro</td>
<td>&gt;850</td>
</tr>
<tr>
<td>Adelaide Metro</td>
<td>&gt;650</td>
</tr>
</tbody>
</table>

(9) (a)-(j)

The normal range of faults for each other area for the financial year 2002/03 is as follows:

• NSW Regional (1979 and 3318)
• Qld Regional (820 and 1381)
• WA Regional (416 and 713)
• SA Regional (186 and 293)
• NT (242 and 472)
• Tas (240 and 355)
• Sydney Metro (1400 and 1650)
• Brisbane Metro (740 and 1000)
• Perth Metro (480 and 630)
• Adelaide Metro (390 and 490)

QUESTIONS ON NOTICE
Telstra: FuturEdge
(Question No. 1539)

Senator Mackay asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 June 2003:

(1) (a) Has ‘FuturEdge’ been implemented across Telstra yet; and (b) can an update be provided on how this has been proceeding.

(2) (a) Was this system trialled in any location before it was implemented across the company; if so, where was it trialled, and for how long; and (b) is it still being trialled anywhere.

(3) (a) Is it correct that there was a trial of ‘FuturEdge’ in Brisbane earlier this year; and (b) has the program been fully implemented in Brisbane now.

(4) With reference to information provided to the Environment, Communications, Information Technology and the Arts Legislation Committee: (a) is it true that the Brisbane Work Management Centre experienced so many problems with ‘FuturEdge’ that it had to assign hundreds of jobs manually; and (b) what sorts of problems were these and what did Telstra do to fix these.

(5) How has Telstra changed the way fieldwork calendars are managed to improve fault rectification times as reported by Telstra in the Estens Report (page 85).

Senator Alston—The answer to the honourable senator’s question, based on information supplied by Telstra, is as follows:

This answer is based on advice from Telstra and is substantively the same as the Telstra response to Question on Notice 146 from the Budget Estimates Hearings in May 2003.

(1) (a) Telstra has advised that ‘FuturEdge’ is made up of 3 components:
- R5 CONNECT, which is the workforce management component.
- R6 SIIAM, which is the Service Assurance component.
- R7, which is the Service Activation component.

Telstra has informed the Department that there are currently two pilots of Release 5 (CONNECT) being conducted in Brisbane and Bendigo.

(b) Telstra has indicated that issues identified within the pilots in Brisbane and Bendigo have been resolved and a roll out plan for the rest of the nation has been finalised with an anticipated completion date of December 2003.

Telstra has also advised that R6 SIIAM went into pilot in Tasmania on August 19 2003, and has been running smoothly. Further, Telstra has indicated that R7 went into trial in Bendigo on July 18 2003 and an extended trial catering for all of Victoria and Tasmania commenced on 25 August 2003.

(2) See answer to part (1).

(3) (a) Telstra has advised that there was a pilot of R5 CONNECT in Brisbane that commenced in December 2002.

(b) Telstra has indicated that the implementation of R5 in Brisbane is in the final stages.

(4) (a) Telstra has advised that Brisbane and Bendigo did experience problems during the pilots. When R5 was initially implemented, automatic assignment of work was 53%. This was far lower than Telstra’s expectations, however it was approximately 10% higher than what was being achieved in Director (Telstra’s previous dispatch system). Telstra has indicated it is currently achieving 95% automatic assignment. Problems encountered during the pilot included Systems, Process & People.

QUESTIONS ON NOTICE
(b) Telstra has advised that system problems were related to software/hardware operation and function. These were resolved through changes to hardware configurations, changes to software functionality and the resolution of software bugs.

Telstra has indicated that process problems encountered were a lack of compliance by staff members to new process and procedures. These are being resolved through coaching and additional training.

Telstra has also indicated that people issues encountered were due to new roles and accountabilities. These are being resolved through organisational change in addition to coaching and mentoring.

(5) Telstra has advised that since December 2002, where workload allows, it treats service faults reported after 5 pm on a Friday as if they were received before 5 pm. This change to field work calendars allows improved service fault rectifications.

Senator Mackay asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 June 2003:

(1) What measures does Telstra take to ‘lightning proof’ its cable network.
(2) Does Telstra know of any new technology that is available to minimise damage to cables from lightning strikes.
(3) What damage do lightning strikes do to cables and how does it affect services.
(4) With reference to the mass service disruption (MSD) notice declared in Tasmania in March 2003, which referred to a lightning storm on 19 March and declared an exemption from customer service guarantee (CSG) performance standards from Friday, 21 March, to Saturday, 29 March: What was the exact damage caused by this lightning storm (given the evidence to the Environment, Communications, Information Technology and the Arts References Committee hearing in Launceston on 24 April 2003, in relation to the Australian telecommunications network inquiry, that this storm caused minimal damage in Tasmania).
(5) When and how did Telstra notify customers of this MSD in Tasmania.
(6) Were the CSG provisions adhered to in this case.
(7) Has Telstra paid any compensation to Tasmanian customers in respect of this case.

Senator Alston—The answer to the honourable senator’s question is as follows:

This answer is based on advice from Telstra and is substantively the same as the Telstra response to Question on Notice 138 and 139 from the Budget Estimates Hearings in May 2003.

(1) Telstra classifies areas as to lightning risk (for customer protection purposes) using Australian Standard AS4262.1. According to Telstra, in those areas where rural direct buried cables are installed, extra protection measures are also installed to mitigate the effect of lightning which may strike: nearby structures, ground, Telstra cables, or power lines. The extra protection measures have included separate ‘guard wires’ to intercept lightning and surge diversion devices. This is in addition to employing construction practices aimed at reducing the likelihood of damage due to local lightning strikes.

Telstra has advised that a recent comprehensive investigation has reviewed national and international standards, literature and theory and has involved the undertaking of field testing to review current practices and develop a more robust standard. According to Telstra, this has been concluded and is now being implemented for all proposed new rural cables.

QUESTIONS ON NOTICE
Urban cable networks are not protected in any special way, claim Telstra, as the cable types and their characteristics are considered quite adequate for the environments where there is significant local shielding (other services) to mitigate lightning effects. Furthermore, the cables are installed in a PVC/PE conduit, which increases the resistance to lightning voltages.

(2) In response to a recent study, Telstra is implementing standards and latest technologies on metallic cables. These involve a combination of guard wires (a stainless steel or copper wire laid above the cable) and/or over voltage surge diversion/voltage equalisation devices jointed into the cables at regular intervals. In areas of extreme risk or with a history of unacceptable levels of damage, Telstra can either employ galvanised iron pipes to protect the cable, or install optical fibre cables, which are mostly unaffected by lightning.

(3) As reported by Telstra, lightning damage depends upon:
- the energy of the strike;
- where and how the surge gets onto the cable;
- how close the lightning strikes are to the cable (it is almost impossible to prevent damage in the event of direct strike);
- the location (the Bureau of Meteorology provides details on the number of times thunderstorms historically occur across all areas of Australia);
- the shielding provided by the local environment; and
- the topology and the type of soil (its resistance to lightning current).

The damage itself can range from pinholes in the cable sheath (which may eventually cause a fault with moisture ingress), ‘popped’ connectors (more so on older types) joining wires, or a few damaged conductors to complete destruction of cable joints, terminations and/or cable lengths, as well as damage to equipment connected to the cable pairs, such as customer CPE. Services generally cease working altogether but, if not, can suffer noise due to damage.

(4) According to Telstra, the nature of lightning damage is that cables are often damaged at multiple locations. When lightning strikes the ground, it seeks to dissipate the high voltage to earth - this occurs through the easiest path possible and a cable with copper conductors can offer such a path. The voltage travels along the cable looking for a path to earth; where this happens, there is cable damage or damage to customer equipment.

For example, when lightning strikes and goes to ground into a cable, initial damage is caused on entry. The voltage then travels along the cable and if it comes to a standard joint, it damages that, then travels further. If it comes to a cable change of direction, it puts a hole in the side of the cable, and continues. If it comes to customer premises where a standard termination unit is on the side of the house, it causes more damage at this point and finally the surge damages customer equipment.

Telstra’s cable and other network infrastructure is designed to withstand a range of environmental conditions and in high risk and known lightning areas, additional protective measures are taken. Where the environmental forces are extraordinary and Telstra’s network is damaged, Telstra focuses on repairing the network and restoring services as quickly as possible.

Telstra has advised that, in relation to the MSD that occurred in Tasmania in March 2003, areas impacted had a large increase in reported faults and completed repairs in the days immediately following the storms. Telstra has stated that these increases ranged between 30 and 125% during the exemption period. On the day after the storm, before the exemption was declared, one area had an increase of over 200% in fault reports. Pictures, of which Telstra has on file from the lightning tracker web site, show that this was a particularly intense event and covered the south west coast of Victoria as well as north west and central areas of Tasmania.
(5) A public notice was published in HOBART MERCURY on 28 March 2003. This was booked with the publisher on 26 March in line with the requirements of the CSG Standard and Telstra License conditions.

(6) CSG provisions were adhered to for this case.

(7) No compensation was paid pursuant to CSGs during the exemption period.

Telstra: Pay Phones
(Question No. 1543)

Senator Mackay asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 June 2003:

(1) (a) What is the process for clearing cash out of pay phones; and (b) how does Telstra know when a phone is ready to be cleared.

(2) Is it the case that when a coin box in a public phone is full that this means the telephone cannot be operated by someone attempting to use it with coins.

(3) When a ‘coin box full’ message is received at a Telstra call centre from a pay phone, how quickly does Telstra send out someone to clear this box.

(4) Who clears phone boxes.

(5) Is there any difference in the timeframe or process for doing this in metropolitan areas or regional areas; if so, can details be provided.

(6) What does Telstra say about reports that Telstra does not act on this information until the third ‘coin box full’ message is received.

Senator Alston—The answer to the honourable senator’s question, according to information given by Telstra, is as follows:

This answer is based on advice from Telstra and is substantively the same as the Telstra response to Question on Notice 141 from the Budget Estimates Hearings in May 2003.

(1) (a) Telstra has advised that coin collection is scheduled and performed by coin collection contractors. Telstra has national contractors that service the majority of phones, and individual contractors that service other payphones mainly in regional and remote areas. Approximately 5% of phones are managed on an individual contract basis. (b) Telstra has indicated that phones are placed on a coin collection schedule based on historical data. The payphones also report to a management system, one of its functions being to monitor coin tin contents. Telstra provides its coin collection contractors with three reports a day from this management system and these reports indicate when phones are at 75% capacity or full.

Remote coin collectors do not receive automatic notification from the management system and generally adhere to the collection schedule. However they are advised if a payphone requires collection prior to the scheduled collection date.

(2) Telstra has advised that this is correct for coin calls, however emergency, free calls, and smart phonecard calls can still be made.

Telstra has indicated that the National Coin Contractor is proactively notified when the payphone is 75% full, and again if the phone reaches full capacity. Also, individual contractors are advised if a payphone is full prior to the scheduled collection date.

(3) Telstra has advised that the collectors are contractually bound to collect the coins within a certain time period and they are provided incentives to do this through financial rewards for early clearance and through financial charges for delays.

(4) Telstra has advised that contractors clear phone boxes on behalf of Telstra.

QUESTIONS ON NOTICE
(5) Telstra has indicated that for the national contractor, the timeframe allocated for the clearing of coin boxes is the same nationally. According to Telstra, individual contractors (who mostly service regional and rural areas) clear the payphones according to the coin collection schedule for that payphone, unless notified that the payphone is full prior to the scheduled collection date.

(6) Telstra has indicated that it automatically provides the national contractor with three reports a day and these reports indicate when phones reach 75% capacity or are full. Further, Telstra advise that individual contractors, whilst not on the automatic reporting system, do work to a coin collection schedule and are also advised if the phone requires collection prior to the scheduled collection date. Telstra closely monitors the contractors’ performance.

Telstra: Cable Joints
(Question No. 1547)

Senator Mackay asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 June 2003:

With reference to the use of encapsulant sealant gel:

(1) Does Telstra still stand by the statement that in 97 per cent of cases where the gel is in place that it continues to work well.

(2) How much of the $110 million allocated to this program has been spent in the 2002-03 financial year.

(3) Has this funding level changed at all; if so, can details be provided.

(4) What is the sub-category of the domestic capital expenditure budget that this program is funded under.

(5) (a) Is it the case that if it is costing $110 million to fix 100 000 cable joints then each cable joint costs $100 000 to fix; (b) how was this figure calculated; and (c) can a breakdown of projected costings be provided.

(6) How many of these 100 000 joints identified have so far been fixed.

(7) (a) What are the geographical locations that are priorities for the repair of the 100 000 joints which have been targeted for remedial action; and (b) can a list of priority location areas be provided.

(8) (a) Is Perth one of the priority areas under the Telstra program; and (b) how many cable joints have been repaired in Perth under this program.

(9) (a) Are there still 100 people across Telstra exclusively focusing on identifying, prioritising and repairing cable joints where the gel has degraded the network; and (b) have any of these 100 people been moved from cable rehabilitation to other fault repair work this year for any period of time; if so, how many and where, and for what periods of time.

Senator Alston—The answer to the honourable senator’s question, based on information provided by Telstra, is as follows:

This answer is based on advice from Telstra and is substantively the same as the Telstra response to Question on Notice 145 from the Budget Estimates Hearings in May 2003.

(1) Telstra has advised that its current best estimate of the incidence of this problem is that approximately 3% of gel sealed joints in the network may be adversely affected by the gel sealant reacting with moisture affected cables. Telstra also estimates that approximately 3% of all faults in the network can be attributed to this problem.

Telstra has also advised that the prevalence of this problem is not consistent across the network but rather depends on geographic and environmental factors.
(2) Telstra has advised that the $110m figure was an initial estimate of the cost of this work over three years.

Telstra has indicated that prior to May 03 there was a centrally managed specific project managing and monitoring a portion of the total gel remediation work. This project reported approximately $4.6m of expenditure on gel remediation.

Telstra has advised that this figure does not reflect total gel remediation expenditure (or activity), because joints and cables adversely affected by gel are often repaired in the course of ordinary fault repair work by technicians or in the process of network upgrades which are funded by reactive and pro-active network rehabilitation budgets.

Telstra has advised that, whilst a business case for 2003/04 total expenditure required to address the gel joint issue was considered, it was decided that it is more effective to include the funding in the annual programmed network rehabilitation activity budgets. As a result, there is not a specific budget line item dedicated to gel remediation.

(3) Telstra has indicated that, under the rehabilitation programs, gel joints are fixed as part of network plant projects that are targeted at fixing poorly performing plant, the focus being on providing maximum customer benefit for the investments made rather than simply rehabilitating gel joints in isolation.

Telstra has advised that funding via the programmed operational expenditure budget will allow flexibility to fund works as required from the budgets for proactive and reactive network rehabilitation.

This approach provides local regional managers with discretion to direct funds (which would have otherwise been centrally managed) to those areas and network issues where it is most needed.

In addition, Telstra has indicated that gel joints will be fixed by the “Fix and Fit” field workforce under day-to-day operational expenditure.

(4) Telstra has advised that gel remediation work is funded under Infrastructure Services Programmed Operational Expenditure budget.

(5) (a) Telstra has advised that the $110m figure was an early estimation of the cost over three years. Similarly, the 100,000 joints was an early estimation of the scale of the problem. Telstra indicate that its current approach is to focus on those parts of the network requiring rehabilitation to protect services, rather than seeking to replace gel sealed joints which are functioning effectively.

(b) Telstra advises that the funding allocated to the reactive rehabilitation program (see answer to question 3) is based on plant repair and replacement activity volumes expected in the program year. Activity types include joints, cable section replacements, slave cable replacements, leader tails and pits.

(c) Telstra has indicated that its estimation of funds required for gel remediation is based on basic estimated costing of a gel remediation ‘ticket of work’ at approximately $5,850 (national average). This includes work broader than gel remediation because during gel remediation it is often practical and cost effective to undertake a range of plant repair which may include a number of joints and a section of cable etc.

(6) Telstra has advised that it is not practical to capture all of the activity occurring everyday in the network that results in removal or repair of gel affected cables and joints. For example gel joints and cables are often repaired in the course of fault repair work where joints are re-made, as part of network upgrades and build projects or as part of other customer network improvement (CNI) work.
Telstra has also advised that under the discrete proactive maintenance project focusing on moisture affected cables and joints undertaken between October 02 and May 03, they proactively replaced approximately 4,200 gel affected joints.

Telstra advises that as a result of funding gel remediation from the overall rehabilitation program it will not be practical on an ongoing basis to track the number of gel affected cables and joints it is fixing. Telstra has indicated that it will endeavour to continue to monitor the incidence of the gel sealant reacting with moisture affected cables and joints and to this end, is currently investigating creating a distinct “booking code” for work undertaken which addresses this issue.

(7) (a) and (b) Telstra has advised that gel remediation is undertaken at locations where local knowledge and data from fault systems indicate it is required. Some examples of areas where Telstra has undertaken work are Brisbane, Sydney, Melbourne, Adelaide, Perth, Central Queensland, Newcastle, North Central & South East New South Wales and Southern Western Australia.

Telstra has indicated that gel remediation has also taken place in other areas under the previously mentioned activities eg faults, CNI etc.

(8) (a) Telstra has advised that work has been undertaken in Perth but it does not stand out as a priority area. (b) Telstra has indicated that some 21 tickets of work have been completed in Perth, but the number of joints rehabilitated under each ticket is not known.

(9) (a) and (b) Telstra has advised that the program is now part of the total integrated maintenance program and this work is done by the customer field workforce in each region.

Taxation: Mass Marketed Schemes

(1) Have any representatives of the above firms served on advisory panels to the Australian Taxation Office (ATO) or the Board of Taxation.

(2) Can taxpayers undertaking self-assessment of tax be reasonably sure that they can rely on the opinion of the above firms, particularly if their representation have served on advisory panels to the ATO or the Board of Taxation.

Senator Harris asked the Minister for Revenue and Assistant Treasurer, upon notice, on 17 June 2003:

With reference to the following list of firms that have given written advice about their mass marketed tax-effective investments schemes:

Deloitte Touche Tohmatsu: Budplan, Central Highlands wine Grape, Connect the World, Educational Devices, Equity Match, Harcourt Ridge, No Regrets, Satcom, Tentas; Ernst & Young: Northern Rivers Tea Tree, Pacific Tea Tree; KPMG: Freedom Express, Interest Recount, Tentas; and Pricewaterhouse Coopers: Austvin, Equity Match, Liar Liar (Film), Oil Fields Project, Simple Simon/Mercury Rising (Film), Tradematch Licence:

(1) Have any representatives of the above firms served on advisory panels to the Australian Taxation Office (ATO) or the Board of Taxation.

(2) Can taxpayers undertaking self-assessment of tax be reasonably sure that they can rely on the opinion of the above firms, particularly if their representation have served on advisory panels to the ATO or the Board of Taxation.

Senator Coonan—The answer to the honourable senator’s question is as follows:

As these questions deal with matters that are the responsibility of the Australian Taxation Office, I have asked the Commissioner of Taxation for advice. The advice in relation to the honourable senator's question is as follows:

(1) Yes, members of these firms have participated on advisory panels.

(2) Taxpayers should consider the nature of the advice they are seeking, and form their own view.
Taxation: Mass Marketed Schemes
(Question No. 1549)

Senator Harris asked the Minister for Revenue and Assistant Treasurer, upon notice, on 17 June 2003:

1. (a) Have the Part IVA determinations which constitute the formal notice of tax avoidance been withdrawn from members of the federal ministry and state ministries; and (b) will the remaining 40,000 Australians that invested in cooperative agriculture and film projects receive the same benefit.

2. Can the Minister confirm that the Commissioner of Taxation advised the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) that investors who chose not to settle would need to comprehensively succeed in any litigation of the case to be better off than the investors that settled.

3. Is it true that the Commissioner of Taxation has indicated to the Parliamentary Secretary that the Australian Taxation Office (ATO) intend to challenge any future mass marketed tax-effective investment cases taken before the courts, even though the Assistant Commissioner, Mr Peter Smith, wrote in 2001 that the ATO would test case two projects and that the outcomes from those selected cases would provide greater certainty for other participants in similar structured cases.

4. With reference to the Vincent decision, in which the determination that deductions were not allowed under the general deductibility provisions was not made, and the amended assessment was not issued, until more than 4 years after the original assessment allowing the deductions: Can the Minister indicate to how many unfinalised settlement offers in relation to projects and reassessments will the same outcome apply.

5. (a) How many cases are there in which the ATO failed to issue a reassessment by the final date to accept settlement (21 June 2002) and in which deductions were therefore disallowed under the general deductibility provisions;
   (b) would any of the reassessments issued at that date have fallen out of the 4 year period; (c) did the ATO indicate that if taxpayers did not settle it would have to contest the matter in court after objection; and (d) did the ATO maintain this view even after the Vincent appeal decision.

Senator Coonan—The answer to the honourable senator’s question is as follows:

As these questions deal with matters that are the responsibility of the Australian Taxation Office, I have asked the Commissioner of Taxation for advice. The advice in relation to the honourable senator’s question is as follows:

1. (a) and (b) The ATO has not withdrawn any Part IVA determinations on the basis of the investors membership of a Federal or State Ministry.

2. The Commissioner of Taxation has advised the Parliamentary Secretary, in relation to the general offer of settlement for eligible investors in mass marketed schemes, that investors who chose not to settle would need to comprehensively succeed in any litigation of their case to be better off than the investors who settled.

3. The Commissioner has indicated that where investors did not take advantage of the opportunity to settle, and instead chose to litigate, the ATO would defend the assessments raised.

4. Investors in the Active Cattle arrangement whose circumstances are identical with those of Ms Vincent have been contacted by the ATO and amended assessments issued.

5. (a) to (d) Where amended assessments disallowing deductions claimed by investors in mass marketed schemes did not issue by 21 June 2002, those investors were given additional time to lodge their settlement deeds.

The ATO indicated that in respect of those taxpayers who chose not to settle, their outstanding objections would be finalised, giving them the opportunity to pursue their rights of appeal in the
Administrative Appeals Tribunal or the courts. Those taxpayers would ultimately have their tax liability determined in accordance with the outcome of their appeals.

**Taxation: Mass Marketed Schemes**  
(Question No. 1558)

**Senator Harris** asked the Minister for Revenue and Assistant Treasurer, upon notice, on 19 June 2003:

- Given the ruling by the Federal Court in 2001 in relation to mass marketed tax-effective investments (MMTEIs) and the seriousness with which the Australian Taxation Office (ATO) regarded MMTEIs: Have any firms been brought before the Tax Agents Board as a consequence of the failed MMTEI's Federal Court case; if so, can a list of those firms be provided; if not, why has the ATO not commenced any action.

**Senator Coonan**—The answer to the honourable senator’s question is as follows:

As these questions deal with matters that are the responsibility of the Australian Taxation Office, I have asked the Commissioner of Taxation for advice. The advice in relation to the honourable senator’s question is as follows:

The Australian Taxation Office (ATO) has reviewed over two hundred promoters of mass marketed schemes, with over 40 cases currently under investigation. More than 50 cases have been referred to other law enforcement agencies, including the Australian Federal Police and the National Crime Authority. The Commonwealth Director of Public Prosecutions has commenced action against some promoters and has a number of further cases under consideration.

Some promoters of tax schemes are tax agents. High risk tax agents are subject to investigation to ensure improved compliance in respect of their promotion of schemes and their own tax affairs. If the ATO investigations raise issues relevant to the Tax Agents Board, the Commissioner refers a brief of evidence to the Board.

The secrecy provisions of the tax law preclude provision of specific details.

**Taxation: Mass Marketed Schemes**  
(Question No. 1559)

**Senator Harris** asked the Minister for Revenue and Assistant Treasurer, upon notice, on 19 June 2003:

(1) Can the Minister confirm that in the recent Cooke case involving Horticultural Project No.1, Justice Stone said that:

(a) the Spotless case had little relevance to an Australian-based project with a clear commercial purpose;

(b) the ‘scheme’ considered by the Australian Taxation Office (ATO) in relation to Messers Cooke and Jamieson must include only those financial aspects of the project of which Messers Cooke and Jamieson were aware; and

(c) Messrs Cooke and Jamieson’s testimony about the dominant purpose of the investment must be accorded due weight; if so: (a) can the Minister provide an explanation as to why the ATO relied primarily on Spotless in its administration of mass marketed tax-effective investment (MMTEI) taxpayers’ reassessments; and (b) in its administration of MMTEI taxpayer reassessments, how does the ATO treat a person who enters into a MMTEI, which included financial aspects of projects of which the taxpayer was unaware when entering the scheme.
(2) Has the ATO, in its administration of MMTEI taxpayer reassessments, ignored evidence presented by taxpayers, at the ATO’s invitation, in regard to the dominant purpose of their investment, contrary to the requirements in Section 177A(5) of the Income Tax Assessment Act 1936.

**Senator Coonan**—The answer to the honourable senator’s question is as follows:

As these questions deal with matters that are the responsibility of the Australian Taxation Office, I have asked the Commissioner for advice. The advice in relation to the honourable senator’s question is as follows:

(1) (a) The Australian Taxation Office relied on the general deduction provisions and Part IV A in its administration of mass marketed schemes.

(1) (b) The Australian Taxation Office has a responsibility to apply the law. Where a taxpayer claims a deduction, that taxpayer has a responsibility to ensure that the deduction is allowable under the Income Tax legislation.

(2) A taxpayer’s subjective intentions are not relevant in finding ‘dominant purpose’ under Part IV A. The application of the general anti-avoidance provisions in the income tax law requires an objective analysis of the overall arrangement, rather than a finding about individual circumstances or motives.

**Communications, Information Technology and the Arts: Senior Executive Service (Question No. 1571)**

**Senator Webber** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 24 June 2003:

(1) How many staff at the senior executive service (SES) level are employed in the department within Western Australia.

(2) Given Western Australia’s contribution to the nation’s economy, is the department adequately represented in Western Australia to ensure that development opportunities are maximised.

(3) Does the lack of senior Commonwealth departmental representatives or SES staff have a negative impact on Commonwealth program funds in Western Australia.

(4) Would Western Australia be advantaged by an increase in the number of SES staff located within the state.

**Senator Alston**—The answer to the honourable senator’s question is as follows:

(1) No representation

(2) to (4) In delivering its programs Australia wide, the Department works closely with relevant State governments, regional authorities and local communities. Senior departmental officials visit Western Australia on an as-needs basis to ensure this occurs.

**Taxation: Mass Marketed Schemes (Question No. 1594)**

**Senator Harris** asked the Minister for Revenue and Assistant Treasurer, upon notice, on 27 June 2003:

(1) Can details be provided of all individuals and their quantities of production units for all mass marketed tax-effective investments (MMTEIs).

(2) If an accountancy firm, rather than an individual, were to procure all production units for any MMTEI would they also have received a Part IVA determination, which remains withdrawn.

(3) Are firms that procured production units subject to the same exclusion as financial planners from the settlement offer.

QUESTIONS ON NOTICE
Senator Coonan—The answer to the honourable senator’s question is as follows:

As these questions deal with matters that are the responsibility of the Australian Taxation Office, I have asked the Commissioner for advice. The advice in relation to the honourable senator’s question is as follows:

(1) The secrecy provisions of the tax law preclude provision of specific taxpayer details.

(2) The general anti-avoidance provisions in the income tax law (Part IVA) were applied to participants in mass marketed schemes as a result of an objective analysis of the overall arrangements, regardless of the type of investor involved.

(3) Settlement offers on the basis of deductions for cash outlays were available to all mass marketed scheme investors, including promoters, financial planners, tax agents and other tax advisers. The full terms of the settlement offer also provided complete remission of penalties and interest. Some settlements involved the reduction of a proportion of the penalties and interest.

In determining which scheme investors were eligible for the full terms of the settlement offer, the Commissioner had regard to the findings of the Senate Economics References Committee’s Inquiry.

In its second report (A Recommended Resolution and Settlement) the Committee recommended that eligible investors should be able to settle their dispute with the Tax Office. Investors who were not considered to be eligible included scheme promoters, tax advisers, financial planners and tax agents.

The Commissioner announced on 14 February 2002 that all investors would be able to settle on a cash outlay basis but to be entitled to the full terms of the settlement those investors considered by the Senate Committee to be ‘ineligible investors’ would have their circumstances considered on a case-by-case basis.

Firms, such as accounting firms, which have invested are subject to this case-by-case examination.

Solomon Islands: Regional Assistance Mission

(Question No. 1660)

Senator Chris Evans asked the Minister for Defence, upon notice, on 24 July 2003:

With reference to operation ANODE, the Australian Defence Force contribution to the Solomon Islands Assistance Mission, can a table, as depicted in the question, be provided indicating: (a) the exact number of personnel attached to each element of the deployment; (b) the home base of the personnel; (c) the monthly cost of the deployment of each element; and (d) the role of each element in the deployment:

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) As of 11 August 2003, the total Australian Defence Force (ADF) contribution to the Regional Assistance Mission to the Solomon Islands (RAMSI) was 1433. These personnel are from a number of force elements predominantly based on the east coast of Australia, from Nowra to Cairns. Additionally, a number of ADF personnel are supporting the RAMSI operation from within Australia including command and control, logistic organisations and C-130 air crew and ground staff.

(2) The indicative monthly cost of the deployed ADF force in the Solomon Islands is $4,113,100. This figure will vary as the number of personnel changes in country.

(3) The ADF contribution to RAMSI is to support the police in restoring law and order by providing protection as well as logistic and operational support. The various roles being performed by the ADF in country include:
(a) military advice and support to the Special Adviser Solomon Islands;
(b) command and control of the ADF force elements;
(c) security support including police posts, facilities, reconnaissance and border surveillance; and
(d) logistic, communication and transport support.

(4) It should be noted that the ADF is providing a significant level of support to other Government departments and agencies (Australian Federal Police, AUSAID and DFAT), as well as Pacific Island countries police and defence force contributions.

Manildra Group of Companies
(Question No. 1693)

Senator O’Brien asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 1 August 2003:

(1) (a) What companies and/or industry bodies made representations to the Minister or his department seeking the payment of the current fuel ethanol subsidy in advance of the payment of excise; (b) which companies will benefit from this new arrangement; and (c) what is the estimated cost to revenue of this arrangement by financial year.

(2) How will the measure ensure the ethanol industry is able to appropriately manage the transition to the E10 blend.

(3) On what date did the Government commence negotiations with the Manildra group of companies on the proposal to appoint a facilitator to assist these companies in its commercial negotiations with potential purchasers of ethanol.

(4) Did the Manildra group of companies seek the appointment of a Government facilitator; if so: (a) what reasons did these companies provide in their request; (b) on what date did the Government receive the request; and (c) in what form was that request made.

(5) Who is the facilitator.

(6) (a) What is the new role of the facilitator; and (b) what is the term of his or her appointment.

(7) What is the total expected cost of the facilitator’s position by financial year.

(8) What financial contribution is the Manildra group of companies making to the cost of engaging the facilitator.

(9) What is the facilitator’s work address.

(10) What deficiencies in Manildra’s management has the Government identified that necessitates the appointment of a facilitator to assist its commercial negotiations.

(11) Why is the facilitator’s role in assisting commercial negotiations on ethanol fuel sales limited to negotiations involving the Manildra group of companies.

(12) How will the measure assist companies other than the Manildra group of companies to appropriately manage the transition to the E10 blend.

(13) For each financial year since 1996-97, can a list be provided of previous and current Commonwealth appointments of facilitators to assist individual companies to undertake commercial negotiations.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) (a) The Manildra Group sought payment of the fuel ethanol subsidy in advance of the payment of excise. (b) All fuel ethanol producers receiving the production subsidy will benefit from this arrangement. Currently this is Manildra and CSR. (c) Up to $10 million will be provided for this
measure which will be drawn from the $34.182 million which was appropriated for ethanol production subsidy payments in the Federal Budget. There is not expected to be any additional cost to revenue arising from this arrangement.

(2) The initiative is designed to assist existing ethanol producers explore their commercial opportunities subsequent to the Government limiting the amount of ethanol in petrol at 10 percent.

(3) On 11 July 2003 the potential appointment of a facilitator was discussed with the Manildra Group.

(4) No. (a) N/A. (b) N/A. (c) N/A.

(5) Mr Malcolm Irving AM

(6) (a) The role of the facilitator is to help develop the domestic ethanol industry by attempting to broker agreements between established ethanol producers and potential buyers of ethanol, to identify any obstacles to such agreements, and the actions that could be taken by the parties to address these obstacles. (b) The term of Mr Irving’s appointment is from 12 August to 30 September 2003.

(7) $16,500 plus reasonable expenses in 2003-04.

(8) None

(9) 6th Floor, 2 O’Connell Street, SYDNEY NSW 2000

(10) The Government has appointed a facilitator to help develop the domestic ethanol industry and assist the industry to appropriately manage the transition to the E10 fuel standard.

(11) The facilitator’s role is not limited to assisting the Manildra Group.

(12) The facilitator will facilitate discussions between major ethanol producers and potential buyers of ethanol to assist the parties in brokering a commercial agreement for the supply and purchase of fuel ethanol for transport use.

(13) No, a list of previous and current Commonwealth appointments of facilitators is not available and would require extensive resourcing to compile.

Attorney-General’s: Programmers
(Question No. 1752)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 12 August 2003:

With reference to the answer to question on notice no. 23 asked during the 2003-04 Budget estimates hearings of the Legal and Constitutional Legislation Committee:

(1) Is there an option for an alternate contact person in the event the programmer contracted is unavailable.

(2) What are the hours of operation.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) Yes. An in-house staff member acts as an alternate contact person.

(2) The contractor and/or the in-house staff member are available during normal business hours, 8.30 am to 5 pm Monday to Friday.

Attorney-General’s: Community Legal Services Information System
(Question No. 1753)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 12 August 2003:
QUESTIONS ON NOTICE

In relation to the Community Legal Services Information System design and development of a new data collection and reporting system:

(1) What data is collected.
(2) What is the data used for.
(3) Who has access to the database.
(4) Can examples be provided of the records kept or information gathered as a result of information gained by this database.
(5) Will the report be reviewed; if not, why not; if so: (a) when will the review be held; and (b) when will a report be released.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

The Community Legal Services Information System (CLSIS) is intended to allow independent community legal centres that are funded by the Commonwealth to use the System for their own internal management purposes, both case management and financial management, as well as reporting information on activities and expenditure to the State and Commonwealth. Each community legal centre has its own local data base which holds detailed information relating to its own activities. Statistical information on those activities and financial information are transmitted periodically to a central database accessed by the Commonwealth and the relevant State Program Managers (normally a staff member of a State government agency). The System may also be used by community legal centres which are not funded by the Commonwealth if they wish to do so.

(1) Data collected:

(a) Community legal centres will use the system to collect data on their activities including: client details, detailed data on legal advice and casework, activities relating to the provision of information concerning the centre’s services projects undertaken, client surveys, case management data, other data concerning cases, and advice and projects the community legal centre requires for work management purposes.

Community legal centres will also collect information needed to meet their accountability requirements to State Program Managers and the Commonwealth including: activity targets, budgets, income and expenditure of Commonwealth funds and accountability reports.

(b) The Central database will receive information on community legal centre activities including statistical information on legal advice and casework, 'information' activities, client surveys and projects undertaken. It will also receive the information collected by centres for accountability purposes.

(2) The information collected by community legal centres may be used by the relevant centre for case management and workload monitoring purposes, conflict checking, budget management and reporting of activities to the State Program Managers and a range of funding bodies.

The community legal centre may also use the data for its own analysis of workload trends, problems presented, service needs and policy review.

The statistical and financial data collected in the central data base is used by the Commonwealth and the State Program Managers to assess a community legal centre’s activities against its stated target levels and its expenditure of Commonwealth and, in the case of State funding, State funds against those activities.

The statistical data is also used to assess general levels of need for specific services within the community and to identify the characteristics of the client population for policy development and services planning purposes.

QUESTIONS ON NOTICE
(3) Only community legal centres may access their local databases. The central database contains only statistical and financial information and has access restrictions. The following relates to the data each stakeholder may access generally in the central database:
Community legal centres may access data relating to their own centre, and to State and/or nationally aggregated information.
State Program Managers may access data relating to community legal centres in their own State and to State and/or nationally aggregated statistical information.
National and State Associations of community legal centres may access data relating to their members’ operations provided that all affected community legal centres agree.
The Attorney-General’s Department has access to all data in the central database.

(4) The attached draft, mock-up reports provide examples of the information available from the central database. The numbers of clients and of activities shown are fictitious as there are currently few centres transmitting data to it at this stage in the system roll-out. I have provided copies of the attached reports to the honourable Senator and copies of the attached reports are with the Senate Table Officer.

(5) It is unclear to what report this question refers. It is intended that the system will be reviewed some time after its implementation.

Environment: Greenhouse Gas Emissions
(Question Nos 1758 and 1759)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 12 August 2003:

(1) Have any analyses been conducted in relation to a national carbon tax or greenhouse gas emissions trading system; if so, can the following information be provided: (a) the dates the analyses were conducted; (b) who did the work; and (c) where copies of these analyses can be obtained.

(2) (a) What meetings have been held between government and industry to discuss carbon taxes or emissions trading this year; (b) who attended the meetings; (c) when were the meetings held; and (d) what was discussed.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) (a)-(c) In 1998, the Government asked the Australian Greenhouse Office to investigate the feasibility of establishing a domestic emissions trading scheme in Australia. As a result, extensive analysis has been undertaken and publicly released on this issue. The following analysis has been released by the Australian Greenhouse Office to date:

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<th>Title</th>
<th>Date published</th>
<th>Undertaken by:</th>
<th>Available at:</th>
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<tr>
<td>Emissions trading discussion paper series:</td>
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The Australian Bureau of Agricultural and Resource Economics (ABARE) has independently published a series of conference papers estimating the cost of meeting the greenhouse target that Australia agreed at Kyoto under a market-based policy approach, such as emissions trading or a carbon tax.

(2) (a)-(d) On 15 August 2002, the Government announced the development of a Climate Change Forward Strategy aimed at meeting the target that Australia agreed at Kyoto of limiting greenhouse emission to 108% of 1990 levels over the period 2008-2012, in the context of a longer term framework covering a twenty to thirty year time horizon.

Following that announcement, the Government established the Government-Business Climate Change Dialogue to hear the views of business on the development of the Climate Change Forward Strategy. The process included a considered assessment of the issues by five industry working groups in the areas of energy and resources, energy-intensive manufacturing, transport and infrastructure, agriculture and land management and cross-sectoral issues. The first meeting was held on 21 August 2002.

The second meeting of the Government-Business Climate Change Dialogue was held on 14 April 2003. At this meeting, each of the Working Groups presented their reports which covered business perspectives on how to achieve further abatement, especially those relating to technology solutions and foundations for a longer term response; cost effective abatement opportunities; economic adjustment; avoidance of long term emissions lock-in; and balancing policy flexibility and investment certainty. Emissions trading and carbon taxes were among the issues covered. These reports are publicly available at “www.greenhouse.gov.au/dialogue”.

The 14 April Business Dialogue was attended by over 50 industry representatives from a range of sectors, including fossil fuel and renewable energy, resources, mineral processing, manufacturing, forestry, agriculture and transport. A complete list of attendees at the 14 April meeting is at Attachment A.

The Forward Strategy has been, and will continue to be, informed by the views of business – including, but not limited to, those expressed through the Government-Business Climate Change Dialogue Roundtables – as well as the views of other key stakeholders, including States and Territories and community groups. A large number of meetings on the development of the Forward Strategy have taken place between industry and Ministers or Government departments throughout the year.

Attachment A

GOVERNMENT-BUSINESS CLIMATE CHANGE DIALOGUE
MINISTERIAL ROUNDTABLE
14 APRIL, 2003

Business attendance list
Mr Chris Althaus, Chief Executive Officer, Australian Trucking Association
Mr Stephen Anderson, Executive Director, Australian Fluorocarbon Council
Ms Kate Carnell, Executive Director, National Association of Forest Industries
Mr Ollie Clarke, Chairman, Australian Gas Association
Ms Anna Cronin, Executive Director, National Farmers Federation
Mr Gordon Davis, Chairman, Fertilizer Industry Federation of Australia
Mr Peter Dobney, Chairperson, Energy Users Association of Australia
QUESTIONS ON NOTICE

Mr Bryan Douglas, Deputy Chief Executive Officer, Australian Electrical and Electronic Manufacturers Association
Mr Tom Engelsman, Chairman, Australian Paper Industry Council
Ms Vivienne Filling, General Manager – Environment and Energy, Australian Industry Group
Mr Jeff Harding, Vice President, Business Council for Sustainable Environment
Mr John Haskins, National President, Master Builders Australia
Mr Nick Heath, Director, ExxonMobil Gas & Power Marketing, Australian Petroleum Production and Exploration Association
Mr Peter Hendy, Executive Director, Australian Chamber of Commerce and Industry
Mr John Hirst, Executive Director, The Association of Australian Ports and Marine Authorities
Mr Brian Horwood, Managing Director, Rio Tinto, Minerals Council of Australia
Mr Gerry Hueston, Chairman, Australian Institute of Petroleum
Mr Phil Jobe, Chairman, Cement Industry Federation
Mr Peter Juniper, Chief Executive Officer, Plantation Timber Association of Australia
Mr Jock Kreitals, Executive Director, Grains Council of Australia
Ms Katie Lahey, Executive Director, Business Council of Australia
Mr Lauchlan McIntosh, Executive Director, Automobile Association of Australia
Mr Warring Neilsen, Government Relations Manager, Australian Liquefied Petroleum Gas Association
Mr Ian Nethercote, Chairman, Electricity Supply Association of Australia
Mr Mark O’Neill, Executive Director, Australian Coal Association
Hon Peter Rae, Chairman, Renewable and Sustainable Energy Roundtable
Mr Peter Sturrock, Chief Executive Officer, Federal Chamber of Automotive Industries
Dr Keith Suter, Chairman, AICD Sustainability Committee, Australian Institute of Company Directors
Mr Peter Taylor, President, Australian Institute of Refrigeration, Air Conditioning and Heating
Mr Peter Upton, Chief Executive Officer, Federation of Automotive Products Manufacturers
Mr Sam Walsh President, Australian Aluminium Council
Mr Noel Williams, Vice President, Plastics and Chemicals Industries Association
Mr Mike Williamsson, Chairman, Environment Business Australia
Mr Michael Zorbas, Chief Advocate, Property Council of Australia

Observers
Ms Sybella Blencowe, AICD Sustainability Committee, Australian Institute of Company Directors
Mr Ric Brazzale, Executive Director, Business Council for Sustainable Environment
Mr Paul Cristofani, Policy Manager - Environment, National Association of Forest Industries
Ms Karen Curtis, Director of Industry Policy, Australian Chamber of Commerce and Industry
Mr Nick Drew, Executive Manager, Fertilizer Industry Federation of Australia
Mr Peter Gniel Assistant Director, Greenhouse and Data Management, Australian Petroleum Production and Exploration Association
Ms Karen Grady, General Manager, Business Council of Australia
Mr Wilhelm Harnisch, Deputy National Director, Master Builders Australia
Environment: Mandatory Renewable Energy Target Scheme
(Question Nos 1760 and 1761)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 12 August 2003:

With reference to the review of the Mandatory Renewable Energy Target Scheme:

(1) What input, if any, have the following agencies had to the preparation of the panel’s report: Environment Australia, Australian Greenhouse Office, Department of Industry, Tourism and Resources, Treasury, any other government agencies.

(2) What advice, analysis or information have the agencies listed in paragraph (1) provided to the review, and can a copy be provided.

(3) Can a list be provided of groups and individuals with whom the review panel has met, including the dates of the meetings, locations and length.

(4) Can a list be provided of confidential submissions including reasons as to why they have been made confidential.

(5) (a) Has the Government of New South Wales made a submission; (b) did the panel request a submission from New South Wales or have any meetings with representatives of the New South Wales Government; if so, can details be provided.

Senator Hill—The answer to the honourable senator’s question is as follows:

QUESTIONS ON NOTICE
(1) The report of the independent panel established by the Government to review the Renewable Energy (Electricity) Act 2000 is being prepared by the Review Panel itself with the assistance of a dedicated secretariat established with officers seconded from the Australian Greenhouse Office and the Dept of Industry, Tourism and Resources. The Panel has received information and input from a number of Commonwealth departments and agencies, including the Australian Greenhouse Office; the Department of the Environment and Heritage; the Department of Industry, Tourism and Resources; the Department of Agriculture Forestry and Fisheries; the Department of Transport and Regional Services; the Department of Prime Minister and Cabinet; and the Office of the Renewable Energy Regulator.

(2) A range of information and reports has been provided to the Review Panel which, subject to the Panel’s consideration, may be made available as part of the Review Panel’s report.

(3) I am advised that a list of groups and individuals with whom the Panel has met will be made available as part of the Review Panel’s report.

(4) I am advised that a list of submissions will be made available as part of the Review Panel’s report.

(5) As at 25 August 2003, the Government of New South Wales had not made a submission despite several requests from the Secretariat and a letter from the Panel Chairperson to the Premier.

Environment: Mandatory Renewable Energy Target Scheme

(Question No. 1763)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 12 August 2003:

In relation to the Mandatory Renewable Energy Target (MRET) scheme:

(1) What analyses of MRET have been conducted by the department or its agencies; please include in the answer: (a) a description of each analysis; (b) when it was carried out; (c) by whom; and (d) its conclusions.

(2) Has any assessment been undertaken of the economic, environmental and social benefits of different MRET targets in 2010; if so, what were the conclusions.

(3) What information or analysis has been obtained on levels of renewable energy targets internationally and the benefits derived from them.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) and (2) The Australian Greenhouse Office commissioned a range of analyses to feed into development of the Mandatory Renewable Energy Target measure, preparation of the Renewable Energy (Electricity) Amendment Bill and mandated review of the legislation. During development of the Mandatory Renewable Energy Target measure the AGO commissioned the following consultancies to assess the various implementation options. These reports are available in their entirety on the web at www.greenhouse.gov.au/markets/mret.

2% Renewables Target in Power Supplies (Redding Energy Management, January 1999)
Sectoral Impacts of the 2% Renewables Target (Tony Beck Consulting, April 1999)
Macroeconomic and industry effects of the 2% Renewables Target (Econotech, April 1999). Projections of Price of Renewable Energy Certificates to Meet the 2% Renewable Energy Target (McLennan Magasanik Associates, November 1999)

In December 2002 McLennan Magasanik Associates provided an analysis on the potential impacts of increasing MRET. The report has not been released publicly. In March 2003 as input to the Review of MRET, further analysis by McLennan Magasanik Associates was commissioned on the
economic impacts of changes to the Mandatory Renewable Energy Target Scheme. This report may be made available either as part of, or in conjunction, with the tabling of the Review Panel’s report.

(3) The Australian Greenhouse Office has prepared a synopsis of international renewable energy targets as input to the MRET Review based on publicly available information.

Environment: Mandatory Renewable Energy Target Scheme

(Question No. 1764)

Senator Brown asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 12 August 2003:

In relation to the Mandatory Renewable Energy Target (MRET) scheme:

(1) What analyses of MRET have been conducted by the department or its agencies; please include in the answer: (a) a description of each analysis; (b) when it was carried out; (c) by whom; and (d) its conclusions.

(2) Has any assessment been undertaken of the economic, environmental and social benefits of different MRET targets in 2010; if so, what were the conclusions.

(3) What information or analysis has been obtained on levels of renewable energy targets internationally and the benefits derived from them.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) Since the Mandatory Renewable Energy Target (MRET) Scheme was introduced, the Department of Industry, Tourism and Resources has commissioned one report on the MRET scheme, in 2002. The report was prepared by the Australian Bureau of Agricultural and Resource Economics (ABARE). The report, Excluding Technologies from the Mandatory Renewable Energy Target, was released on 24 June 2003 and is available on ABARE’s website at www.abareconomics.com.

(2) No.

(3) None.

Environment: Photovoltaic Energy

(Question Nos 1765 and 1766)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 12 August 2003:

(1) Why has Australia slipped from providing 5 per cent of the world’s photovoltaic (PV) power to less than 1 per cent.

(2) Is the Minister concerned that Australia’s advantage in PV power has declined so precipitately; if so, what are the consequences, environmentally and economically, of the decline.

(3) Why is PV power going ahead so fast in Japan and Germany.

(4) What action is being taken to bring Australia’s PV power back up to 5 per cent of world production.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) The market for photovoltaics (PV) has shifted over the past ten years from being one dominated by non-electricity grid connected applications to a market where over 70% of PV capacity is installed in grid-connected systems. Australia enjoys some of the cheapest electricity prices in the world for those customers connected to the electricity grid. This has the effect of making PV systems less
cost-competitive in grid-connected applications than in those countries which have higher electricity prices.

(2) Australia’s position has not declined precipitately. According to the International Energy Agency in 2002 some 12% of the global PV capacity installed in non-grid-connected applications was installed in Australia, ranking Australia third. The Australian Government’s support for PV has led to grid-connected PV systems achieving a significant market share in Australia in recent years. Even with Australia’s cheap electricity prices, Australia ranked fifth overall in terms of PV capacity installed in 2002. This compared to ranking sixth in 1993.

(3) A combination of factors is contributing to the uptake of PV in Japan and Germany. International Energy Agency statistics for 2002 show that the average retail price of electricity for households in Germany and Japan was two or more times as expensive as in Australia. The importance of electricity prices on the rate of uptake of PV is demonstrated in Japan where the Government rebate under their Residential PV System Dissemination Program is 100,000 Yen plus sales tax per kilowatt of PV installed which is less than half as generous under current exchange rates as the rebate offered to households under the Australian Government’s Photovoltaic Rebate Program.

(4) According to the International Energy Agency PV cell production in Australia doubled during 2002 and production capacity trebled. These figures represented some 4% of the global PV cell production and production capacity. The positive environment for PV in Australia created by Australian Government support for the renewable energy industry has encouraged other potential PV cell manufacturers to consider constructing factories in Australia, further increasing production of PV cells in Australia.

Legal and Constitutional References Committee: Australian Republic Inquiry

(Question No. 1773)

Senator Lightfoot asked the Chair of the Legal and Constitutional References Committee, upon notice, on 13 August 2003:

With reference to the committee’s inquiry into an Australian republic:

(1) How long is the inquiry expected to take.
(2) What is the proposed budget for the inquiry.
(3) Will costs be audited.
(4) Will all submissions be made public other than those taken in-camera.

Senator Bolkus—The answer to the honourable senator’s question is as follows:

(1) This inquiry was referred to the Legal and Constitutional References Committee by the Senate, the question being agreed to without objection. The issue was considered by a majority of Senators to be of such importance that it warranted investigation and report by the Committee. In this regard, the Senate has reflected the will of the Australian people who in major polls over the last four years have indicated majority support for an Australian republic.

The Senate did not set a reporting date for the inquiry. Due to the pressure of other business, the Committee is still developing its program for this inquiry and has not yet called for submissions or held any public hearings. The Committee intends to release an issues paper in the near future to facilitate submissions. Consequently the Committee is unable to determine at this stage when the inquiry is expected to be completed.

(2) The Committee does not have a proposed budget for each inquiry. There is one budget for both the Senate Legal and Constitutional References and Legislation Committees, as the two committees share a small number of secretariat staff.
Like other general purpose standing committees, the Legal and Constitutional References Committee often deals with a number of inquiries at the same time, as is currently the case. While the Committee may hold only a small number of public hearings for a particular inquiry, for other inquiries it may decide to hear from a range of individuals and organisations in different States and Territories. Where appropriate, public hearings for separate inquiries may be held at the same location on the same day or days.

Accordingly it is not possible to give a breakdown of how much this inquiry will cost, particularly as the Committee is still developing its program and has not yet held any public hearings.

(3) Total Committee expenditure is subject to external auditing as part of the Department of the Senate’s annual audit of its financial statements. The Department of the Senate also has a program of internal audits which may include committee activities.

(4) In accordance with its usual practice, the Committee intends to authorise for publication all those submissions it deems relevant to its inquiry, other than those for which it considers there are compelling reasons to maintain confidentiality.

On publication by the Committee, submissions are loaded onto the Committee’s website at http://www.aph.gov.au/senate_legal. At the end of each inquiry, submissions are also be tabled in the Senate with the Committee’s report. The Committee has not yet called for submissions for this inquiry, pending release of an issues paper.

**Australian Broadcasting Corporation: Redundancies**

(Question No. 1774)

**Senator Mackay** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 14 August 2003:

How many Australian Broadcasting Corporation staff and executives accepted redundancy packages between 1 January 2000 and 1 January 2002.

**Senator Alston**—The answer to the honourable senator’s question is as follows:

394 ABC staff accepted redundancy packages during this period.

**Australian Broadcasting Corporation: Redundancies**

(Question No. 1775)

**Senator Mackay** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 14 August 2003:

What was the total amount paid in redundancy payments to employees leaving the Australian Broadcasting Corporation between 1 January 2000 and 1 January 2002.

**Senator Alston**—The answer to the honourable senator’s question is as follows:

The total redundancy payment for this period was $37,703,155. This figure includes redundancy payments and accrued leave entitlements.

If leave entitlements are removed, the redundancy component is $26,861,794.

**Australian Broadcasting Corporation: Redundancies**

(Question No. 1776)

**Senator Mackay** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 14 August 2003:

How many staff and executives from each division of the Australian Broadcasting Corporation accepted redundancy packages during the period 1 January 2000 and 1 January 2002.

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QUESTIONS ON NOTICE
Senator Alston—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>Department</th>
<th>Count</th>
</tr>
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<tbody>
<tr>
<td>Corporate Affairs</td>
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<td>Development</td>
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<td>State Directors</td>
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<tr>
<td>Technology &amp; Distribution</td>
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</tr>
<tr>
<td>Television</td>
<td>11</td>
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</table>

**Australian Broadcasting Corporation: Redundancies**

**(Question No. 1777)**

Senator Mackay asked the Minister for Communications, Information Technology and the Arts, upon notice, on 14 August 2003:

How many individuals who accepted redundancy packages from the Australian Broadcasting Corporation (ABC) during the period 1 January 2000 and 1 January 2002 have subsequently returned to the ABC to perform paid work for the broadcaster, on a full-time, part time, casual, fee-for-service or consultancy basis.

Senator Alston—The answer to the honourable senator’s question is as follows:

37 staff that accepted a redundancy between 1 January 2000 and 1 January 2002 have subsequently returned to perform work for the ABC in some capacity.

Note: this figure excludes former staff that may have subsequently performed work for the ABC as an employee of an incorporated company. The ABC’s records do not list individual names in these circumstances.

**Australian Broadcasting Corporation: Redundancies**

**(Question No. 1778)**

Senator Mackay asked the Minister for Communications, Information Technology and the Arts, upon notice, on 14 August 2003:

What is the total amount in salary, entitlements, consultancy fees or any other form of remuneration the Australian Broadcasting Corporation (ABC) has paid since January 2000 to individuals who had accepted a redundancy package from the ABC between 1 January 2000 and 1 January 2002 for work performed by the individuals following their acceptance of redundancy packages.

Senator Alston—The answer to the honourable senator’s question is as follows:
A total of $1,577,112.28 has been paid since January 2000 to individuals who have accepted a redundancy package from the ABC between 1 January 2000 and 1 January 2002 for work performed by individuals following their acceptance of redundancy packages.

**Australian Broadcasting Corporation: Redundancies**

(Question No. 1779)

**Senator Mackay** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 14 August 2003:

What divisions originally employed the individuals who have returned to perform work at the Australian Broadcasting Corporation in any paid capacity subsequent to those individuals accepting a redundancy package during the period 1 January 2000 and 1 January 2002.

**Senator Alston**—The answer to the honourable senator’s question is as follows:

Employees who performed work for the ABC after accepting a redundancy in the period 1 January 2000 and 1 January 2002 were originally employed in the following Divisions.

<table>
<thead>
<tr>
<th>Division</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Content Rights Management</td>
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<tr>
<td>Human Resources</td>
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<td>New Media</td>
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<td>News &amp; Current Affairs</td>
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<td>Production Resources</td>
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<td>Technology and Distribution</td>
<td>3</td>
</tr>
<tr>
<td>Television</td>
<td>2</td>
</tr>
</tbody>
</table>

**Australian Broadcasting Corporation: Redundancies**

(Question No. 1780)

**Senator Mackay** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 14 August 2003:

What is the Australian Broadcasting Corporation’s policy on the re-employment of staff who have accepted redundancy packages.

**Senator Alston**—The answer to the honourable senator’s question is as follows:

A copy of the ABC’s policy on the re-engagement of staff who received redundancy follows:

Re-engagement of [ABC] staff who received Redundancy

Staff who received redundancy cannot be re-employed for a minimum period of 12 months following redundancy or a period equal to their redundancy benefit (represented in salary weeks) if their redundancy benefit exceeded 52 weeks salary without the expressed written approval of the Managing Director.

Eighteen months is the maximum ‘exclusion’ period if the employee received the maximum benefit under the Redundancy provisions of the respective Employment Agreements. The term “redundancy benefit” refers to the payout ($S converted to weeks in salary) excluding standard entitlements such as annual leave, long service leave and notice in lieu of termination of employment.

There are a number of factors that support this policy.
Re-employment in contravention of the above policy creates taxation implications for both the ABC and the individual. For an individual to receive an Eligible Termination Payment (ETP) (which includes a beneficial taxation treatment under the Income Tax Assessment Act 1936), the redundancy must be bona-fide. The re-engagement of a former staff member, especially if the work performed is identical or similar to the duties carried out when the person was an employee, could place in jeopardy the bona fides of the tax concession applied to the redundancy payout. The outcome of which may be an adverse re-assessment of the tax liability for the individual and corporate reprimand for the ABC.

It is management’s responsibility to ensure that there is a genuine reason for a redundancy.

Where there is an urgent unforeseen, operational need to engage a former staff member within the time-frames stated above, and there are no other alternatives, a prospective request to re-engage a former employee must be made to the MD through Human Resources with endorsement from the relevant Executive Director with the full details outlined. Human Resources will then provide advice to the MD, based on the information provided.

Any freelancer or contractor supplying services to the ABC (and who was previously an employee and was retrenched) should be able to demonstrate that their services are available to the public at large or a section of the public; i.e. that they can demonstrate that there is no exclusive arrangement with the ABC. Inability to do so could result in a nexus being drawn to create an employee/employer relationship, which, in turn, could jeopardise the bona fide nature of the redundancy, and possibly generate a requirement from the ATO to the ABC for all payments made to that contractor to be assessed as P.A.Y.G. (Pay As You Go). Requests should be forwarded to Employment Services for a preliminary assessment.

There is no concern, prohibition or restriction where a formerly retrenched employee joins a company (not one set up under the employee’s auspices) and happens to be assigned to work with the ABC or on an ABC project. In these cases, the company is usually already established, has an active “industry participation” and does not have an exclusive connection with the ABC. This clearly falls under the “freedom of choice/employment” category, with which the ABC has no desire to interfere.

If you have any concerns, it is in your interest, the former staff member’s interest, and the ABC’s interest to check and consult beforehand.

Please direct any queries to your local Human Resources Manager or Head Employment Services, Tim Burrows on 82-2707.

Authorised: Colin Palmer - Director of Human Resources

**Attorney-General’s: Study Assistance**

*(Question No. 1783)*

**Senator Ludwig** asked the Minister representing the Attorney-General, upon notice, on 14 August 2003:

In relation to departmental employees who decide to do further study and receive financial assistance:

(1) What guidelines, if any, are in place to ascertain what percentage of fees are paid.

(2) Is the percentage adjusted according to the type of study undertaken.

(3) Are employees aware of the availability of financial assistance or encouraged to undertake tertiary studies.

(4) What processes are in place to inform employees of assistance available should they choose to undertake tertiary studies.

(5) Are employees encouraged to undertake further studies by supervisors, irrespective of work loads; if so, can examples be provided; if not, why not.
Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) The Attorney-General’s Department has a study assistance policy. Employee Relations Advice (ERA) 25/2002 Study Assistance Policy and Guidelines states that approval of studies assistance will be provided:

- at the discretion of the General Manager,
- to employees studying in the Department’s preferred categories and areas of study, and
- after consideration of:
  - the equitable application of the study assistance policy,
  - the importance to the Department of the skills that an employee proposes to acquire,
  - the appropriateness of an employee to acquire those skills,
  - the ability of an employee to acquire those skills, and
  - the contribution an employee has made, or is likely to make, to the Department.

More particularly, in relation to fees, the policy states:

‘Approved students who are not granted financial assistance maintain access to other forms of assistance.

‘The funds for the reimbursement of fees, including tuition, examination, course and HECS/PELS fees will come from budget allocations made to the General Managers. General Managers will be required to prioritise the proposed study against other budgetary considerations.

‘All financial assistance (including HECS/PELS) shall be by way of reimbursement on successful completion of the approved study.

‘An Academic Achievement Award of $1000 net will be awarded to the graduate who achieves the most outstanding result for their study program.

‘To ensure consistency of approach and budget availability, General Managers will consider all categories of study assistance applications at the same time for study programs that commence in either of the two regular semesters of the academic year. The General Manager will publicise by an appropriate means the final date that requests for study assistance should be lodged. The Employee Relations Section will advise an appropriate date at the beginning of each semester. The final date will usually be in advance of the two semester HECS census dates of end March and end August. Late applications will be considered on a case by case basis’.

(2) There is no specific percentage adjustment applied according to the type of study undertaken. A structured approach to considering study assistance applications is applied to ensure a reasonable level of consistency and equity in decision-making in relation to all elements of study assistance. However, under the Department’s policy it is possible that different levels of financial assistance for different employees undertaking the same course could be provided having regard to the principles for considering studies assistance applications and the processes that are applied as indicated in the answer to the first question.

(3) Yes. The availability of financial assistance to undertake study is mentioned in the AGD certified agreement, with more comprehensive information available from the AGD study assistance policy which is available to all employees through the AGD intranet.

The AGD certified agreement provides a specific commitment to:

- assisting AGD employees to achieve their full potential by encouraging study that furthers the objectives of the Department and the personal and career development of employees,
• enhancing skills and knowledge to increase the Department’s capacity to achieve its corporate objectives and manage change, and
• improving job performance.

The Department also has a formal performance management program through which development opportunities, which may include the completion of tertiary studies, are discussed. Where relevant opportunities are identified which involve tertiary studies, employees may apply for study assistance and such applications will be considered in line with the principles and processes outlined above.

Employees are encouraged to pursue studies in law/legal studies (Administrative, public, international, human rights, criminal, commercial), economics, accountancy/financial management, psychology, philosophy, information technology, marketing/communications, political science and public administration/policy development or other relevant subjects to the Department’s operations.

(4) As mentioned above, provision for study assistance is made in the AGD certified agreement and the detail is available in a policy document available on the AGD intranet.

Under the policy General Managers are required to publicise by an appropriate means the final date that requests for study assistance should be lodged. This also serves as a reminder to employees about the availability of study assistance.

(5) AGD is committed to assisting employees to achieve their full potential by encouraging study that furthers the objectives of the Department and the personal and career development of employees, irrespective of work loads.

The Program for Performance Improvement (PPI) ensures that a Personal Development Plan is completed for all employees, excluding short-term temporary employees. The Plan is agreed between an employee and his or her supervisor. The Plan includes development needs and strategies for employees to meet the key result areas contained in their performance agreement and for future career development. As indicated above, development opportunities involving tertiary study may be identified through this process, and if this occurs, an application for study assistance may be made.

All applications for study assistance are generally considered at the same time, under the principles for considering applications outlined above, which do not include consideration of workload issues.

Office of the Status of Women: Appointments
(Question No. 1790)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 15 August 2001:

(1) Can copies be provided of letters received from the Office of the Status of Women between 22 November 2002 and 19 June 2003, which refer to the statistics of the number of appointments of females and males for each portfolio body.

(2) Is any proactive work being undertaken to address any inequities.

(3) What is the department’s process for dealing with inequities which have been addressed or identified.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) Letters were received from the Office of the Status of Women on 22 November 2002 and 5 June 2003. Copies of the letters have been provided to the honourable senator and the Senate Table Office.

QUESTIONS ON NOTICE
(2) The Government is committed to increasing diversity in appointments. When selecting people for appointment the Government gives consideration to suitably qualified persons of either gender. The essential criterion for appointment is, however, merit.

(3) Appointments to statutory office are the responsibility of Government. The Attorney-General’s Department assists the Government in meeting its commitment to increased diversity in appointments to statutory office.

Health Insurance: Premiums

(Question No. 1799)

Senator Nettle asked the Minister for Health and Ageing, upon notice, on 19 August 2003:

With reference to the 2nd Tier Default Benefit:

(1) (a) Has the Government had discussions with private health insurance companies about a potential rise in premiums following the removal of the benefit; if so, what was the nature of these discussions; and (b) has the Government had any guarantee from the insurance companies that health insurance premiums will not rise.

(2) Given that a consequence of the removal of the benefit will be that most private hospitals and private day surgery facilities must negotiate with the private health insurance companies over rebates: What assurances can the Government provide that the large insurance companies will not use their greater negotiating power to force the small private hospitals and private day surgery facilities to accept rebates that are less than satisfactory.

(3) Does the Government expect that, as contracts run out for many facilities already under contract with private health insurers, many more facilities will be looking to 2nd tier default benefits instead of unsatisfactory arrangements with insurers.

(4) (a) What does the Government forecast the effect of the removal of the benefit will be on private health facilities that cannot negotiate suitable rebates with health insurance companies; and (b) given that the Australian Medical Association and the Australian Private Hospitals Association have grave fears that hundreds of facilities throughout Australia will have to close: what policies are in place to protect these small businesses.

(5) (a) How many private hospitals and day surgery facilities does the Government predict will be eligible for the new ‘rural and regional default benefit’; (b) what is the level the Government has assumed for its modelling of costs; and (c) if few facilities are eligible for the benefit, what does the Government believe will be the effect on rural and regional health.

(6) If there is a reduction for customers of private health insurance of choice of private health facilities that are available to them due to a breakdown in negotiations between companies and facilities, will the public health system be prepared and able to cope with the influx from clients who are no longer prepared to buy private health insurance.

(7) If the number of those holding private health insurance is reduced as a consequence of the removal of the benefit, is the Government prepared to put the 30 per cent rebate that would normally be paid to the health insurance companies into the public health system.

Senator Patterson—The answer to the honourable senator’s question is as follows:

(1) (a) As the Government does not expect the removal of second tier default benefits to lead to a rise in premiums there has been no need to hold discussions with private health funds on this topic.

(b) See (1)(a).

(2) Private health funds and private hospitals and private day hospital facilities operate in a commercial environment. Health funds are entitled to try and secure value for money contracts that deliver a range of appropriate services for their members, and are free to choose with which

QUESTIONS ON NOTICE
facilities they will seek a contract. Health funds have a strong incentive to enter into contracts with facilities because their members may decide to move to other funds if they can not access a reasonable range of contracted facilities. It would not be appropriate for the Government to interfere in what is essentially a commercial negotiation.

(3) No.

(4) (a) As only 13 of approximately 300 private hospitals and 26 of approximately 240 day hospital facilities were eligible for second tier, and all of these had contracts with one or more major health funds, the Government does not believe the removal of the second tier default benefit will have any impact on facilities.

(b) The Government has introduced a new rural and regional default benefit from 1 July 2003. This new benefit will offer protection to quality small private facilities in hard to service areas, which may find it difficult to negotiate a contract with health funds that are likely to have only a small number of members in the areas.

(5) (a) Approximately 70 private hospital and day hospital facilities would be eligible to apply for the rural and regional default benefit.

(b) Up to 70 private hospitals and day hospital facilities.

(c) See (4)(b)

(6) The Government does not expect that the removal of second tier default benefits will result in a reduction in the choice of private facilities or the number of consumers with private health insurance. While health funds are free to choose with which facilities they will seek a contract, members of funds that do not have a suitable range of contracted facilities are free to move to other funds that better suit their needs if they so choose.

(7) See (6).

**Defence: Coastal Surveillance**

**(Question No. 1802)**

Senator Nettle asked the Minister for Defence, upon notice, on 19 August 2003:

With reference to the Australian Navy’s involvement in coastal surveillance:

(1) How much has it cost the Australian people to have the Navy patrol our coastline for the detection and apprehension of refugees and illegal immigrants from July 2001 to date.

(2) How many people has the Navy caught entering our waters illegally during the period 2001 to date.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) From July 2001 – June 2003, Navy’s net additional costs incurred on Operation RELEX have been $9.938m. The estimated cost for the current financial year is $1.841m.

(2) For the period 2001 until the arrival of the MV TAMPA in August of that year, the ADF contributed to the interception and escort to mainland ports of 3608 unlawful persons from 27 of the 49 incidents involving unauthorised arrivals by boat. Since the arrival of the MV TAMPA and the commencement of Operation RELEX in September 2001, 16 vessels have attempted to land over 2500 unauthorised arrivals and crew in Australia. The ADF has been directly involved in 14 of these incidents.

**Health Insurance: Ancillary Benefits**

**(Question No. 1807)**

Senator Chris Evans asked the Minister for Health and Ageing, upon notice, on 21 August 2003:
(1) In relation to the Minister’s press release on 12 February 2003 announcing that private health funds had agreed to phase out gym shoes, tents and golf clubs from the ancillary benefits offered: (a) has the agreement with the Australian Health Insurance Association (AHIA) been secured in writing; if so, can a copy of the agreement be provided; (b) when did the Minister ask the health fund industry to review its products to ensure they funded only items which had a ‘direct health benefit’; (c) when did the industry first report back to the Minister on the review; and (d) when did industry first notify the Minister that it intended to exclude some items from ancillary tables.

(2) Can a copy be provided of: (a) the letter from the private health industry to the Minister referred to on page 133 of the Community Affairs Legislation Committee Hansard of 13 February 2003; and (b) the code that industry was stated to be developing on ancillary benefits.

(3) Has the code referred to in paragraph (2) received relevant adoption or approval and commenced operation; if so, when.

(4) Has the Australian Competition and Consumer Commission objected to the withdrawal of any benefits for so-called ‘lifestyles’ ancillaries; if so, how is the industry resolving this objection.

(5) Can a copy be provided of the schedule for phasing out each ancillary item that was agreed with the AHIA, showing each item that must cease being offered by all health funds and on what dates these cessations must occur.

(6) Can the Minister confirm that since the agreement with the AHIA was made, all private health insurance funds that offered lifestyle ancillaries have withdrawn them; if not, why not.

(7) In relation to the Minister’s estimate that the cost of so-called ‘lifestyle’ ancillary benefits is around $70 million a year, what percentage of this does the Government estimate has been paid for gym shoes, compact discs, tents and golf clubs.

(8) Why has the Government not prohibited funds by law from offering lifestyle ancillary benefits.

(9) In relation to the Minister’s request to the health funds to examine all ancillaries to make sure that they have a ‘direct health benefit’, what definition or guidance does the Minister give to health funds to comply with this request.

(10) Are there any products currently offered to Australians by private health insurance funds that the Minister believes do not have a direct health benefit; if so, can a list of these products be provided.

(11) In relation to the benefits listed in paragraph (10): (a) has the Minister requested each of the funds offering them to review them; and (b) when did the Minister make such requests.

Senator Patterson—The answer to the honourable senator’s question is as follows:

(1) (a), (b), (c) & (d), (2) (a) & (b), (3) and (4).

This issue was raised in informal discussions between my Department and the Australian Health Insurance Association (AHIA) towards the end of 2002. The AHIA wrote to me on 7 February 2003, indicating that the Association believed that ancillary benefits should not extend to cover items normally purchased for the purpose of sport, recreation or entertainment. (The letter was tabled at the 13 February 2003 hearing of the Senate Community Affairs Legislation Committee. A copy of the letter is attached.)

The AHIA noted that any action to withdraw benefits would require the approval of the Australian Competition and Consumer Commission (ACCC), and indicated that it would be approaching the ACCC to discuss the most appropriate course of action.

I understand the ACCC indicated that the AHIA would be required to seek authorisation under the Trade Practices Act 1974 to its agreement to remove ‘lifestyle’ benefits. After consideration of the possible time involved in such a process the AHIA wrote to me on 9 May 2003, asking that the Government consider using regulatory powers to require funds to withdraw ‘lifestyle’ benefits.
Following consultation by my Department with the AHIA, I have now imposed an additional condition of registration for all health funds under section 73B of the National Health Act 1953 requiring them to withdraw ‘lifestyle’ benefits by 31 December 2003.

(5) There is no schedule for phasing out each ancillary item. However under the additional conditions of registration referred to in (4) all ‘lifestyle’ ancillary benefits must cease by 31 December 2003.

(6) Some funds withdrew their ‘lifestyle’ benefits before the introduction of the additional conditions of registration as drafted. However, as can be seen in the letter of 7 February 2003, the AHIA believed it should not recommend to member funds that they withdraw ‘lifestyle’ benefits without the approval of the ACCC.

(7) The majority of ancillary benefits paid by funds in 2002-03 were for dental (50%), optical (16%) and physiotherapy (7%) services. These three services alone account for over 73% of ancillary benefits paid by health funds paid in 2002-03.

Lifestyle benefits by comparison are insignificant being less than 1% of all benefits paid by health funds or around 3% of all ancillary benefits paid in 2002-03.

With the data available to my Department it is not possible to break down the Fitness and Lifestyle category into components such as gym shoes, compact discs, tents and golf clubs. However, the Fitness and Lifestyle category also includes benefits paid for services with a strong preventative focus, such as quit smoking courses, weight management programs and programs for the management of chronic illness, such as asthma and diabetes. The additional conditions of registration will allow these latter benefits to be retained where they are part of a fund approved health management program that is intended to address a specific health condition or conditions.

(8) I have taken this step.

(9) The additional condition of registration identifies goods and services, which are primarily for the purpose of sport, recreation or entertainment. However funds can continue to pay benefits in relation to goods or services which are part of a health management program, or in relation to the health management program itself. The health management program must be approved by the organization and intended to prevent or ameliorate a specific health condition or conditions.

(10) and (11) I wrote to the AHIA on 16 September 2003, asking the industry to develop a framework to assess whether a therapy should be covered under ancillary health benefits.

Medicare: Bulk-Billing

(Question No. 1811)

Senator Allison asked the Minister for Health and Ageing, upon notice, on 21 August 2003:

(1) What is the percentage of bulk-billed general practitioner unreferred attendances (by vocational registry (VR)/non-VR) in each federal electorate for the June 2003 quarter (due for release August 2003).

(2) For the most recent period collected, what is the average and median Medicare Benefits Schedule rebate received by full-time equivalent general practitioners with VR provider numbers for unreferred attendances in: (a) federal electorates; and (b) across outer-urban, regional and metropolitan areas by each state.

(3) What is the average and median total payment received by full-time equivalent general practitioners with VR provider numbers for unreferred attendances in: (a) federal electorates; and (b) across outer-urban, regional and metropolitan areas by each state.

Senator Patterson—The answer to the honourable senator’s question is as follows:
(1) Details of the percentage of bulk-billed general practitioner unreferral attendances (by vocational registry (VR)/non-VR) involving recognised and other general practitioners in each federal electorate for the June 2003 quarter are as follows:

<table>
<thead>
<tr>
<th>Electorate</th>
<th>Non-VRGP (%)</th>
<th>VRGP (%)</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adelaide</td>
<td>56.3</td>
<td>53.8</td>
<td>54.0</td>
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<tr>
<td>Aston</td>
<td>62.2</td>
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<tr>
<td>Banks</td>
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## QUESTIONS ON NOTICE

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(2) (a) & (3) (a) Details of the average Medicare benefits paid and the average fees charged per full time equivalent practitioner, by recognised general practitioners for non-referred attendances, by federal electorates, for the June 2003 quarter, are as follows:

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### Recognised General Practitioner Non-referred Attendances

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Recognised General Practitioner Non-referred Attendances

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<th>Average Fees Charged ($)</th>
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(2) (b) & (3) (b) Details of the average Medicare benefits paid and the average fees charged per full time equivalent practitioner, by recognised general practitioners for non-referred attendances, by State/Territory and region, for the June 2003 quarter, are as follows:

Recognised General Practitioner Non-referred Attendances

<table>
<thead>
<tr>
<th>State</th>
<th>Region</th>
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<th>Average Fees Charged ($)</th>
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<td>Rural and Remote</td>
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<td>Total</td>
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<tr>
<td></td>
<td>Rural and Remote</td>
<td>47,020</td>
<td>57,246</td>
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Questions (2) and (3) in relation to Medians

While it was possible to compile average fee charged and benefit income in response to questions (2) and (3) above, it was not possible to compile meaningful median statistics for full time equivalent practitioners. There is no set of “full time equivalent” individual practitioners from which a median can be calculated.

Notes to the Tables

These statistics relate to unreferred attendances involving general practitioners that were rendered on a ‘fee-for-service’ basis and for which benefits were processed by the Health Insurance Commission in the June quarter 2003. Excluded are details of services to public patients in hospital, to Department of Veterans’ Affairs patients and some compensation cases.

In general terms, practitioners with more than 50 per cent of Schedule fee income from unreferred attendances in the June quarter 2003, were considered to be general practitioners. ‘Recognised General Practitioners’ comprise fellows of the College of General Practitioners, Vocationally Registered general practitioners and general practitioner trainees.

The statistics in (1) above will not agree with other published statistics on bulk billing for unreferred attendances by federal electoral division or in total, since these statistics have been further restricted to unreferred attendances rendered by general practitioners. Furthermore, the statistics were compiled by servicing provider postcode, rather than enrolment postcode. The statistics exclude unreferred attendances rendered by specialists, who have seen patients on a non-referred basis.

<table>
<thead>
<tr>
<th>Recognised General Practitioner Non-referred Attendances</th>
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<tbody>
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<td>State</td>
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QUESTIONS ON NOTICE
The statistics in (2) and (3) above were compiled by assigning non-referred attendance recognised general practitioners full time equivalent values, and associated fee charged and benefit income, by servicing provider postcode, to electorate and rural, remote and metropolitan area (RRMA).

In all tables, where a postcode overlapped federal electoral division boundaries, the statistics were allocated to an electorate having regard to statistics from the Census of Population and Housing showing the proportion of the population of the postcode in each electoral division.

Medicare statistics for some postcodes may not have been allocated to electorates if the postcodes were not listed on the Census file.

**Telstra: Forensic Scientific and Investigation Group Report**

*(Question No. 1822)*

**Senator Webber** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 25 August 2003:

(1) Will the Minister release the report by the Forensic Scientific and Investigation Group into the centralisation by Telstra of the handling of complaints.

(2) (a) How many complaints from Perth have been attributed to lightning strikes in the past 12 months; and (b) when was the most recent lightning related complaint listed.

(3) How many easy-call facilities and services are not available to customers with pair gains.

(4) How many pair gains are there in Western Australia.

**Senator Alston**—The answer to the honourable senator’s question is as follows:

These answers are based on information provided by Telstra.

(1) Telstra has advised that the report by its Forensic Scientific and Investigation Group into the centralisation of complaint handling is a Telstra internal working document used to assist in the formulation of Telstra policy. The material in the document was collected on the understanding that the report was classified as commercial-in-confidence and not to be distributed outside of Telstra. On this basis, Telstra has advised that it regrets that the report cannot be made available.

(2) (a) Telstra has advised that between August 2002 and August 2003, 86 complaints were reported where lightning was mentioned in the complaint details. (b) Telstra has indicated that the most recent lightning-related complaint was received on 4 July 2003.

(3) Telstra has indicated that easy-call facilities are available on all pair gain systems, but that there may be some restrictions depending on system type and configuration.

(4) Telstra has advised that there are some 7649 pair gain systems in Western Australia.

**Health: Human Research Ethics Committees**

*(Question No. 1825)*

**Senator Allison** asked the Minister for Health and Ageing, upon notice, on 26 August 2003:

Does the National Health and Medical Research Council intend to conduct a review of the composition of human research ethics committees; if so, when.

**Senator Patterson**—The answer to the honourable senator’s question is as follows:

Yes. The National Health and Medical Research Council, through the Australian Health Ethics Committee, will review the *National Statement on Ethical Conduct in Research Involving Humans* during the 2003-05 triennium. This review will include, among other things, a review of the composition of human research ethics committees.
Environment: Grey-Headed Flying Fox
(Question No. 1833)

Senator Allison asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 1 September 2003:

With reference to the answer to question on notice No. 1630:

(1) Can the Minister now offer a satisfactory answer to parts (1) and (2) of that question, in which it was asked whether grey-headed flying-foxes or spectacled flying-foxes ‘occur’ on any Commonwealth land and not if the Government was aware of any ‘permanent colonies’.

(2) When will the recovery plans for the grey-headed flying-fox and the spectacled flying-fox be released for public comment.

(3) When does the Minister expect the recovery plans for the grey-headed flying-fox and the spectacled flying-fox to be finalised and made under section 269A of the Environment Protection and Biodiversity Conservation Act 1999.

(4) Given that at the time the 2002 guidelines were issued, there was a considerable amount of uncertainty regarding the size of the spectacled and grey-headed flying-fox populations: Has the Commonwealth obtained any additional information on the conservation status of the spectacled flying-fox and grey-headed flying-fox to support the proposed policy in relation to these species; if so, can this information (including copies of relevant publications) be provided; if not, why not.

(5) Has the Commonwealth obtained any information on the total numbers of spectacled and grey-headed flying-foxes that were killed between 1 July 2002 and 30 June 2003; if so can this information (including copies of relevant publications) be provided; if not, why not.

(6) Given that the Minister has indicated that the Commonwealth has not received any information on the actual number of spectacled and grey-headed flying-foxes that were killed under state authorisations between July 2002 and June 2003: Why is the Minister proposing to adopt a policy concerning killing members of two threatened species without information on the numbers of these species that were killed in accordance with the policy over the past 12 months.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) As a result of their highly mobile nature, both the Grey-headed Flying-fox and the Spectacled Flying-fox may at times be found on Commonwealth land within their known range.

(2) Draft recovery plans for both species are due to be completed by the end of 2003 at which time they will be released for public comment.

(3) Following public consultation, the recovery plans will be submitted to the Threatened Species Scientific Committee (the Committee), which advises the Minister on whether to adopt the plans under the Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act). The timing for the adoption of the plans by the Minister under the EPBC Act will depend on the nature and extent of the public comments received, and the timing of the Committee’s consideration.

(4) The Commonwealth is supporting national population counts for both the Spectacled Flying-fox and Grey-headed Flying-fox. The Commonwealth will continue to support these national counts to improve the reliability of the dataset that is currently available.

(5) The Commonwealth has not received any information on the total numbers of Spectacled Flying-foxes and Grey-headed Flying-foxes that were killed under State authorisations between 1 July 2002 and 30 June 2003.

(6) Although the Commonwealth has not received any information regarding the total numbers of Grey-headed Flying-foxes and Spectacled Flying-foxes killed under State authorisations, the
Minister is satisfied that the States did not issue permits above the total number of animals allowed to be taken. A cull limit of 1.5% has been agreed upon as it is a precautionary figure that takes into account both natural and unnatural mortality occurring in flying-fox populations, and is unlikely to have a significant impact on the long-term survival and recovery of the two species.

Sydney Harbour Federation Trust
(Question No. 1834)

Senator Chris Evans asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 2 September 2003:

(1) When was it decided to establish the Sydney Harbour Federation Trust.
(2) Who made the decision to establish the Trust.
(3) Why was the Trust established.
(4) (a) Who was on the original board of the Trust; (b) has the membership of the board changed since the Trust was established; and (c) who is now on the board.
(5) On what basis have members of the board been chosen: (a) was there a selection process; (b) who authorised the original appointments and (c) on what basis.
(6) When was it announced that ex-Defence sites around Sydney Harbour would be transferred to the management of the Trust.
(7) Who made this announcement.
(8) Which other parties were consulted about this announcement (for example, the State Government, local councils, State and Commonwealth departments).
(9) What was the nature of this consultation.
(10) Who made the final decision to transfer the lands to the Trust.
(11) Which lands were actually transferred to the Trust, and in relation to each site can a list be provided, including: (a) its size; (b) its previous use; and (c) its proposed use.
(12) In relation to each site; on what dates did the transfers occur.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) The Prime Minister, the Honourable John Howard MP, announced the formation of the Interim Sydney Harbour Federation Trust in September 1998.
(2) The Act establishing the Trust was passed by Parliament in March 2001.
(3) To ensure that lands no longer required for defence purposes in the Sydney Harbour region and certain other Commonwealth lands in the Sydney Harbour region are conserved and preserved for the benefit of present and future generations of Australians. The lands include North Head, Middle Head/Georges Heights/Chowder Bay, Woolwich Dock, Cockatoo Island, Snapper Island, the former Marine Biological Station at Watson’s Bay and the Macquarie Lightstation at Vaucluse.

With the exception of a number of Houses in Markham Close Mosman the establishment of the Trust ensures the lands remain in public ownership.

(4) (a) The Interim Trust had an Interim Board of four comprising:
   Mr Kevin McCann, Chair
   Mr Peter Lowry
   Brigadier Kevin O’Brien CSC (ret)
   Mr Justice Barry O’Keefe AM
(b) On proclamation of the Sydney Harbour Federation Trust Act, and in accordance with the Act, four additional members were appointed.

(c) Mr Kevin McCann Chair  
Mr Robert Conroy  
Dr Deborah Dearing  
Clr Susan Hoopmann  
Mr P Lowry OAM  
Dr John Moriarity AM  
Mr Justice Barry O’Keefe AM.

(5) (a) Yes. The members were chosen for their particular skills relevant to the operation of the Trust - two members were nominated by the NSW Government. One represents the interests of indigenous people, one is from an effected local government area, others have specific heritage or management experience.  
(b) Senator the Honourable Robert Hill the then Minister for Environment and Heritage.  
(c) In accordance with Part 3 of the Sydney Harbour Federation Trust Act 2001. The members were appointed as part-time holders of public office for a term of 3 years from 27 September 2001.


(7) The Prime Minister the Honourable John Howard MP.

(8) An exposure draft of the Bill to establish the Trust was issued for public comment on 15 August 1999 until 17 September 1999. Mosman, Manly and Hunters Hill Councils provided comments amongst 46 submissions received.

(9) As for (8) above.

(10) The transfer of the specified lands (at Middle Head and Georges Heights, Woolwich and Cockatoo Island) is provided for under the *Sydney Harbour Federation Trust Act 2001*. Other lands will be transferred by agreement between the Ministers for Defence and Finance, and the Minister for Environment and Heritage.

(11) Lots 202 and 203 in Deposited Plan 1022020; Lot 2 in Deposited Plan 541799; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 in Deposited Plan 233157; Lot 1 in Deposited Plan 831153 at Middle Head and Georges Heights in the Parish of Willoughby, County of Cumberland; Lot 4 in Deposited Plan 573213 and Lot 1 in Deposited Plan 223852 at Woolwich in the Parish of Hunters Hill, County of Cumberland.

Lot 1 in Deposited Plan 549630, Cockatoo Island

(a) Middle Head Georges Heights is 46.5 Hectares  
Cockatoo Island is 17.9 hectares  
Woolwich Dock is 7.5 hectares

(b) The lands at Middle Head Georges Heights have a long military history that has changed over time. They were used for an Army Maritime School, Training Command, transport terminal, Defence housing and the Australian School of Pacific Administration. There are a variety of halls, barracks, classrooms, offices, mess buildings and a former WW1 hospital as well as numerous historic fortifications.

Cockatoo Island has been closed for the last decade but it was primarily a shipbuilding and repair facility with two large dry docks, a variety of cranes, offices and workshops. It was also the site of a convict prison dating from the 1830s.
Woolwich Dock was a shipbuilding site and was used by the Army for water-based operations. There are a variety of offices and workshop buildings and a large dry dock dating from 1900.

(c) Cockatoo Island
The plan proposes the revival of working maritime facilities utilising the maritime industrial infrastructure. It also proposes to explore the island’s potential as a cultural venue.

Middle Head Georges Heights
The Plan for Middle Head-Georges Heights and Chowder Bay proposes the creation of a Headland Park and the regeneration and expansion of the bushland slopes of the peninsula to reinforce the strong sense of a ‘green’ gateway to Sydney Harbour.

The plan proposes the establishment of an Aboriginal Cultural Centre, to explain the indigenous history of the Sydney region and to mark Bungaree’s farm, (Governor Macquarie’s model farm experiment). This will be undertaken in collaboration with the Aboriginal community.

The plan proposes a network of paths and access routes with interpretive signposts, linking the various precincts and highlighting the natural beauty of the area.

Uses of the various buildings may include a range of leisure, recreational, cultural, educational and community uses. Other uses (such as residential in existing dwellings) are acceptable subject to their compatibility with the primary objectives of creating a Headland Park

Woolwich Dock
The plan for Woolwich proposes the consolidation of parklands to create a unified place at the meeting of the Parramatta and Lane Cove rivers with a maritime hub as its centrepiece.

It proposes that the dock area and associated maritime facilities will be adaptively reused and a new water arrival and gathering place created. This could include studios, maritime repairs, boat storage and a café or restaurant facilities.

The dock will also be the starting point for tours of Hunters Hill and the harbour that would enable people to experience the rich contrasts of maritime industry, the bushland and heritage of the area.

(12) Middle Head/Georges Heights, Cockatoo Island and Woolwich Dock were transferred to the Trust on 1 April 2003.

**Johns, Mr Gary: Fulbright Scholarship**
(Question No. 1839)

**Senator Brown** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 8 September 2003:

(1) Can the Minister confirm that in 2002, Mr Gary Johns of the Institute of Public Affairs received a Fulbright Scholarship to study in the United States that was partly funded by the Australian Government.

(2) What did Mr Johns study.

(3) Was there a contract between Mr Johns and the department.

(4) What sum of money did Mr Johns receive from the department.

(5) What did the department receive in return for this money.

(6) If Mr Johns prepared a report, can a copy be provided.

**Senator Hill**—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

**QUESTIONS ON NOTICE**

(2) Dr Johns’ Fulbright program concerned NGO legitimacy in democratic systems.

(3) No.

(4) Dr Johns received no money from the Department of Foreign Affairs and Trade. The Department of Foreign Affairs and Trade provides US$15,000 to the Fulbright Commission annually as its sponsorship of the Award. The Fulbright Commission retains ultimate management and control of the Award.

(5) Dr Johns received no money from the Department. Sponsorship of a Professional Award by the Department of Foreign Affairs and Trade is the culmination of many years of support for the Fulbright program both in Australia and the United States. The Award further develops our bilateral ties through the study of contemporary issues of interest to both Australia and the United States in the fields of defence/security, trade, economics and politics.

(6) Dr Johns is preparing a monograph in his area of speciality which can be used by this Department and/or published with an appropriate accreditation.

**Civil Aviation Safety Authority: Regulations**

*(Question No. 1939)*

Senator Allison asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 9 September 2003:

1. Why does the Civil Aviation Safety Regulation CASR 91.355, which prohibits self-service of alcoholic beverages on board commercial aircraft, not come into effect earlier than 2005.

2. (a) What consultation did the Government conduct with regard to the timing of the introduction of this regulation; and (b) can a copy of the advice given by stakeholders to the Government on the timing be provided.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has advised that:

1. Civil Aviation Safety Regulation (CASR) 91.355 is one of the regulations that will comprise CASR Part 91. CASR Part 91 will stipulate the General Operating and Flight Rules applicable to most aircraft operating in Australia, and is being developed under the auspices of CASA’s Regulatory Reform Programme. It is anticipated that Part 91 will be made as a complete Part during April 2004 and have an effective date of April 2005. The lead time is necessary to allow for finalisation of the public consultation process, industry and CASA personnel training, and amendments to be drafted and made to affected manuals and other documents such as the Aeronautical Information Publication. These training and amendment processes cannot begin until the regulations have been finalised and made.

2. (a) Consultation on the suite of regulations comprising CASR Part 91 was undertaken by CASA thorough a Notice of Proposed Rule Making (NPRM) published on 13 September 2001. Part 91 was also discussed at the Flight Crew Licensing Operations and Training earlier this year. In relation to timing, that NPRM indicated that CASR Part 91 would be made by the end of 2003 and that at least one year would be provided for implementation purposes prior to their commencement. The timing of the introduction of this regulation has been delayed as a result of extending the public consultation period. (b) Submissions received in response to the NPRM issued on 13 September 2001 did not address the issue of timing in relation to the proposed CASR 91.355.
Senator Chris Evans asked the Minister for Health and Ageing, upon notice, on 10 September 2003:

(1) In relation to the article in the Melbourne Herald Sun of 28 August 2003, can the Minister advise the following: (a) is the treadmill referred to fully owned by the Minister; (b) was the entire purchase price of the treadmill paid by the Minister using her personal income; (c) did the Minister receive any discount on the purchase of the treadmill; if so, on what basis; (d) was there, or is there, any sponsorship arrangement for the full or part costs of the treadmill; (e) was the purchase of the treadmill borne, in full or in part, by a private health insurer.

(2) In relation to the article in the Melbourne Herald Sun of 28 August 2003, can the Minister advise the following: (a) are the weights referred to fully owned by the Minister; (b) was the entire purchase price of the weights paid by the Minister using her personal income; (c) did the Minister receive any discount on the purchase of the weights; if so, on what basis; (d) was there, or is there, any sponsorship arrangement for the full or part costs of the weights; (e) was the purchase of the weights borne, in full or in part, by a private health insurer.

Senator Patterson—The answer to the honourable senator’s question is as follows:

(1) (a) Yes.
   (b) Yes.
   (c) It was purchased on 19 June 1999 for the full price of $2159.00. No discount was received.
   (d) No.
   (e) No.

(2) (a) Yes.
   (b) Yes.
   (c) No.
   (d) No.
   (e) No.

Proposed Department of Parliamentary Services: Secretary

Senator Faulkner asked the President of the Senate, upon notice, on 19 September 2003:

With reference to the advertisements in the Canberra Times and the Australian of 30 August 2003 calling for expressions of interest for the new position of Secretary of the proposed Department of Parliamentary Services:

(1) Who made the decision that expressions of interest are to be made to the Parliamentary Service Commissioner, Mr Podger.

(2) Will Mr Podger be providing advice on this position; if so, to whom will he be making a recommendation; or will he be responsible for actually making a decision in relation to this new departmental head position.

(3) What will be the processes of merit selection, accountability and transparency in the process of selecting a new Secretary of the Department of Parliamentary Services.

(4) Why was the position of the new secretary advertised by calling for expressions of interest rather than calling for applications for the position.
(5) (a) What processes and procedures are to be established for the permanent appointment of a Secretary of the Department of Parliamentary Services; and (b) what is the timeframe for this.

(6) Are there job criteria available for the position.

(7) Will there an interview process; if so, who will be on the interview panel.

The President—The answer to the honourable senator’s question is as follows:

(1) The Presiding Officers.

(2) The Parliamentary Service Commissioner will be providing a report to the Presiding Officers, in accordance with section 59(2) of the Parliamentary Service Act 1999. The Presiding Officers will consider that report and will then make an appointment under section 59(1) of the Act.

(3) On 20 August 2003 the Parliamentary Service Commissioner suggested to the Presiding Officers that, in advising them on suitable candidates for the position of Secretary, he be assisted by an appropriately qualified person. The Presiding Officers agreed that the Commissioner should approach Ms Helen Williams, AO, who is the only other person who has held the statutory office of Parliamentary Service Commissioner, to assist him in the process. The Parliamentary Service Commissioner is a statutory officer accountable to the Parliament. The Values of the Parliamentary Service in the Parliamentary Service Act 1999 include that employment decisions are based on merit (section 10(1)(f)). The Commissioner’s report could be expected to be consistent with that Value. The Presiding Officers are accountable for their actions to their respective Chambers.

(4) On the advice of the Parliamentary Service Commissioner, the advertisement called for expressions of interest. This is a common practice for chief executive positions.

(5) (a) Following consideration of the relative merits of those who express interest in the position, the Parliamentary Service Commissioner will report to the Speaker and the President. If there are a number of persons who, in the assessment of the Commissioner and Ms Williams merit equal consideration, the Commissioner and Ms Williams may interview the candidates.

(b) It is hoped that the process will be completed by November 2003 to enable the identification of a new Secretary before the Department of Parliamentary Services is established from 1 February 2004.

(6) Yes; a copy of the general information for candidates is attached.

(7) See answer to (5)(a) above.

Parliament of Australia

Australian Parliamentary Service

Position of Secretary, Department of Parliamentary Services

General information for candidates

Consideration of Expressions of Interest

Expressions of interest will be considered in relation to:

• exceptional strategic and leaderships skills;
• an established track record in contemporary approaches to management and in initiating and implementing organisational reform;
• a sound appreciation of the Australian Parliamentary system;
• a capacity to foster innovative approaches to service delivery and to nurture a strong client orientation;
ability to lead a group of staff with a wide range of responsibilities, including the
Parliamentary Security Service, an outdoor workforce, skilled professional and technical
officers, and teams working under contract;
• a capacity to build and sustain productive professional relationships; and
• personal drive and integrity.
Candidates are generally expected to be Australian citizens and either possess or be able to obtain a
security clearance.
Annual Reports and other documents relating to the Parliamentary Service and its departments are
For further information on this employment opportunity contact:
Andrew Podger
Parliamentary Service Commissioner
Phone: 02 6272 3695
Email: Andrew.podger@apsc.gov.au
Lodging Expressions of Interest
Expressions of interest close on 13 September 2003 and should be forwarded to:
‘SECRETARY – APPLICATION’
c/- Parliamentary Service Commissioner
Australian Public Service Commission
Edmund Barton Building
BARTON ACT 2600