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Wednesday, 8 October 2003

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

CRIMES (OVERSEAS) AMENDMENT BILL 2003

Second Reading

Debate resumed from 7 October, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator STOTT DESPOJA (South Australia) (9.31 a.m.)—I rise to speak on this legislation in my capacity as the Australian Democrats foreign affairs spokesperson. The Crimes (Overseas) Amendment Bill 2003, as senators would know, has significant implications for the conduct of Australia’s foreign affairs. Some of the measures that it contains will influence our relationships with other countries and, of course, our relationships with international organisations such as the United Nations. The bill is about the extraterritorial application of Australian law outside our sovereign borders. It heralds an important and significant change for the government on this issue.

It is interesting to consider this bill in the light of some of the previous comments by this government in relation to extraterritorial operations of Australian law. In particular, I note that this government was strongly opposed to the Australian Democrats private member’s bill, our Corporate Code of Conduct Bill 2000 [2002], which was originally introduced in the year 2000 by my colleague former Senator Vicki Bourne. That remains on the Senate Notice Paper, and it is a bill to which I am strongly committed and on which I have continued to seek advice and consultation from others. The Corporate Code of Conduct Bill seeks to regulate the activities of Australian companies operating overseas in relation to human rights, the environment, labour standards and occupational health and safety standards. The international regulatory environment has failed to keep pace with the rapid globalisation of business. The nature of today’s corporations means that traditional national legal structures do not apply to a company whose head office is in one country but which says its operations are in another. Australian companies carrying out their functions in foreign countries should conduct themselves decently and in a manner that does good and, of course, not harm for the people living there. The Australian community has made it clear that it believes that corporations carry not only social but environmental obligations in addition to their economic objectives.

The St James Ethics Centre recently published results from a global poll that was sponsored by PricewaterhouseCoopers. The results of that poll showed that 92 per cent of Australians think that the role of large companies is to go beyond the minimum definition of their role in society, which is to employ people and make profits. They believe they should also contribute to setting higher ethical standards and help build a better society for all. The same study showed that one in five respondents actually avoid purchasing products from a particular company if they perceive that that company is in some way not socially responsible. In addition, six out of 10 consumers form their impression of a company based on its labour practices, business ethics, and its responsibility to the community and society at large—or, indeed, its environmental impacts.

So there is an increasingly consumer-driven incentive for corporations to conduct their business in accordance with international human rights, environmental and labour standards, and it is encouraging to see a number of companies in our country rising to this particular challenge. Unfortunately, there
are many others that continue to lag behind. For example, the reputation 100 survey published in October 2000 indicated that 95 of the top 100 companies in Australia do not even have a policy commitment to the Universal Declaration of Human Rights. Many Australian companies, unfortunately, have shown a similar disregard for environmental standards.

I take this opportunity to highlight just one example from the Oxfam Community Aid Abroad’s Mining Ombudsman’s report. It relates to a mine in Papua New Guinea, the Tolukuma mine, which is operated by DRD. In 2000, during transportation to the mine, a helicopter dropped 1,000 kilograms of cyanide in the Yaloge River valley. DRD failed to take appropriate measures to clean up the spill and, consequently, as many senators would know, members of that local community became ill. They had symptoms such as yellow feet, swollen stomachs and open sores. The community attributes more than 30 deaths to regular exposure to the cyanide in the river. Community members are now afraid to use that river water for basic uses such as washing or for drinking. This poses a number of difficulties, particularly in the dry season when other water sources dry up, and the members of the community are becoming malnourished due to a lack of accessible, healthy water. The spill also resulted in substantial environmental degradation, including a loss of vegetation and fruit trees and a reduction in fish, prawn and eel populations.

Examples such as this illustrate why a corporate code of conduct is required and, of course, the Democrats are not alone in advocating for this. There is now an overwhelming body of academic discourse advocating for national and international mechanisms to promote corporate responsibility. Moreover, in the time since the Democrats bill was initially introduced, we have seen corporate responsibility bills introduced in a number of other parliaments throughout the world. The Democrats hope that this will persuade at least one party in this chamber, the Australian Labor Party, to change their previous view that the ‘time has not yet come’ for prescriptive corporate code of conduct legislation.

Following its introduction into the Senate, the Corporate Code of Conduct Bill was the subject of an inquiry by the then parliamentary Joint Committee on Corporations and Securities. The report released by the government members of that committee was very critical of the fact that the bill sought to apply Australian law extraterritorially. In fact, the government’s report described this as the ‘most problematic feature’ of the bill. It focused on those submissions that argued the bill was imperialistic, arrogant, patronising and paternalistic and concluded that the legislation, if enacted, would be detrimental to Australia’s reputation. Ironically, in the context of the current debate, the government is now advocating in favour of the very aspects of the Corporate Code of Conduct Bill—namely, its extraterritorial operation—which it previously criticised so fiercely. The inconsistency—indeed, one might say the hypocrisy—is startling.

Of course, there was a compelling argument against the government’s accusations of paternalism in relation to the Corporate Code of Conduct Bill. The purpose of that bill was not to apply Australian law extraterritorially; it was to ensure that Australian corporations complied with internationally recognised standards. Contrary to the government’s claims about the Corporate Code of Conduct Bill being detrimental to Australia’s reputation, the bill, if passed—and I hope one day it will be—will encourage Australian corporations to become world leaders in relation to environmental protection and the provision of a safe working environment for employees. While the Corporate Code of Conduct
Bill is founded on international standards, the bill before us seeks to apply Australian criminal law outside our country’s borders. It could be argued that, as a result of legislation passed in recent years, there are aspects of Australia’s criminal law which now lag well behind international standards.

Some of the more draconian aspects of the government’s antiterrorism measures come to mind in that regard. For example, it is now a criminal offence for innocent Australians who are not suspected of any involvement in terrorism to refuse to answer the questions of ASIO agents regarding the activities of their neighbours, colleagues, pupils or clients. With offences like this on the statute books, it is clear that there are plenty of countries whose laws would provide greater protection for the rights of Australian citizens than our own would. Of course, there are also jurisdictions which do not share Australia’s common law tradition and whose laws fall even shorter of international standards than our own do—for example, the recent case involving Amina Lawal. Senators may recall she was sentenced to death by stoning after being convicted on a charge of adultery under one of the Nigerian state sharia laws. As one of a number of people in this chamber—Senator Peter Cook is another—who have consistently advocated for Ms Lawal’s conviction to be overturned, many of us were very relieved to hear of her recent acquittal.

When there are countries whose laws contravene the most fundamental human rights, there is a need to ensure that Australian citizens are afforded the appropriate protections. But, rather than just protecting the rights of Australians, why doesn’t the government take a more proactive role in raising the profile of human rights at an international level? The government seems to forget that the very foundation of human rights is that they apply equally to every human being, regardless of race, colour or creed. Yet, when it comes to applying Australian law outside our borders to protect Australians or to exclude asylum seekers from the rights enjoyed by other Australians within our borders, the government seems to mistake human rights for Australian rights.

I have spoken in this chamber on numerous occasions about the government’s declining commitment to human rights—a trend that has been confirmed by a number of independent reports. Whether it is the massive cuts in funding to the Human Rights and Equal Opportunity Commission over the three terms of the Howard government or the government’s refusal—and other governments’, I might add—to enact a bill of rights, the government’s record on human rights is embarrassing. However, we are debating legislation that has been rushed in by the government to retrospectively—and that is a key part of this legislation, as my colleague Senator Greig made clear in his remarks—protect the rights of Australian citizens, yet the government refuses to commit to important international agreements that would increase protection for the rights of all human beings.

If the government can be so astute in signing agreements to secure immunity for Australians working overseas, why can’t it sign the optional protocol to CEDAW or the optional protocol to the convention against torture? The consistent pattern that we see emerging is that the government is prepared to apply Australian law extraterritorially when it comes to rights but not when it comes to responsibilities. It wants to extend the benefits of Australian law but not necessarily the obligations.

I was interested to note—and I wonder to what extent the government has considered the implications of this—that the Corporations Law applies within the Jervis Bay territory and that it includes criminal offences.
attaching to the conduct of individuals. In other words, it appears that this bill will facilitate the extraterritorial application of those directors’ duties that attract criminal penalties. I trust that the government will clarify this for the benefit of senators during the committee stage but, if this is in fact the case, then the government will be hard-pressed to object to the extraterritorial application of additional corporate standards.

I take this opportunity to announce that I will shortly introduce an amended version of the Corporate Code of Conduct Bill, which addresses a number of the issues that were brought up in the inquiry. It also takes into account some of the feedback we have had from a number of community, legal, academic and other organisations that have sought to feed into this process of debate. I hope that the government’s changing attitude towards extraterritorial legislation is an indication that it will now come on board and support our bill.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.44 a.m.)—by leave—I wish to continue my comments of yesterday in relation to the delay with the Crimes (Overseas) Amendment Bill 2003. I mentioned then that the delay had been caused by the status of the Intelligence Services Act 2001 because, of course, that had to become clear before this bill could continue. The Intelligence Services Act 2001 commenced on 29 October 2001 and, early in 2002, the bill implementing the recommendations of the committee was drafted. Events then proceeded in Iraq early in 2003 and re-examination of the bill was required. In June this year the government agreed that the bill should be extended to cover retrospectively Australian civilians deployed to Iraq and to the Solomon Islands. This required reconsideration of the bill and further extensive consultation with other departments. Events themselves caused this bill to be re-examined out of necessity and it was dependent on the clarification of the Intelligence Services Act 2001. So, although this legislation had its genesis in a report by a joint committee in 1999, events beyond the control of the government required the bill to be re-examined. We have to get it right because it is a very important bill. That is the reason for the effluxion of time in relation to this issue. The government rejects any criticism about the delay. It was a period of time which, regrettably, occurred because of other events and because of the bill being amended to meet those events.

In relation to a comment that this bill was being rushed in its introduction, that is inconsistent with the criticism about the delay. This bill is technical and has involved significant consultation between departments and, as I have indicated, there has been a substantial period of time in which it has had to be re-examined. The government does not believe the bill is being rushed in any manner or form. It is a very important bill, one that I commend to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator GREIG (Western Australia) (9.47 a.m.)—by leave—I move Democrat amendments (1) and (6) together, on sheet 3113:

(1) Clause 2, page 2, (table item 2, 2nd column), omit “1 July 2003.”, substitute “The day on which this Act receives the Royal Assent.”.

(6) Schedule 1, item 16, page 12 (lines 6 to 11), omit subsection 3C(5).

These amendments seek to remove the retrospective operation of the bill. As I outlined in my second reading contribution, as a party we Australian Democrats are strongly opposed to the principle and practice of retro-
spectivity applying to criminal law. These amendments will ensure that the government’s power to make the regulations effective from 1 July this year does not become part of this legislation. I outlined the Democrats’ concerns regarding retrospectivity during my second reading contribution and I said then that we are opposed to retrospective legislation, other than in the most exceptional circumstances and provided that there is no significant alteration to the rights and liberties of individuals.

Notwithstanding the report just provided by the Minister for Justice and Customs in response to the scrutiny of bills question to the Attorney about the reason for retrospectivity, we still do not find that it has been adequately argued for. We believe that the retrospective date chosen has an element of randomness about it. In this case we would argue that retrospectivity does involve a serious alteration to the rights and liberties of individuals. It potentially alters their criminal liability since an act that was not a criminal offence in either the Solomon Islands or Iraq at the time it was committed might now be a criminal offence under Australian law. In other words, a person could become liable for an act that was not a crime when it was committed. As a party we Democrats do not find that acceptable, and we believe quite strongly that the retrospective provisions ought to be removed from the bill.

I would like to give the minister the opportunity to add, if he has anything further, to the response that we now have from the Attorney. Minister, has the letter you have just given me from the Attorney been tabled, or is there an opportunity for you to do that this morning? I have some questions that might now be answered. I have not had time to read the four-page document you have just given me, but I wonder whether I could put these questions on the record, as it were, and whether you could indicate if they are answered in the reply from the Attorney or that you can add further to them. The questions are: firstly, were all Australians in the Solomon Islands and in Iraq who might be affected by this legislation notified prior to 1 July of the announcement set out in the government’s press release of 26 June? Secondly, is the government aware of any criminal act committed by any Australian in either the Solomon Islands or Iraq since 1 July this year? If the answer to my second question is no, I would ask what would be the reason for the bill to commence retrospectively from that date. Equally, if the answer to the second question is yes—the government is aware of a criminal act having been committed by an Australian in the Solomon Islands or in Iraq since 1 July this year—could you provide the details of that crime, or crimes, and whether the government intends to pursue the prosecution of the individual or individuals in question?

Senator Ludwig (Queensland) (9.52 a.m.)—I will provide our response to the Democrat amendments now. That may give the Democrats the opportunity to read the document that has been provided in advance of the minister tabling that today and deal with the questions. The Democrats might also consider asking whether there are any criminal investigations under way in respect of the matter you have talked about, the prosecutions pending. But there is no in futuro—there is no issue about whether or not matters may be at hand or being investigated—so I suspect it is then really difficult from the minister’s perspective to know in detail what investigations may or may not be undertaken either by the local authorities or by the other authorities that are now in place.

Of course, there is always the issue of post facto matters that may arise; in other words, issues down the track not known today which then come out. As you may be aware, there might be an issue that comes out during
this period that people today do not know about. That matter may require criminal investigation and perhaps a prosecution but the evidence may be only discovered tomorrow, the next day or after that. I suspect that one of the reasons for this bill is to be able to deal with that as well. What the Democrat amendments would do is prevent that. They isolate the whole period and, if a matter is discovered in the future and there is a requirement to prosecute, we cannot do so. That is why, amongst a range of other reasons, we cannot bring ourselves to support this. I have come up with that answer to your questions on the run.

In truth, we also do not agree with your test with respect to retrospectivity. The test you put in place in part relies on exceptional circumstances and is not the test that the opposition would say is the appropriate test to be applied in these instances. I think the test in this instance is that which was enunciated in Polyukhovic. As the High Court said in that particular case, retrospective criminal legislation will be invalid if it usurps the judicial power of the Commonwealth. However, we think the limited application of retrospective prescription power is warranted in this instance and does not fall within the category of legislation the High Court was concerned about. We say that this issue of retrospectivity does not fall within the issues that the High Court covered when it explored the issue of retrospectivity in the case of Polyukhovic.

The bill limits the application to acts occurring between 1 July 2003 and the date of royal assent. Although it is a minor matter, it also was an issue. It was itself a little bit troubling that the press release was put out before the date, which indicated when the retrospective date was going to be dealt with. I suspect it is very difficult not to be able to do that if you want to give people at least media notice, but nevertheless it is a concern.

It also provides a sunset for the retrospective prescription power to a 30-day period following assent, so it does have some limits to it.

These amendments mean that the act will not cover Australian non-military personnel who took part in the recent Australian interventions in the Solomon Islands and Iraq. The federal opposition believes that Australian non-military personnel who took part in these missions do in fact deserve the protection of this bill. For those reasons the Australian Labor Party does not support amendments (1) and (6) proposed by the Democrats. I do not think there is really any need for me to go on. I will take the opportunity to also read the document and see if there is anything more I wish to say on this matter.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.56 a.m.)—Senator Greig posed a number of questions. The first one was: were all Australians in the Solomons and Iraq notified of this proposed bill? Certainly in Iraq there were Australians present when this bill was proposed and the press release was issued on 26 June this year. There was not formal communication with Australians there by letter or direct contact. The government relied on the publication of the press release of 26 June. In relation to the Solomons, Australians had not yet been deployed to the Solomon Islands. That occurred later. As at 1 July, it was not possible to notify Australians in the Solomons because they were not there yet. But again the Australian government would rely on the press release of 26 June, which the government would say was sufficient notice. It placed the community on notice that this was a proposal that the government was going to pursue. That was an appropriate means of making people aware.
The second question was whether the government is aware of any criminal act being committed by an Australian in these overseas jurisdictions. The government is not aware of any criminal act having been committed. Having answered that question in that manner, we then have to go to question 3, which is: if that is the case, why have the retrospectivity? Senator Greig has asked: if there is no criminal activity that we are aware of, why have it operate retrospectively? The government’s reply to that is that we do not know all events which have occurred, what people have done or not done, and it may well be that something surfaces in the future where someone might be liable to prosecution for something he or she did during this period of time. This retrospective aspect is more of a safeguard than anything else, by extending Australian jurisdiction to those civilian Australian personnel serving in these jurisdictions. So the government would say that it is with an abundance of caution that we have made this retrospective because, although we do not know of any criminal acts having been committed, nonetheless it could surface in the future, as it often does with human affairs, that someone was guilty of some criminal act. Therefore, we believe that this should be retrospective. The other question Senator Greig asked is not relevant, because that only applied if we were aware of any criminal acts, and of course the government is not aware of any criminal acts having been committed.

I have provided a copy of the government’s reply to the Senate Standing Committee for the Scrutiny of Bills, dated 7 October 2003. I table that letter and I will address the contents of it because it really deals with the question of retrospectivity, which is largely the subject of this debate. The committee asked for advice on two areas of the bill: the provisions in proposed item 2 in the table in subclause 2(1) and proposed new subsection 3C(5) of the bill which the committee considered on personal rights and liberties. Specifically, the committee asked why it was considered necessary to extend Australian criminal jurisdiction retrospectively to Australian civilians working in foreign countries and why the date of 1 July 2003 was chosen for that purpose. I think Senator Greig has also asked that question in the committee. The letter explains the date of 1 July 2003 was chosen to ensure that the bill covered all Australians civilian personnel deployed to the Solomon Islands.

In relation to retrospectivity, the reply deals with it in two parts, as it relates to Iraq and as it relates the Solomon Islands. For the purpose of the record, it is important that I go through that. The inclusion of a power to pass retrospective regulations for three months following royal assent to the bill is intended to allow regulations to be made declaring Iraq and the Solomon Islands as foreign countries for the purposes of the act. The government considers it necessary to extend Australian criminal jurisdiction over civilian personnel in these countries for different reasons.

In Iraq, a coalition provisional authority order was passed just prior to 1 July 2003 that determined immunity issues for coalition personnel deployed to Iraq. This order provided that, while personnel serving in Iraq would generally be immune from prosecution under the criminal laws of Iraq in circumstances where a home country was unable to exercise jurisdiction over a national, the coalition provisional authority may request the home country to waive jurisdiction and allow the national to be prosecuted by Iraqi courts. Extending Australian criminal jurisdiction retrospectively over Australian civilian personnel serving in Iraq would ensure that those personnel will not be subject to potentially unstable Iraqi courts for any offences committed while on deployment but
will be protected by the fairness and due process of the Australian court system. While the government is not aware of any incidents of Australian civilian personnel committing offences in Iraq, it is important that Australia is able to exercise jurisdiction over civilian personnel covered by the order retrospectively for the maximum period possible. That deals with the situation in Iraq.

The reply goes on to deal with the Solomon Islands. Australian civilian personnel serving in the Solomon Islands have been guaranteed immunity from the criminal jurisdiction of the Solomon Islands for acts done in the course of official duties. However, Australian civilian personnel may be subject to the jurisdiction of the Solomon Islands for acts done outside the course of official duties unless Australia can claim jurisdiction itself. Without this amendment, Australia is not able to exercise criminal jurisdiction over deployed Australian civilian personnel. This means that there is currently a jurisdictional gap over Australian civilian personnel serving in the Solomon Islands for acts done in the course of official duties. For acts done outside the course of official duties, Australian civilian personnel are at risk of facing the Solomon Islands criminal jurisdiction and being dealt with under the Solomon Islands criminal justice system.

This bill proposes the extension of Australian criminal jurisdiction to Australian civilian personnel serving in the Solomon Islands, ensuring that Australia has the capacity to claim criminal jurisdiction over those personnel. When the government decided to extend Australian criminal jurisdiction to Australian civilian personnel serving in the Solomon Islands, the contingent had not yet officially been deployed. A decision to extend the bill to this operation needed to be made urgently as the operation was about to commence. The date of 1 July 2003 was chosen to ensure that the bill covered all Australian civilian personnel deployed to the Solomon Islands. The date of 1 July 2003 was considered appropriate as it would allow Australia to extend criminal jurisdiction to Australians civilian personnel who were likely to be deployed to the Solomon Islands and to those who had already been deployed to Iraq and to whom the coalition provisional authority order applied.

The reply goes on to explain that the provision in this bill really works to protect Australian civilian personnel deployed overseas and that the government does not introduce retrospective elements lightly. The circumstances in Iraq and the Solomons led to the inclusion of retrospective provisions because of the exceptional circumstances involved in relation to those deployments. The Scrutiny of Bills Committee has expressed concern that this was an example of legislation by press release. The government states in its reply that it believes it is undesirable for criminal jurisdiction to be applied to persons without their knowledge.

The government had two choices: either to issue the press release notifying the Australian public that the bill may apply to Australians deployed overseas in Iraq and the Solomons from 1 July 2003 or not to apply the provisions retrospectively, leaving Australians deployed to the Solomon Islands and Iraq liable to potential instabilities in the Iraqi and Solomon Islands criminal justice systems. Having recently been to the Solomon Islands, I can endorse those sentiments. I believe the government’s reply to the Scrutiny of Bills Committee addresses that question of retrospectivity and that this is an occasion where the use of it is to the advantage of Australians.

**Senator Ludwig** (Queensland) (10.07 a.m.)—I ask the Minister for Justice and Customs whether or not the Scrutiny of Bills Committee has accepted the answer by the
Attorney-General, the Hon. Philip Ruddock. It would be helpful in the deliberations to know what the advice was. The chair of that committee is in the room, but I do not know whether she can add to that.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.08 a.m.)—As Senator Ludwig has said, Senator Crossin, who is the chair of the committee, is in the chamber. I can only say that the government has delivered its reply, but as to how that has been received by the committee I am in the hands of Senator Crossin.

Senator CROSSIN (Northern Territory) (10.08 a.m.)—We met this morning and the letter was accepted. Of course, the deliberations of the committee are subject to a report that we table each Wednesday afternoon. That is perhaps all I can add to the debate. As far as I am aware, there are no further problems, except we did decide in our meeting today—and for the record I will take this opportunity to say this—that if the explanatory memorandum had in fact been a little clearer and if the EM had explained the reasons for the retrospectivity we would not have had to undertake the correspondence with the minister that we did.

Senator LUDWIG (Queensland) (10.09 a.m.)—I did not wish to put the chair on the spot. My concern was, and still is, that we are debating this matter prior to the report of the Scrutiny of Bills Committee. I would expect the minister to at least give the opposition and the Democrats an undertaking to come back and advise if there is a problem with this. I think the Scrutiny of Bills Committee is an appropriate place, and it was appropriate for the Attorney-General to reply. Retrospectivity is an important issue and the opposition accepts that there are exceptional circumstances, given the range of decisions of the High Court that seem to allow retrospectivity in this matter. Also, I think it is of paramount importance that non-military personnel serving in the Solomons and Iraq are assured that they have certainty in this matter. It is helpful to tie up these ends to ensure that we get these things in order. Sometimes they do get out of order because of the nature of this chamber, but it is important to ensure that we are not simply skirting around the deliberations of the Scrutiny of Bills Committee on this matter as well. I expect that the Scrutiny of Bills Committee will report this afternoon, which of course will be post our deliberations. The opposition’s view that we are right in this instance is given in good faith, but of course that can always change as a result of what the Scrutiny of Bills Committee says. That then obviously means that the view of the Democrats is not on point rather than saying it is wrong.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.11 a.m.)—If I can just allay Senator Ludwig’s concerns, I can certainly undertake on behalf of the government to have a close look at the Alert Digest. We had anticipated getting our reply to the committee earlier, but of course the former Attorney-General was overseas and it was just impossible to get that reply to the committee last week. I can assure the chamber that, as a former member of that committee and one who still remembers the good advice of Senator Cooney, the well-known former chair of that committee, you ignore the advice of that committee at your peril. We certainly will undertake to look closely at the Alert Digest of the Scrutiny of Bills Committee and will have regard to any comments it might make.

Senator CROSSIN (Northern Territory) (10.12 a.m.)—I am sure that this will not be a problem. The committee, as I have said, has accepted the advice provided in the letter. We did make a comment that the letter was signed by the new Attorney-General just
yesterday. We were very hopeful that perhaps one of the first tasks he would undertake as the newly sworn in Attorney-General would be to deal with the matters of the Scrutiny of Bills committee, seeing that it is such an important committee of this parliament. We were quite encouraged by the fact that he signed the letter yesterday and endeavoured to get it to the committee yesterday. That was a somewhat pleasing aspect for the committee. I think you will find that, when the report comes down today, the committee had no further issues and accepted the reasons provided in the letter. As I did say, there would not have been a need for the committee to write to the minister if the explanatory memorandum had been clearer in the first instance and if the EM had initially provided the reasons for the retrospectivity. Of course, this chamber will be familiar with the fact that an ongoing issue with the Scrutiny of Bills Committee is the inadequacy of some of the explanatory memorandums. Of course, this highlights another area where there is a need to fully explain aspects of the bill and in this particular instance, the aspect being the retrospective nature of some of these clauses which needed to be fully explained. That has now been clarified in the minister’s letter.

Senator GREIG (Western Australia) (10.14 a.m.)—In the letter from the Attorney-General tabled by the Minister for Justice and Customs, there is an explanation as to why this legislation is appropriate for covering those personnel in Iraq, the key argument being the instability and uncertainty of the Iraqi court system currently. I can see that there is some merit in that argument, but there is no explanation that I can see in this letter as to why that same principle would apply in the Solomons. I note the Attorney’s letter on page 2 says:

Australian civilian personnel serving in the Solomon Islands have been granted immunity from the criminal jurisdiction of the Solomon Islands for acts done in the course of official duties.

I ask the minister what the policy purpose behind that is.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.15 a.m.)—Certainly it is well known that the Solomon Islands is experiencing great difficulties at the moment, and that was the reason for the request by the Solomon Islands government for Australia, with other Pacific nations, to assist with matters dealing with law enforcement, the rebuilding of policing in the Solomons and the legal infrastructure, including the courts. During a recent visit I made, there was an emphasis placed on the rebuilding basically of the legal system, including the courts, prosecutions and the infrastructure which goes with all that. Really, the comments in relation to Iraq pertain to Iraq, but the concerns we have in relation to the Solomons are still concerns based on examples of the infrastructure failing in the Solomons. At the moment, I think that the situation in the Solomons is not what one would call ‘desirable’. There is great work being done by people in the Solomons to remedy the situation. There are some very good people on the bench, and we came across them during the visit, but they are experiencing great difficulty. I think it is appropriate that we cover Australian civilian personnel in non-official duties. Immunity mentions official duties, but of course we have to extend beyond that.

You have to remember that a person is not on official duties 24 hours a day. They can be going about their work in AusAID or doing all sorts of things—advising the courts in all sorts of areas. I understand there are even lawyers up there who are giving the Solomons advice. For a large part of the day they are not on official duties. They could be going about their own daily lives when something happens and they find themselves sub-
ject to the Solomon Islands criminal jurisdiction. We believe that, for reasons that exist in the Solomons at the moment, it is wise to cover them for non-official duties as well and give them the benefit of the Australian criminal jurisdiction.

Senator GREIG (Western Australia) (10.18 a.m.)—I note that Corporations Law applies within the Jervis Bay territory and that it contains criminal offences which apply to individuals, namely company directors. While it is clear that this bill applies only to natural persons and not to corporations, has the government received any advice as to whether criminal offences applying to company directors will be extended extraterritorially under this legislation?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.18 a.m.)—That was a matter which Senator Stott Despoja raised in the second reading debate. As was stated, the bill applies the criminal law of the Jervis Bay territory to Australians working overseas in various circumstances, but usually in connection with the Commonwealth the application of the bill will be limited by nature of the deployment. While the bill may in theory apply Corporations Law to Australians serving overseas, in practice it is unlikely that an Australian who is covered by the bill will be in a position to commit corporations offences. The extraterritorial application of criminal jurisdiction under these amendments would apply to all civilian personnel deployed overseas in connection with the Commonwealth, not only those acting in association with UN activities as currently covered. The bill does not address general extraterritorial application of Australian law.

If the question is, ‘If an Australian director, say in the Solomons, commits an offence, would they be covered by the bill?’ the law would certainly apply to them as an individual. I suspect that the question asked by Senator Greig and the point raised by Senator Stott Despoja is whether, if they commit an offence against Corporations Law, they could be vicariously liable for an act committed by the company. I think that is what Senator Stott Despoja was driving at. While the bill may in theory apply Corporations Law to Australians serving overseas, in practice it is unlikely that an Australian who is covered by the bill will be in a position to commit corporations offences. I think that passage I have quoted might cover the situation. Senator Greig might want to pursue that further, and I will obtain further advice.

Senator GREIG (Western Australia) (10.21 a.m.)—The Democrats have a long-standing antipathy towards retrospective criminal sanction and we will be adhering to the amendments as circulated. In response to criticism from Senator Ludwig, who argued Labor’s opposition to the amendment in part on the ground that we were using for retrospectivity, I am advised that the test we have used is based on the government’s wording in section 3A(2) of the act. The test for retrospectivity that we Democrats are using is an established principle and not a departure from that.

Senator LUDWIG (Queensland) (10.22 a.m.)—Thank you; that does provide some clarification. If that is the test then I think that, in this instance, this bill provides the exception to the test. That is the point I was trying to make, but I may have made it quite badly. I have the opportunity to correct that now. The test of the High Court in Polyukhovich is there. I think this is one of those bills about which we can say, quite defensibly, that the citizens of Australia require the protection afforded to them by this bill. They will, provided the bill is passed, have the protection of the Australian jurisdiction in their endeavours.
Question negatived.

Senator GREIG (Western Australia) (10.23 a.m.)—by leave—I move Democrat amendments (2), (3), (4) and (5) together.

(2) Schedule 1, item 16, page 7 (line 23), omit “This”, substitute “Subject to subsection (6A), this”.

(3) Schedule 1, item 16, page 8 (line 2), omit “This”, substitute “Subject to subsection (6A), this”.

(4) Schedule 1, item 16, page 8 (line 17), omit “This”, substitute “Subject to subsection (6A), this”.

(5) Schedule 1, item 16, page 8 (after line 33), after subsection 3A(6), insert:

(6A) This Act does not apply to the person in relation to the act at a particular time after the act occurs if:

(a) the person is, at that time, subject to criminal proceedings in the courts of the foreign country in respect of the act; and

(b) the person would continue to be subject to criminal proceedings in the courts of the foreign country in respect of the act even if the person were to be prosecuted under the laws of the Commonwealth in relation to that act and acquitted or convicted.

These amendments go to the issue of double jeopardy. The bill does contain safeguards against double jeopardy in relation to Australians who have been granted diplomatic and consular immunities; and also to Australians who have been granted immunity pursuant to an agreement or arrangement between Australia and another country, or between Australia and the United Nations. However, the bill does not provide any express safeguard against double jeopardy in the case of Australians working under a declared agreement or arrangement in a declared foreign country or declared part of a foreign country.

It is unclear—certainly to we Democrats—why this should be the case, and we invite the minister to elaborate on the reasons for what we see as an omission. We are aware that a prosecution cannot commence without the consent of the Attorney-General, who must first consult with the Minister for Foreign Affairs. We accept that it is unlikely that the Attorney-General would consent to a prosecution if there were a risk of double jeopardy. Nevertheless, we believe strongly that it needs to be expressly provided for in the legislation and feel that there ought to be no opportunity under this legislation for an Australian to be twice convicted for the same offence.

Senator LUDWIG (Queensland) (10.25 a.m.)—The opposition does not see its way clear to supporting these four amendments, for the following reasons: these amendments all propose removing the ability of the Attorney-General to prescribe the Australian jurisdiction over personnel operating in countries that have not ceded jurisdiction to Australia. Effectively, it removes the defensive component of the bill that allows the Attorney-General to prescribe jurisdiction against, or regardless of, the will of the nation in which the personnel are serving. Of course, this is not an old doctrine; this is an evolving legal doctrine that in certain circumstances—and in limited circumstances—is an appropriate legislative tool. It is not an issue that we believe the government would use widely or often. It is a very limited issue where it would arise.

The federal Labor Party believes that the circumstances contemplated by this bill do, in fact, demand this evolving legal principle. The use of this power is not without precedent in other jurisdictions around the world, including the United States who adopted the Military Extraterritorial Jurisdiction Act of 2000, which contains a similar legal principle to the defensive prescription power con-
tained in this bill. The federal opposition recognises that this granted power delivers a significant level of discretionary power to the Attorney-General. However, and as I have underscored, in the limited circumstances contemplated by this bill the federal Labor Party believes this discretionary power is necessary to facilitate the successful fulfilment of Australia’s international obligations.

As Australia’s role in our region and the world grows, legislative instruments will need to facilitate this development and provide the Australian government with the necessary legislative tools to protect the non-military personnel carrying out these important missions. As you can understand from the operations so far, it is not only military operations that can be contemplated by the Australian government. Also—and more importantly in some respects—there are the non-military supporting personnel who are there as a presence in a wider capacity. That is becoming a more frequent event and it is growing in its demands on the Australian people. However, in doing that we have to ensure that appropriate safeguards are in place, so that Australian citizens serving in that capacity have the comfort of Australian law.

The powers themselves will demand the vigilance of this place—so there is an ongoing role for the parliament—to ensure that they are utilised sparingly and only in the interests of national and international justice. There is a very high test to be met by this government in the use of this power. It is only in this context of careful review that we have decided that Democrat amendments (2), (3), (4) and (5) should be rejected and the legislative intention of the original bill retained. Clearly, this matter is one that raises a concern with the Democrats, and I recognise that. However, for the reasons that I have articulated, we are unable to support these amendments. We do recognise that vigilance is required to continue to ensure that the power is utilised sparingly and in limited circumstances.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.29 a.m.)—The government opposes these amendments, and it does so on the basis that double jeopardy is a principle which is enshrined in common law. As we speak, the states and territories with the Commonwealth are reviewing how double jeopardy works. Indeed, the task of codifying is being conducted by the Model Criminal Code Officers Committee. If we were to insert into this bill a provision dealing with double jeopardy, it would be pre-empting what the states, territories and Commonwealth would be coming up with. In any event, we have the safeguard of common law. Double jeopardy is a principle which is there; you do not need to insert it into the bill. That is something that is part of our legal system. I add that prosecutions cannot be commenced without the consent of the Attorney-General, who is required to consult with the Minister for Foreign Affairs. When we look at this bill, we should also keep that in mind.

Question negatived.

Senator GREIG (Western Australia) (10.30 a.m.)—I have just a few more questions for the minister. Minister, does the government have a policy position on what its response might be if another country were to pass similar legislation regarding its personnel here in Australia?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.31 a.m.)—I am not aware of any policy on that; I would have to take it up with the Minister for Foreign Affairs. I will take that on notice.

Senator GREIG (Western Australia) (10.31 a.m.)—I ask the minister also if he is aware of any US non-military personnel cur-
rently deployed in Australia. What is the legal status of both military and non-military personnel from the US while in Australia? Are they subject to Australian law?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.32 a.m.)—The 1963 status of forces agreement with the United States covers US military personnel, and they are covered by US law. As for non-military personnel from the United States, I am not aware of the position and I will take that on notice as well.

Senator GREIG (Western Australia) (10.32 a.m.)—I further ask the minister if he can advise whether the legislation would have any impact on the obligation of Australians who have been granted diplomatic and consular immunities to appear as witnesses if they are subpoenaed by a foreign country.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.33 a.m.)—My advice is that it would have no effect on that process. It would not impede the subpoena.

Senator GREIG (Western Australia) (10.33 a.m.)—I have a follow-up question in respect of a question asked by Senator Greig. You may recall that in my second reading contribution and during our consideration of amendments at the committee stage I referred to the Military Extraterritorial Jurisdiction Act of 2000. That US act covers military and non-military personnel acting under the auspice of the US Department of Defense if they are in Australia. I do not know whether—and this is a matter that the government may wish to include in an answer to you—the government has assented to the provisions of that act to operate in Australia. But, if they did so—and I suspect they would—it would mean that US non-military personnel working under the auspice of the US Department of Defense would be covered in the same way. Military personnel obviously would then be covered by separate legislation.

In his question, Senator Greig was referring to the broader range of people who may
be affected. For argument’s sake, there are also people such as security personnel who may be operating in Australia, and I suspect there are other pieces of legislation that may cover them. There are also non-military US personnel who are on exchange programs and the like from the US, who may be covered by other pieces of legislation. It would not hurt for the government—although the advisers might complain—to provide a more fulsome answer to Senator Greig in respect of that to make the matter a bit clearer.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.37 a.m.)—We can accommodate Senator Ludwig’s request. I will have to take the question on notice as to whether we have assented to it or not, as that advice is not to hand.

Senator GREIG (Western Australia) (10.37 a.m.)—I want to follow up my earlier question about the impact of the obligations on Australians with diplomatic immunity being subpoenaed. It would appear that the Vienna convention—that is, the convention dealing with consular relations—does not have any force in relation to Australian diplomatic and consular staff working in the US. I refer in particular to a criminal prosecution currently pending in the US against Australian citizen Mr Kirk Pinner. In that matter, Australian Consular Officer Brian Brook has been subpoenaed to appear as a witness against Mr Pinner. A letter dated 4 September this year, from the Australian Consulate-General and the Australian Trade Commission in San Francisco states:

... we have been seeking to have Consular Officer Brian Brook exempted from subpoena, however the US Department of State has confirmed that this is not possible.

Given that the government clearly did not waive its rights under the Vienna convention in that instance, it would appear that there is some alternative arrangement in place with the United States. Can the minister explain why the Vienna convention appears to have no force with respect to Australian personnel working in the US? Does the government agree that the potential for our consular staff to be subpoenaed by foreign countries to testify against Australian citizens not only is contrary to the Vienna convention but also places them in a position of conflict and undermines their ability to provide consular services on behalf of Australian citizens?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.39 a.m.)—That is a detailed question in relation to the matter concerning Kirk Pinner, of which I am aware of the circumstances because he was extradited from Australia to the United States. I will have to take that question on notice and get the details to Senator Greig.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.40 a.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

TAXATION LAWS AMENDMENT BILL
(NO. 7) 2003

Second Reading

Debate resumed from 11 September, on motion by Senator Ian Campbell:

That this bill be now read a second time.

(Quorum formed)

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (10.43 a.m.)—My recollection is that the Taxation Laws Amendment Bill (No. 7)
2003 was stood over until today to enable the ALP and Senator Murray to consider the form of an amendment. We now have one, which I have only just been able to have a look at. There are still some problems with the way in which it is framed. It would still have the effect that some 200-odd organisations that are currently specifically named as DGRs will lose that entitlement.

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Minister, you may wish talk about this in the Committee of the Whole rather than at this point.

Senator COONAN—If that will be of some assistance, I am happy to do that. My initial impression of this amendment is that it still will not meet the mark and will need some further attention.

Question agreed to.

Bill read a second time.

In Committee

Senator SHERRY (Tasmania) (10.46 a.m.)—The amendments are being circulated on revised sheet 3093. Following a discussion during the earlier debate on the Taxation Laws Amendment Bill (No. 7) 2003, Mr Cox and I had a meeting with the Clerk to redraft the amendments that had originally been circulated. I am a little surprised the minister has only just been able to see the opposition amendments on revised sheet 3093. I understood that they were recirculated on 16 September, about three weeks ago. Our advice from the Clerk is that they are in the correct form and do cover the matters that the minister raised on the previous occasion.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (10.47 a.m.)—That is not the way I see it. I was endeavouring to say, with a view to avoiding further delays in the consideration of the bill, that I am prepared to offer a bit of a helping hand and point out the difficulties that will arise as a consequence of Mr Cox’s amendments that were circulated in this place under Senator Sherry’s name. I will go through the difficulties as I see them. Item 57, which is section 30-249A(1), needs to be amended because, as a consequence of reverting to the status quo for DGRs, specific environmental organisations continue to be covered by section 30-55 and therefore the legislation does not need to refer to regulations. The second way in which the proposed amendments are defective, in my view, relates to item 57, section 30-249B(1). That subsection requires amendment because, as a consequence of reverting to the status quo for DGRs, specific heritage organisations continue to be covered by item 6 in the table in section 30-15 and therefore the legislation does not need to refer to regulations. The third defect in Mr Cox’s amendment relates to item 72, which in my view needs to be retained. Item 72 deals with the measure for allowing cash donations to DGRs to be spread over a period of up to five years and also deals with replacing four subdivisions with one. This is a transitional measure to ensure that the old provisions of subdivisions 30DB to 30DE continue to apply in relation to gifts made and covenants entered into prior to 1 July 2003. This enables prior year assessments to be completed on the basis of the old provisions. I have prepared some words that will help Senator Sherry in order to allow these deficiencies in the current amendments to be corrected.

Senator SHERRY (Tasmania) (10.50 a.m.)—I have one point of clarification. I assume you are referring to the revised amendments on sheet 3093?

Senator Coonan—Yes, that is correct.

Senator SHERRY—Firstly, I thank the minister for her assistance. There are two options. In respect to the Clerk’s advice, we met with the Clerk on this matter. I am not
criticising the Clerk, because sometimes amendments are difficult and complex to draft. We can proceed now on the basis of the minister’s advice, which I accept, or we can adjourn the matter and have the amendments redrafted again.

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (10.51 a.m.)—I think the most convenient course may be for me to pass to you a brief statement of what I have just put on the Hansard record, so you can have it by way of reference, and the actual reworded amendments. I do not think it is appropriate that I move the amendments, because I oppose them.

**Senator SHERRY** (Tasmania) (10.52 a.m.)—In terms of the process, should I seek leave to withdraw the amendments we are currently considering and then move the recirculated amendment document that the minister has kindly provided?

**The TEMPORARY CHAIRMAN** (Senator Hutchins)—You do not need to withdraw them, I am advised, because they are all questions to oppose items.

**Senator SHERRY**—The document that has now been circulated by the minister is referred to as QP219. As I say, I would think the minister and I would be moving QP219 rather than Labor’s amendments on sheet 3093.

**The TEMPORARY CHAIRMAN**—We have not got a copy of QP219 yet.

**Senator Coonan**—I will pass you my copy so you can have a look.

**The TEMPORARY CHAIRMAN**—You might like to continue your remarks while we get a copy, Senator Sherry.

**Senator SHERRY**—We had extensive discussion about the amendments on the previous occasion. I must say it was not my intention to take up time in the committee stage to go back through the debate on the previous occasion. Whilst I have not had time to go through the suggestions that the minister has kindly provided us with in detail, I thank her, and I accept the advice that she has given. This is a complex area of drafting in respect of these amendments, so it would be my intention—once you have a copy. Chair, and once there is one that is more generally available—to move the amendments on QP219 on behalf of the opposition and to not proceed with the revised amendments on sheet 3093.

The intention of Labor’s amendments is to ensure that the listing of charities, as defined, is continued within the primary legislation rather than by regulation. As I said, I did outline on the previous occasion the reasons for Labor’s approach. There is a tendency for more and more legislation to be delegated into regulation. In some cases, that is appropriate but, on this occasion, we believe that it is not an appropriate approach and that, effectively, the status quo of listing what are known as charities should continue in the current way rather than through the regulatory approach. That ensures that there is more effective scrutiny of the process through a bill in parliament and effectively through the Senate chamber. The use of regulations is appropriate, obviously, in respect to some matters, but we do not see the reason for the change on this occasion. We believe that direct oversight in the legislation is preferable to a regulatory approach. Have you got sufficient information before you to proceed, Chair? If I could take some advice, do I need to withdraw the amendments on sheet 3093, revised?

**The TEMPORARY CHAIRMAN**—As you would be aware, there are a number of items to be opposed and two amendments. I propose that the committee deal with the items to be opposed as groups and then with the two amendments. Is that the wish of the
committee? There being no objection, it is so ordered. The question is that items 1, 3 to 56, 58 to 60, 62, 64 to 71 and 73 to 77 stand as printed.

Senator MURRAY (Western Australia) (10.58 a.m.)—This process we are going through is both satisfactory and unsatisfactory. It is satisfactory from this perspective: the minister, through her advisers, identified flaws in the original opposition amendments. The Senate then adjourned in order for those matters to be resolved between the government and the opposition to ensure that the opposition’s amendments, as put, were satisfactory for the purpose they outlined. The opposition went back to the clerks, as I understand it, had their amendments revised and circulated them some three weeks ago. I would have expected that, well in advance of this debate, the minister’s office would have been in contact with the opposition’s office to discuss and clarify the matters before us, rather than it happening on the floor. Nevertheless, that it is happening on the floor is still within the bounds of what I would regard as satisfactory, because the matter is being addressed properly.

However, it is unsatisfactory from the point of view of the Democrats in that, on this matter, as on many matters, our voting decision will determine the outcome of these amendments. The Democrats have previously signalled quite clearly that they are supportive of the policy intent of Labor’s amendments, which restore the status quo, and therefore we welcome the minister’s office and the minister attempting to ensure that the amendments technically achieve what they are intended to do. However, everyone in this chamber is aware that a great deal of taxation legislation is taken on trust because the Senate is simply not equipped to establish that the complex interconnections between tax law are covered in full and therefore does rely on officers of the Treasury and of the ATO to give advice to the ministers and to formulate legislation in a way which guarantees that, as far as possible, mistakes are avoided—although, as we know, there are amending bills periodically which are designed to address mistakes that have been made, generally speaking, in good faith.

The opposition are not quite as poor in resources as the Democrats, but they are certainly poor in resources compared to the Treasury and ATO services which are available to the government. Therefore they, too, rely on the government’s response. For this to happen at the last moment, when there have been a number of weeks available to discuss this between the two offices, is not good process, and I hope that in future it is avoided. In those circumstances I must therefore indicate, Minister, our thanks to you and your office for making sure that the opposition amendments do achieve the outcome they intend. We are obliged to take those amendments on trust, given that they have been produced today, and to accept that they will fulfil the intention of the opposition, which is to restore the status quo. In that sense, therefore, we will retain our existing view that we would prefer that the status quo be retained, and we will therefore be supporting the new amendments on sheet QP219. We would, of course, expect that when those amendments go down to the House of Representatives the government will cast a further careful eye over them to ensure they are fit for the purpose for which they are intended. Mr Temporary Chairman, when the amendments are completed I would like to put a general question to the minister concerning charities. I would appreciate the opportunity at that time.

Question negatived.
Senator SHERRY (Tasmania) (11.03 a.m.)—by leave—I move opposition amendments (3) and (4) on sheet QP219:

(3) Schedule 3, item 57, page 20 (lines 2 to 7), omit subsection 30-249A(1), substitute:

(1) This section applies if you make an election for a gift of property made to a fund, authority or institution covered by section 30-55.

(4) Schedule 3, item 57, page 20 (lines 17 to 22), omit subsection 30-249B(1), substitute:

(1) This section applies if you make an election for a gift of property made to a fund, authority or institution covered by item 6 of the table in section 30-15.

These amendments deal with the issue under discussion. The amendments are a package to ensure, as Senator Murray indicated, that the status quo is maintained in respect of the legislative oversight in the bill itself rather than through regulation.

Question agreed to.

Senator MURRAY (Western Australia) (11.05 a.m.)—This may be a little difficult for the minister at the table, because I am not sure, despite his immense experience and knowledge, that he will be up to speed on this particular question. Perhaps he could take some advice through the chair. I would like to know, Minister Kemp, for the benefit of the Senate, how the charities definition legislation is coming along and when the Senate is likely to see that legislation. I believe it was under consultation and the issue of the definition had caused a particular flurry of press comment, letters and emails to senators. I would be interested to know where we are at with that particular issue.

Senator SHERRY—That is very helpful.

Senator KEMP—I always try to be helpful to you, Senator.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator KEMP (Victoria—Minister for the Arts and Sport) (11.08 a.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.
BUSINESS

Rearrangement

Senator KEMP (Victoria—Minister for the Arts and Sport) (11.08 a.m.)—I move:

That—

(a) consideration of government business order of the day no. 3 (Taxation Laws Amendment Bill (No. 8) 2003) be postponed to the next day of sitting; and

(b) intervening business be postponed till after consideration of government business order of the day no. 5 (Australian Protective Service Amendment Bill 2003).

Question agreed to.

AUSTRALIAN PROTECTIVE SERVICE AMENDMENT BILL 2003

Second Reading

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

That this bill be now read a second time.

Senator LUDWIG (Queensland) (11.09 a.m.)—The Australian Protective Service Amendment Bill 2003 gives additional powers to the Australian Protective Service to deal proactively with suspicious activity in the heightened security environment that we now face. Since the bill was first introduced, the government has circulated amendments that would confer these same powers on Australian Federal Police officers operating alongside the APS officers at places where those APS officers are providing protective security service. It is designed to operate in tandem.

It is worth while talking for a short while about the APS. It provides a high level of security service at Parliament House, the offices and residences of the Prime Minister and the Governor-General, sensitive Defence establishments, foreign embassies and the Australian Nuclear Science and Technology Organisation. Importantly, the APS provides counter-terrorism first response at security designated airports around Australia—and I am sure the public have had the opportunity to see those people—which has been upgraded to advanced first response level. APS officers fly covertly on domestic commercial flights, which the public may not have seen.

To place the bill in context, I will first address briefly the existing powers exercised by APS officers. Under the Australian Protective Service Act 1987, the APS currently have the power in respect of specified Commonwealth offences to arrest a person without a warrant and to search the personal property of an arrested person for weapons or evidence. The arrest power may be used where the APS officer has reasonable grounds for believing that specified offences have been or are being committed in relation to persons, places or things where the APS is performing its function. The APS officer must also have reasonable grounds for believing that arrest is necessary to ensure a person’s appearance in court, to prevent the offence continuing or another offence being committed, to prevent the destruction or loss of evidence or to preserve the person’s safety or welfare and that proceeding by way of summons would not achieve the same end.

The APS may currently search and arrest a person if they have reasonable grounds for believing that they have a weapon or other instrument that could inflict bodily injury or facilitate escape or to prevent the concealment or loss of evidence relating to the offence. Such a search must be conducted by an APS officer of the same sex as the arrested person or, if such an officer is not available, by any other person who is of the same sex as the person and is requested to conduct the search. The APS may then seize such weapons or evidence found in the search. In that instance, the APS must forthwith deliver the arrested person and any seized items into the custody of po-
lice officers, to be dealt with according to law.

These powers under the APS Act apply to specified Commonwealth offences. Among these are offences under the Crimes Act 1914, including crimes such as sabotage, escaping from custody and trespassing on Commonwealth land; offences under the Crimes (Aviation) Act 1991, including hijacking and acts of violence committed on board aircraft; and terrorist bombing offences and terrorist act offences under the Criminal Code Act 1995. APS officers also possess certain powers under other legislation, including—and relevantly—a power under section 89 of the Crimes Act 1914 to require a person found on prohibited Commonwealth land to provide their name and address. Prohibited Commonwealth land is land belonging to or occupied by the Commonwealth on which notice is posted that trespassing on the land is prohibited. Failure to comply with such a request has a penalty under that act. This power, under section 89, is also conferred on AFP officers. In addition, AFP officers possess a broader power under section 3V of the Crimes Act to require a person to provide their name and address if, on reasonable grounds, the officer believes that the person may be able to assist with inquiries in relation to an indictable offence that the officer has reason to believe has been or may have been committed. Failure to comply also carries a penalty.

The APS has embarked on a new role as well. Since September 11, the APS has found itself very much on the frontline of efforts to protect the public from terrorist threats at critical sites, including security designated places such as airports and domestic commercial aircraft. We have full confidence in the capacity of the APS to continue to discharge its counter-terrorism responsibilities with diligence and professionalism; however we recognise that to perform this role effectively it is important that APS officers be empowered to deal proactively with suspicious activity.

Also since September 11 the APS has become an operational division of the Australian Federal Police, with the Commissioner of the AFP replacing the Secretary to the Attorney-General’s Department as agency head. So we effectively now have the Australian Federal Police acting as the body to which the APS now belongs. Whilst the APS generally provides protective security and custodial services and the AFP primarily has an investigatory and policing role, the AFP officers can be involved in providing protective services alongside the APS and will be involved in training APS officers. The government has foreshadowed additional legislation to further integrate the two agencies, which I think is more commonly known as ‘One act, one agency’. But that is not being dealt with here today; it is a matter that the government has simply foreshadowed will be dealt with in the future. In fact, I think it is on the forward planning and, hopefully, the bill is in an advanced stage of drafting.

This bill, if passed, will give the APS additional powers to require a person to provide information and to stop, search and seize items likely to cause substantial damage, death or serious harm. These are important powers that will assist the APS officers and the AFP officers who operate alongside them at protective security sites such as airports to discharge their responsibilities, in particular their counter-terrorism responsibilities, more effectively. It is worth adding at this juncture that, whilst APS personnel are not police as such, they do in fact provide a high level of counter-terrorism response. These people, whom you might see at airports, are well trained to deal with those issues.
In addition, APS officers will now have the power to require information. If the bill is passed it will, firstly, empower an officer to require a person to provide their name, residential address, reasons for being in a place and evidence of their identity. To exercise this power the officer must suspect on reasonable grounds that the person has just committed, might be committing or might be about to commit one of the Commonwealth offences currently specified under the APS Act. The person must also be in the vicinity of a place where the APS officer is performing functions under the APS Act. The officer must display their identification number if they are in uniform, or their identity card if out of uniform, and inform the person of their authority to make the request and that it may be an offence not to comply with the request. Failing to provide information or providing false information without reasonable excuse is, of course, an offence and does carry a fine.

The bill will empower an officer to stop and search a person, including their vehicle, who is suspected on reasonable grounds of having a weapon or other thing that is likely to cause substantial damage, death or serious harm in a place where the APS officer is performing functions under the APS Act. So we can see that, although it is a substantive power, it is designed to operate within the context of the power provided to them in the place in which they are operating. As occurs at present with searches of arrested persons, any search must be conducted by a person who is of the same sex as the person being searched. If an Australian Protective Service officer, an Australian Federal Police officer or a Customs officer of the same sex is unavailable, another person of the same sex can be authorised to conduct the search. The person conducting the search must not use more force or subject a person to greater indignity than is reasonable and necessary in order to conduct the search, and must not damage the thing by forcing it open unless they have given the owner an opportunity to open the thing first. The search is limited to an ordinary and frisk search, which is defined consistently within other Commonwealth legislation.

If the officer suspects on reasonable grounds that the thing is likely to be used to cause death, serious harm or substantial damage, the officer may seize it and must deliver it as soon as possible into the custody of a police officer. So there are certain checks and balances contained within the bill on the use of the power proposed. The police officer must within seven days serve a seizure notice on the person, identifying the thing and stating the date on which it was seized, the grounds on which it was seized and stating that, if the owner does not request the thing within 90 days, the thing will be forfeited to the Commonwealth. If the person requests the return of the thing, the police officer must return it unless they suspect on reasonable grounds that it is likely to be used to cause death, serious harm or substantial damage.

If after 95 days the thing still has not been returned, the police officer must either return the thing or apply to a magistrate for an order relating to the thing. It is strange to be using the term ‘thing’, but it applies to a variety of matters and it is a short legislative way of saying that it does really depend on the officer identifying the thing to determine whether it will, or is likely to, cause serious harm, substantial damage or death. The magistrate must give the owner of the thing an opportunity to be heard. So there are a significant number of checks within the system to ensure that the person who is the owner of the thing can be heard by the magistrate. If satisfied that there are reasonable grounds to suspect that the thing is likely to be used to cause death, serious harm or substantial
damage, the magistrate may make an order that the thing be retained by the police or a specified person, be forfeited to the Commonwealth, be sold and the proceeds given to the owner or be otherwise sold or disposed of. If the magistrate is not satisfied of those things, the owner gets the thing back.

By way of comparison, a number of states and territories have recently passed legislation conferring equivalent powers on state police officers to respond rapidly to imminent terrorist attacks, in particular the Terrorism (Police Powers) Act 2002 in New South Wales, the Terrorism (Emergency Powers) Act 2003 in the Northern Territory and the Police Powers and Responsibilities Act 2000 in Queensland. I note, however, that the powers conferred on AFP officers by this legislation cannot be used 'at large'; rather, they are to be used in places where AFP officers happen to be providing protective security functions alongside APS officers. So there is still that second safeguard, if you will, whereby the powers are confined to an area in which the APS would normally operate.

Both the original amendments to the act and the amendments which included the AFP officers were subject to a Senate committee. As I have said, these are important powers that will help APS officers, and AFP officers operating alongside them, to protect the Australian public, in particular the travelling public, from security and terrorist threats, and they are integrated appropriately with the existing powers of search and arrest. Recent security breaches at Australian airports have highlighted the importance of tightening the security net to prevent more serious breaches in future, with the potential to cause harm or loss of life.

The bill, as I said, was referred to the Senate Legal and Constitutional Legislation Committee on 26 June 2003 and the committee’s report was tabled on 18 August. The committee unanimously recommended that the bill be supported with one minor amendment—that the search power be amended to include vessels as well as vehicles. This followed concerns expressed by the CPSU in relation to Sydney airport, where the security restricted area adjoins waterways. The CPSU reported that there had been occasions where small vessels had moored at the rock walls of the runway, requiring a response by APS officers. I acknowledge that the government has proposed an amendment to implement the committee’s recommendation in this regard.

Following notification of the government’s amendments relating to AFP officers, the bill was referred back to the committee on 10 September. The committee’s second report was tabled on 7 October and recommended that the amendments be supported. A key concern identified during the committee’s inquiry was the effect of these amendments on the process of further integrating the APS and the AFP. Mr Evan Hall, who is Secretary of the Border Protection and International Affairs Division of the CPSU, told the committee that APS officers were concerned that the government’s amendments could pave the way for the abolition of the APS without that intention having been disclosed up front.

However, Mr Geoff McDonald, who is Assistant Secretary of the Criminal Law Branch in the Attorney-General’s Department, said this in response:

... I would like to reassure earlier witnesses that this legislation is only what it is expressed to be—that is, about ensuring that there is protective security. There is no agenda to use this as a mechanism to have integration. We have been working on an integration bill and we expect that bill to be ready before long ... I would just like to reassure everyone here that there is no other agenda with these amendments. The amendments
are about ensuring that things go operationally smoothly in the protective security environment.

Federal Agent Steve Jackson from the AFP said this to the committee:

My comment is, unequivocally, the same as Mr McDonald’s. The intent of the amendments is not to, in a secretive way, give effect to one act, one agency; it is ... to reinforce the protective security strategies that we need to have to provide the best possible response to safeguard Australia’s national interest.

It must be observed that these concerns could have been allayed had the government consulted on these amendments with the organisation representing APS officers. However, the opposition notes these commitments given by the Attorney-General’s Department and the AFP and records its expectation that any industrial matters arising from the proposed further integration will be dealt with openly, in good faith and in full consultation with all relevant parties.

The opposition will be moving an amendment to the second reading motion to highlight a number of further matters. Firstly, the amendment calls on the government to establish a complaints mechanism for the Australian Protective Service comparable to that established by the Complaints (Australian Federal Police) Act 1981. While this bill does not involve a dramatic extension of APS powers, the more visible role of the APS in public places such as airports means that a strengthened mechanism for dealing with complaints is called for. We understand that this will be addressed as part of the integration legislation. We certainly expect it to be.

Secondly, the amendment calls on the government to ensure APS and AFP officers are provided with appropriate training. This matter was raised before the Senate committee and we do expect the government to ensure that the APS and AFP jointly have sufficient training to ensure that they can work together and work well on the projects that they are required to deal with.

Thirdly, the amendment calls on the government to upgrade security at regional airports, including putting in place adequate passenger screening facilities. The opposition has called on the government to use what is expected to be a sizeable windfall from the Ansett ticket levy for this purpose.

Lastly, the amendment requests that the government ensure that the risk management culture at privatised airports results in security services that are the best and not simply the cheapest. The lack of adequate training for private security services is a matter that has been constantly raised with this government, in particular by the relevant union, the LHMU, the Liquor, Hospitality and Miscellaneous Workers Union of Australia, among whose members are employees of private security firms.

In conclusion, the opposition support this bill, which will give APS officers, and AFP officers operating alongside them, the powers they need to protect Australians from security and terrorist threats at key locations, in particular airports and commercial aircraft. I foreshadow that the opposition will be moving two amendments at the committee stage. While we support the bill, we see these amendments as providing appropriate reassurance to the public that the legislation is not intended to impact unduly on the activities that form part of the Australian way of life. We understand that the government will, if all goes according to plan, accept one of the amendments, and we acknowledge the constructive discussions we have had with the minister’s office, the department and the Australian Federal Police about these matters. We were particularly helped by the Australian Protective Service and its officers at the committee that I participated in. I particularly want to thank the Attorney-General
for undertaking to provide a more consultative approach in future in respect of legislation that is developed. I am sure that the department will, through Mr McDonald, undertake to do that. I move:

At the end of the motion, add:

“But the Senate calls on the Government to:

(a) establish a complaints mechanism for the Australian Protective Service comparable to the Complaints (Australian Federal Police) Act 1981;

(b) provide Australian Protective Service officers with appropriate training to exercise the powers under the proposed legislation;

(c) upgrade security at regional airports; and

(d) ensure that the risk management culture at privatised airports results in security services that are the best and not simply the cheapest”.

Senator GREIG (Western Australia) (11.29 a.m.)—I rise to speak on the Australian Protective Service Amendment Bill 2003 on behalf of the Australian Democrats. We Democrats are generally supportive of the measures contained within this bill, although we do have some outstanding concerns which I will address in a moment. We recognise that in the wake of the terrorist attacks of the past few years there is a need for heightened security measures in and around Australian airports and Commonwealth buildings.

The approach the Democrats have consistently taken, when considering the government’s antiterrorism proposals, has been to assess whether there is a demonstrated need for new powers and to ensure that any infringement of rights and liberties is minimised and is vital and necessary to protect the safety of Australians. Unfortunately, the vast majority of the government’s antiterrorism measures have been excessive and have involved serious infringements of rights and liberties. The government has often failed to demonstrate any deficiency in current arrangements, and therefore the need for new powers has been questionable. For these reasons, we Democrats have found the bulk of the government antiterrorism agenda unacceptable. However, in this case we do think the government has got the balance right.

The bill invests Australian Protective Service officers with three new powers designed to ensure that they are sufficiently equipped to respond to potential security threats. Firstly, APS officers will be given the power to request that a person provide their name, residential address, reason for being at a particular location and evidence of their identity. This power may be exercised only if the APS officer concerned reasonably suspects that the person has just committed, might be committing or might be about to commit an offence under the APS Act. Offences under the act include terrorism offences, offences relating to the possession of nuclear material or interfering with devices used to contain nuclear material, offences relating to Commonwealth property, offences such as sabotage, escaping from custody, hijacking and acts of violence on aircraft, and offences under the Public Order (Protection of Persons and Property) Act 1971 such as participating in ‘assemblies’ involving violence.

For we Democrats, the most important aspect of this new power is that it can be exercised only upon the reasonable suspicion an APS officer concerned reasonably suspects that the person has just committed, might be committing or might be about to commit an offence under the APS Act. Offences under the act include terrorism offences, offences relating to the possession of nuclear material or interfering with devices used to contain nuclear material, offences relating to Commonwealth property, offences such as sabotage, escaping from custody, hijacking and acts of violence on aircraft, and offences under the Public Order (Protection of Persons and Property) Act 1971 such as participating in ‘assemblies’ involving violence.

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The second new power to be given to APS officers is the power to stop and detain a person for the purpose of conducting an ordinary or frisk search of the person. This power can be exercised only if an APS officer suspects, on reasonable grounds, that the person has something that is likely to cause, or likely to be used to cause, substantial damage to a place or thing, or death or serious harm to a person. The bill specifies that ordinary and frisk searches must be carried out by a person of the same sex. If the APS officer is not of the same sex as a person, then he or she can ask another APS officer who is of the same sex as the person to conduct that search. If there is no APS officer of the same sex as the person, a police officer or Customs officer of the same sex may conduct the search; otherwise, the APS may ask anyone of the same sex as the person to conduct the search. Any person who conducts a search under these provisions must not use more force, or subject a person to more indignity, than is reasonable and necessary.

The Democrats have some concerns about the exercise of this power by people other than APS officials, police and Customs officers. While we believe it is fundamentally important that such searches be conducted by persons of the same sex, we believe that the bill requires some additional safeguards to ensure that any person who is asked to conduct a search is fully aware of what is required of them and is expressly informed of their obligation not to use more force than is reasonably necessary. We will be moving amendments to this effect during the committee stage.

The third power which the bill gives to APS officers is the power to seize items found as a result of searching a person if the items are likely to cause, or be used to cause, harm or damage involving the commission of an offence under the APS Act. A seized item must be given to a police officer as soon as practicable. It will become the property of the Commonwealth unless the owner of the item requests its return within 90 days. If such a request is made, the item must be returned to the owner, unless a magistrate has made an order on application by the police officer that the item be retained, forfeited to the Commonwealth, sold or disposed of. A magistrate can make such an order only if he or she is satisfied that there are reasonable grounds to believe that, if the thing is returned to the owner, it is likely to be used to cause substantial damage to a place or thing in respect of which the APS is performing functions, or death or serious harm to a person in respect of whom the APS is performing functions, in circumstances that would be likely to involve the commission of an offence under the APS Act.

The government has recently introduced amendments to extend each of these three powers to members of the Australian Federal Police where they are performing functions in relation to a place or person with respect to which the APS has functions. The Democrats are generally supportive of the proposed amalgamation of the APS and the AFP but are disappointed that the government has been somewhat tardy in finalising this process. More than a year after the initial legislation was passed, the government still has not introduced the legislation to fully implement the amalgamation.

With the proposed amalgamation in mind, we Democrats do not oppose the amendments to extend the powers in this bill to the AFP. As the supplementary explanatory memorandum notes, the APS is already an operating division of the AFP and there are situations in which APS and AFP officers work alongside each other in responding to security threats. For these reasons, the Democrats agree that it makes sense to extend the powers in this bill to AFP personnel. We note the issues raised during the recent in-
query by the Senate Legal and Constitutional Legislation Committee into the amendments. In particular, we have carefully considered the concern raised by the Community and Public Sector Union that enabling the AFP to exercise these powers in circumstances where the APS has functions, rather than where the APS is performing functions, could potentially sideline the APS. However, we were persuaded by the AFP’s response to this concern and its explanation as to why concurrent powers would be important where APS personnel might not be immediately present.

There are two outstanding concerns which the Democrats have in relation to the bill and which we will be seeking to address by way of amendment. Our first concern is that the power to require a person to provide a reason for being in a particular place abrogates their right to silence. The question is whether such an abrogation is vital and necessary to protect the safety of Australians. We Democrats believe this power is probably justified in the circumstances. However, we are concerned by the indication in the explanatory memorandum that this power should be construed as the first step in a graduated response to security threats. The explanatory memorandum also states that the new powers will:

… provide protective service officers with greater flexibility in suspicious circumstances where the exercise of the arrest power is not immediately necessary …

However, it is clear that an APS or an AFP officer can proceed with arresting a person after exercising these powers. While the Democrats recognise that there is a need to obtain information urgently where there is an immediate security threat, we are concerned by the potential for officers to compulsorily require information from a person who may ultimately be arrested prior to that person’s right to silence kicking in. The Democrats believe that information obtained compulsorily under this power should not be able to be used in criminal proceedings against the person, and we will be moving an amendment to that effect. Clearly, the powers in this bill are directed at facilitating a rapid response to security threats. As Senator Ian Campbell said in his second reading speech:

The powers are proactive, rather than reactive or investigative.

He went on to say:

The powers are intermediary and are designed to be preventative. They do not confer police investigatory powers on protective service officers.

It appears therefore to be entirely consistent with the intention of the government to place a limitation on how information obtained pursuant to proposed section 18A can be used. This will not in any way affect the ability of APS and AFP officers to provide a rapid response to security threats. Moreover, we would argue that preventing the use of information obtained pursuant to the new powers will not seriously hinder criminal proceedings against a person. The information which can be requested pursuant to proposed section 18A is basic information which could be obtained through other avenues of investigation, including formal questioning of the person following their arrest. If information acquired pursuant to proposed section 18A cannot be used in criminal proceedings against the person, then there is effectively no abrogation of the right to silence, since the right is one which applies specifically in a criminal context and is tied to the privilege against self-incrimination and the presumption of innocence. So it is accurate to say that the Democrat amendment will not in any way hinder the ability of the APS and the AFP to respond rapidly to imminent security threats, nor is it likely to hinder the prosecution of offences under the APS Act, but it will ensure that the right to silence is not abrogated by proposed section 18A of the bill.
The second concern that the Democrats have relates to the potential for three new powers to be used in the context of public order offences. The bill has been characterised by the government as essentially an anti-terrorism measure. The explanatory memorandum makes reference to the current security environment. In his second reading speech, Senator Ian Campbell described the bill as ‘a significant step in the government’s commitment to the protection of all Australians and the fight against terrorism’. Yet the APS and the AFP will be able to exercise their powers in circumstances where there is no serious threat to security.

In particular, we Democrats are concerned by the potential use of this power for offences under the Public Order (Protection of Persons and Property) Act 1971. Offences under that act include participating in assemblies involving an apprehension of violence, unlawful property damage, causing unreasonable obstruction while participating in an assembly or behaving in an offensive or disorderly manner on Commonwealth premises.

The issue for us here is that an APS or an AFP officer can require information from a person if he or she suspects the person has committed, might be committing or might be about to commit one of these offences. It is not the case that the APS or the AFP need to suspect that a person might commit an act of terrorism while participating in a political protest. It would be sufficient for them to suspect that a person might be about to participate in an assembly which will involve violence, whether or not the person is directly responsible for that violence. It would also be sufficient for them to suspect that a person might be about to behave in a disorderly manner on Commonwealth premises.

We Democrats believe that the current security environment does not warrant the extension of new powers to public order offences such as these. For this reason, we will be moving an amendment to exclude offences under the Public Order (Protection of Persons and Property) Act from the scope of this bill. As I have said, with the exception of those general concerns, the Democrats are supportive of the principles and the measures contained within this bill. They represent one of the more sensible attempts by the government to respond appropriately to the current security environment.

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (11.43 a.m.)—I thank senators for their contribution to the debate on this important bill, the Australian Protective Service Amendment Bill 2003. The amendments continue the government’s efforts towards protecting all Australians from terrorist attacks and honouring our obligation under international law to protect foreign diplomatic and consular officials and their premises. That is extremely important.

The additional powers contained in this bill will ensure the Australian Protective Service and the Australian Federal Police can provide effective security measures at airports, diplomatic and consular missions, defence establishments and other Commonwealth buildings. Australian Protective Service and Australian Federal Police officers will now have the power to act quickly in circumstances that give rise to security concerns in the course of providing protective security services at those locations where the exercise of the arrest power is not immediately necessary. These additional powers are preventative and proactive. They take personal privacy considerations into account and achieve a balance between what we believe law enforcement should have and protecting the rights and freedoms of Australian citizens.
I believe the new legislation provides for effective security without being overly intrusive or disruptive of people trying to do business in protected areas. The challenge has been to confront terrorism with a reasonable and effective response. As I mentioned, we have achieved a balance between the rights and freedoms of Australians going about their business—and, of course, visitors to this country because we are talking about international and domestic airports. We also have to remember to do this in an efficient and effective manner, without being disruptive to the free-flowing movement of people which is required at our busy airports. The same applies to guarding our installations and particularly diplomatic posts and diplomatic and consular officials.

There is always a challenge for government to achieve effective security, to ensure that people are safe and secure without being overly intrusive. We believe that the proposed amendments do just that. As I said, this legislation deals with situations where the arrest power is not immediately necessary. You need the power to inquire. You need the power to search. The Australian Protective Service and the Australian Federal Police need the power to ask questions, to detain a person if they are acting in a suspicious manner. Initially the amendments related to the Australian Protective Service and it had been proposed that we would deal with amendments for the Australian Federal Police in other legislation, but later it was thought best to bring it together in this one bill. Now that the Australian Protective Service is an operating division of the Australian Federal Police, it is necessary that both have the same powers. This is a very important bill. It provides increased safeguards for those areas I mentioned, particularly for people travelling through our domestic and international airports. I commend the bill to the Senate.

Question agreed to.
Original question, as amended, agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator LUDWIG (Queensland) (11.48 a.m.)—I move opposition amendment (1) on sheet 3087:

(1) Schedule 1, item 1, page 4 (after line 6), at the end of section 18A, add:

(4) Without limitation, it is a reasonable excuse for the purposes of subsection (2) for a person to establish that he or she was participating in an industrial dispute, in a genuine demonstration or protest or an organised assembly.

This amendment provides that it is a reasonable excuse for the purposes of clause 18A for a person to establish that they were participating in an industrial dispute, in a genuine demonstration or protest or an organised assembly. This amendment is modelled on section 28G of the Summary Offences Act 1988 in New South Wales, which clarifies the powers of police when discharging their responsibilities to protect public places and schools. We believe this amendment would maintain the effectiveness of the powers conferred by clause 18A, while clarifying to the public that the capacity of members of the Australian community to engage in genuine and lawful protest and assembly is not being impaired.

Without wanting to anticipate unduly the minister’s response, we understand the government does not accept this amendment. However, it is an important issue to many in the Australian community, both at large and within the various industrial organisations. We have proposed this amendment to facilitate a discussion on the issue in this chamber. We note that the Australian Federal Police submitted to the Senate Legal and Constitu-
persons involved in a protest or engaged in any form of lawful assembly in the vicinity of a place or person in respect of whom a protective service function can be carried out will only be subject to the use of this power if it is reasonably suspected that they might have just committed, might be committing or might be about to commit an offence to which section 13 applies. All other persons at a lawful assembly will be immune from the operation of this power.

This indicates that the AFP and, by inference, the APS are mindful of the extent of this power and its appropriate use in such a setting. Hopefully, this matter will be addressed in the training which APS and AFP officers will receive as a result of this bill, and also in their more general training. Perhaps the minister could see his way clear to at least advise that the APS and the AFP do in fact receive training on these sorts of issues. More than simply clarifying, the amendment provides a basis upon which people can understand how to operate in respect of this issue. It ensures that people who participate in industrial disputes, in genuine demonstrations or protests of an organised assembly, can make their point and promote the issues that they want to put forward while not being subject to the powers provided here being used unwisely by some.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.52 a.m.)—In relation to the question of training, I can advise that a new training package for all officers is being prepared. It will ensure that the legislation is clearly understood. Officers will be made aware of their obligations and responsibilities to comply with the legislative requirements. Officers are already trained in arrest, search and seizure procedures. As the powers contained in this bill are complementary to existing skill competencies, the training package is expected to be delivered over a period of three hours.

Training delivery will be by a combination of CD-ROM information packages, face-to-face presentations at stations and the completion of workbooks by all members for organisational accountability. Scenario based examples will also be included in the packages. Station managers and supervisors will receive additional training relating to their responsibility regarding seizure and handover to law enforcement organisations, and mentoring of officers completing their individual training packages. I can certainly assure the committee that appropriate training is being undertaken by the APS and the AFP in relation to these new powers and, of course, that is only to be expected.

Opposition amendment (1) purports to insert a reasonable excuse of participating in an industrial dispute, in a genuine demonstration of protest or in an organised assembly. The government will not be supporting that amendment, on the basis that a person who could potentially be a threat could well choose such lawful gatherings as a cover for illegal activities. Officers must be able to, at the very least, ask a person for their name and evidence of their identity in order to proactively assess whether any potential security threat exists.

One can only imagine a situation where there is a protest—a legal and genuine one—at, say, an airport, and there are people involved with that who do not have altruistic motives but, in fact, pose a security threat. This amendment would make it difficult for our officers to carry out their duties; to single such people out for questioning, search or detention. It is on that basis that we believe, for operational reasons and reasons of efficacy, that the government cannot support this amendment. I can understand the opposition’s reasons for it, but the government is
not persuaded that it would be appropriate in the circumstances.

Senator MARSHALL (Victoria) (11.55 a.m.)—It is a matter of getting the balance right in these issues. The minister referred to suspicious activity. One of the concerns the opposition have—and the reason we have moved this amendment—is in relation to the fact that there are very legitimate activities that complement our democracy in respect of legitimate protest and legitimate assembly. The areas where these powers have the potential to be exerted—diplomatic missions and posts, and government buildings—are those very areas that are often the target for legitimate protest and demonstration.

One of our concerns, which we seek to clarify by this amendment, is disallowing the mere existence of a protest as an excuse for Protective Service officers—or the Federal Police, for that matter—to simply take names and addresses and get an explanation from every individual engaging in that protest. It is important to get the balance right. If there are people who are using those sorts of legitimate protests simply as cover to carry out what they may seek to do illegally—covertly—protecting them is not the intention of our amendment. The intention and effect of our amendment is to give some certainty, clarification and absolute guidance to those officers who will be exercising these new powers, and give them the guidance when seeking to exercise the powers that this legislation would give them. I ask the minister if he would further clarify the intention of the legislation in that regard.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.58 a.m.)—I just want to make sure that I understand that question, because this is an important point. To make it very clear: the focus of this legislation is on security at those installations I have mentioned—defence, Commonwealth, diplomatic, consular—and also, importantly, domestic and international airports. It is not legislation aimed at stopping legitimate protest. I think it is important that, for the record, the government say that. This is not a Trojan Horse whereby we are trying to limit or do away with legitimate protest. This is all about security. It is about measures or powers that our people need to have at their disposal to investigate and prevent any possible terrorist threat in relation to those installations, places and airports that I have mentioned. That is the purpose of this bill. It was as part of the government’s framework of border protection and national security that we have introduced this bill to the parliament. It has not been on any other basis. I can assure the committee that the intent of this bill is not aimed at taking away any Australian’s right of free speech or legitimate protest activity; it is aimed at ensuring our national security.

Senator LUDWIG (Queensland) (12.00 p.m.)—Thank you, Minister. That does help to clarify the issue in part. But what I think the minister is missing in all of this, if we seize it right—and in his response he outlined what may impair the APS’s ability to deal with what may be covert operations within genuine industrial disputes, demonstrations or protests—is that this provision, with that limitation, provides the defence of participation in industrial disputes. So it is not about the point where the APS officer may not intervene, as I understand it—and correct me if I am wrong. It provides for a reasonable excuse. People who are going to disrupt places would invariably be covert in any event—whether disguised as ordinary citizens or wishing to participate in demonstrations and doing their work under that cover. This ensures that the people who do participate in a genuine industrial protest, in a dispute or in a general protest on broad grounds and who are not breaching any other
particular law are not approached and that, if they are approached by the APS, they have a legitimate defence. As the provision says:

(4) Without limitation, it is a reasonable excuse for the purposes of subsection (2) for a person to establish that he or she was participating—so it is to establish; there still is an onus on the person to establish—in an industrial dispute, in a genuine demonstration or protest or an organised assembly.

So it does provide a defence of participation rather than a carte blanche excuse in that instance. The minister could perhaps direct his comments to that central issue—to that amendment we have moved and will be supporting, which provides that position—and not to the issues he answered in the first instance. I might have got that wrong but, with respect, I think the minister was a little bit off the point on that issue. We are obviously not convinced at this point by the minister’s response that we should accept the position he put. As I have said earlier, this matter does appear in other pieces of legislation. Obviously, the other police forces have been able to deal with it and still carry out their functions effectively without any necessity to require that that provision was not part of the operational scheme.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.03 p.m.)—My comments earlier were in a more general sense as to the intent of the bill, but I will address in more detail the questions raised by Senator Ludwig. I can appreciate that what the opposition are attempting to do with this amendment is not open Pandora’s box. Saying ‘without limitation’ places a qualification, if you like, on the extent of this reasonable excuse and it further imposes upon the person the burden of establishing that excuse. The opposition are saying, ‘Well, without limitation to the powers of the APS or the AFP, we’ve got this exemption, this excuse, and in any event the person has to show it.’

I can appreciate that those are attempts to make this exemption fit into the operational requirements of the APS and the AFP, but the problem remains that it leads us into areas of uncertainty. Whenever you are operating on the ground when dealing with events, circumstances or scenarios which present themselves to you—and they are normally sudden and without notice—what you need is clear direction for your law enforcement personnel to act. What you do not need is some area of uncertainty where the APS or the AFP might think, ‘Well, I just have to be a bit careful here and second-guess what they should or shouldn’t be doing in view of the legislative requirements.’ It is because of that uncertainty that the government cannot see its way clear to support this amendment.

There are precedents in the summary offences of New South Wales, which Senator Ludwig has mentioned. Those are quite different, though, from maintaining national security at airports and at other essential installations. Your summary offences no doubt relate to powers of arrest of a police officer. As we have said in relation to the debate on this bill, this is somewhat different from your normal powers of arrest; this is an ability to give your APS and AFP that dimension of power, if you like, to inquire, to seize and to detain. It does not deal with arrest or with those other powers a police officer has. It is a preliminary power of inquiring—asking for a name, asking what someone has in their bag or carrying out a search—and other proactive measures which can prevent a possible breach of security or attack. That is why it is so important. In conducting themselves in this manner, the APS and the AFP need all the certainty they can get, and the government still maintains that introducing this exception—albeit it starts by saying ‘without limitation’, and one would think that is with-
out limitation to the powers of the AFP and the APS—introduces an element of uncertainty which would detract from the operational capacity of the Australian Protective Service and the Australian Federal Police.

Senator MARSHALL (Victoria) (12.07 p.m.)—The minister talked about the officers having to worry about whether they have to be careful in the exercise of these powers. That is the point: the officers do have to be very careful to ensure that these new powers are exercised in the manner in which they were intended. That comes back to the original discussion about the balance of these matters—that the need to introduce security measures is balanced against civil society’s rights to carry out legitimate protests or legitimate assembly.

The minister said the officer should have the right to say, ‘What’s in that bag?’ If there are reasonable grounds for suspecting that there is a problem with something in a bag, that is fine and that is what this piece of legislation empowers those officers to do. Labor has no difficulty with that at all. But the legislation gives these officers the ability to use these powers if they believe that people might be about to commit an offence. With respect to the power being used against those who might be about to commit an offence, there are a whole range of tests about what is reasonable and what is not reasonable which the officer certainly must apply when using that discretion.

Let us come back to the practical example that I used earlier. If there were a legitimate protest at a diplomatic mission—which the diplomatic mission would be opposed to, one would suspect, and that protest might be on the basis of that country’s human rights record or human rights abuses which might be well documented and accepted—we would not want to be in a situation where the names and addresses of all those people protesting were taken down and potentially made available to the diplomatic mission that opposed the protest. People ought to be able to protest legitiately and assemble legitiately without the infringement of those rights. It is sometimes a very fine balance.

This amendment seeks to clarify these issues so it is very clear to those officers why they have those powers and the circumstances in which they should and should not exercise those powers. If there are reasonable grounds to assume that someone is doing something wrong, they are then not part of legitimate protests, they are not part of legitimate industrial action and they are not part of legitimate assembly. Therefore, it would not be a reasonable excuse under our amendment. But if they are legitimate, it is a reasonable excuse. We do not want to be in a situation where people’s names and addresses are taken down for simply protesting or conducting legitimate industrial action. While I think the minister has come some way in explaining those issues, he has not yet come all the way in explaining them and the intent of this legislation—certainly not to my satisfaction.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.11 p.m.)—I have a couple of points to make because those issues are important. In relation to the scenario that an Australian Protective Service officer, or an AFP officer for that matter, might be able to acquire the name and address of everyone demonstrating outside an embassy, to do that you would still have to get past the threshold test in section 18A, which states:

(1) If:

(a) a protective service officer suspects on reasonable grounds that a person might have just committed, might be committing, or might be about to commit, an offence ...

the officer may request the person to provide to the officer:
Obviously, it would be rather hard to fulfil that threshold test for everyone involved in a protest in any event, and particularly to do that if there were a crowd of people. I can also assure the chamber that what was mentioned was the possibility of APS taking the name of a person demonstrating lawfully outside an embassy and then giving that name and address to the embassy concerned. There are nondisclosure provisions in relation to the AFP Act, which I understand would be effective here. That would not be done and, if it were done, it could be the subject of complaint. So that is not something that APS or AFP would be doing. I can understand the concern that some people might have because they might not want their identities revealed to the embassy outside which they are demonstrating, albeit in a lawful demonstration—and I think we are approaching this on the basis that it is a lawful demonstration.

Certainly we say that the APS and the AFP should go about their duties in a proper fashion. The only problem we have with this amendment is that it would add uncertainty where they have to second-guess what they are doing in a situation which really can be quite stressful and present limited time for consideration. They certainly know the threshold test that applies. It is comprehensive and set out in the bill. They know what requirements they have to fulfil before they can employ these powers. We do not want to add any more uncertainty to that by saying, ‘There is an exemption: if someone shows that they are involved in this demonstration, that’s an exception.’ It has to be clear-cut. If that threshold test is made out and the suspicion is on reasonable grounds, they can require the name, the address and the other details that I have mentioned. All of that is essential in maintaining the level of security that we need at our airports and other important installations.

Senator Ludwig (Queensland) (12.14 p.m.)—Clearly, we are unable to convince the government on this point, but we ask the government to take the opportunity to have a very close look at this between now and when it comes back.

Senator Greig (Western Australia) (12.15 p.m.)—I want to place on the record the Democrats’ support for the amendment moved by the opposition. I agree with the minister. I do not believe there is any sinister intent in the legislation before us and I accept in good faith the minister’s explanation that the possibly frightening scenario that some people may argue is a consequence of this legislation should not, and really could not, come about as the result of the passage of this bill. That begs the question: why be opposed to cementing that certainty in an unambiguous way, as the opposition has illustrated and the Democrats have also indicated? My personal experience of APS officers has been good. Having organised and been involved in rallies and protests with them in Perth, I found them to be good people—discreet, intelligent and polite. I am of the view that there is nothing to fear here, but the environment of uncertainty and terrorism that we are in, which the government has a duty to respond to, also ensures that the government has a duty to assure citizens that their civil liberties are not under threat.

There is considerable paranoia in sections of our community about what the government is attempting to do with the various pieces of antiterror targeted legislation. Sometimes there may be merit in those ar-
arguments and often there is not, but ultimately the government has a duty of care to reassure people. The minister has done that in his contribution today, but I do not think that is enough in the sense that a legislative response is a greater reassurance than a verbal commitment in the chamber. The opposition amendment warrants support.

We have seen in Australian history the misuse of powers, particularly in Queensland, as Senator Ludwig could confirm, where legislation of a similar nature—I am not saying it was this specific legislation—was very much used to crack down on dissent, to deter protest and to detain and arrest people for political reasons and not for reasons of potential threats of terrorism or violence. So we have no particular objection to the amendment advocated here; we have advocated similar amendments. Indeed, we would like to see it go further in some regards, and one of the Democrats’ latter amendments will seek to achieve that. But we see no problem with cementing in an unambiguous way in the legislation the notion that the fears some people may have about the consequences of the passage of this legislation are not the case. This amendment should be supported.

Question agreed to.

Senator GREIG (Western Australia) (12.18 p.m.)—I move Democrats amendment (2) on sheet 3118:

(2) Schedule 1, item 1, page 4 (after line 6), at the end of section 18A, add:

(4) Information obtained pursuant to a request under subsection (1) cannot be used in criminal proceedings against the person who provided the information.

This amendment relates to the restrictions on the use of information obtained from those people who have been questioned. I spoke to this in my speech in the second reading debate. Essentially, with this amendment we are trying to ensure that information obtained in a compulsory way under this legislation, once it becomes law, ought not to be able to be used in later criminal proceedings against the person. That is what the amendment seeks to achieve. As I have said, the powers in this bill are directed at working towards an understandable rapid response to security threats or perceived security threats, but I think it is consistent with the intention of the government to place a limitation on how information is obtained pursuant to section 18A and how that can be used. The passage of this amendment ought not in any way affect the ability of the APS or the AFP officers to respond rapidly to those circumstances.

I think it is true to say that this amendment does not in any way hinder the ability of the authorities that we have mentioned to respond appropriately and rapidly to imminent security threats, but it would ensure that the legislation is strengthened in the sense of not being misused—not in a malicious way—outside of the intent of what the government has provided to us. We think that is a reasonable consideration and believe that, while the legislation generally is justified in the circumstances, the power to question should be construed as a first step in a graduated response to security threats. It is clear that an officer can proceed with arresting a person after exercising these powers. As I have said, we recognise that there is a need on occasion to obtain information urgently; however, that information, having been obtained in a compulsory way, ought not then be used in criminal proceedings against the person. I hope that that in an effective way goes to the heart of the amendment and improves on the bill.

Senator LUDWIG (Queensland) (12.20 p.m.)—It might be appropriate for me to make my comments before the minister responds so that the minister understands the
position the opposition are taking. I do not
know whether we have even had much of an
opportunity to speak to the Democrats about
this amendment; it was only provided at the
conclusion of the second reading debate or at
some late stage. I am not suggesting the De-
mocrats were late with respect to the
amendment. This bill was brought forward
on the government agenda to be dealt with
today. I am sure the Australian Democrats
were looking at the original program and
were seeking to be ready for the debate when
it arrived. The government has in fact
brought the debate on this bill forward. I will
put on my hat as Manager of Opposition
Business in the Senate: it is not a case of us
agreeing to it; the government can rearrange
the priority of their bills and they have
brought this bill on for debate. However, we
can complain in some respects that by doing
so they sometimes limit the opportunity that
parties have to discuss these matters more
fully, although they may be ready to deal
with bills such as this. It sometimes provides
a less than perfect opportunity for these mat-
ters to be more fully explored.

I think this is one of those cases. We can
say that we will support the Democrat
amendment. We think that it will provide an
opportunity for the government to consider
this issue more fully. There would already be
limitations in respect of the use of that infor-
mation under the relevant Commonwealth
Evidence Act—and, without having re-
searched it in depth, some come to mind. To
expand on that, if, in a prosecution before a
court, use was made of the information ob-
tained by the Australian Federal Police, you
would wonder how the court would view
that, given the circumstances in which it was
obtained. I suspect the court would view that
quite dimly, and it is not a matter that I sus-
pect the AFP would easily entertain. I cannot
speak for them, however.

This amendment allows the government
an opportunity to respond to this issue. I
think it is also an important issue in itself.
Much of it, I suspect, would be dealt with by
the Evidence Act, as I have said, or by pro-
cedures and policies developed in dealing
with these issues. I think this amendment
does deserve support. I think it will give the
opportunity for the government to explore it
more fully to ensure that they have covered
all their bases on this issue. In addition, it
was not a matter that was looked at during
the Senate inquiry. From memory, I do not
know whether the Bills Digest examined it in
detail—but I can stand corrected on that by
Senator Greig, I am sure. Without delaying it
any further, the opposition indicates its sup-
port for the amendment.

Senator ELLISON (Western Australia—
Minister for Justice and Customs) (12.24
p.m.)—Again, I can understand the reason
that the Democrats put this amendment for-
ward, but I think that, quite frankly, there is
enough protection within the law as it stands
and the proposed bill. I might just say at the
outset that the power to request information
conferring in this bill does not abrogate the
common law privilege against self-
incrimination. The rule is that that privilege
applies unless it is excluded by unmistakable
language in the statute.

Under this bill, a person is required to
provide the information sought, which I
mentioned earlier: name, residential address,
reason for being at the place concerned and
evidence of identity. Normally, that is not
information which would attract the rule
against self-incrimination. Your name, your
identity and your address are hardly incrimi-
nating factors. But, as I said, it would be
open to a person to claim that he or she re-
lied on the privilege against self-
incrimination in not complying with the re-
quest. It will also be open to the person to
raise reasonable excuse as a defence for not
providing the information. That is in clause 18A(2) and 18A(3). Subclause (2) provides the sanction for not providing information, and then subclause (3) states that the subclause which I have just mentioned does not apply if the person has a reasonable excuse and the defendant bears an evidential burden in relation to that. It is a bit similar to the opposition amendment which was put forward earlier about someone having a reasonable excuse. We have that contained in the bill.

What we are saying is that it is not normal to consider giving one’s name and address as a question of self-incrimination. You cannot escape your identity—that is a fact. It is also a fact that you have an address of some sort—one assumes a residential address. That is hardly an incriminating factor. If the reason for being there is something which a person thinks would incriminate them, they are free to avail themselves of the privilege against self-incrimination and use that as a reasonable excuse under the bill. We think that this amendment would gravely weaken the provisions of this bill and work against the very thing it is intended for.

Senator GREIG (Western Australia) (12.28 p.m.)—Briefly, to Senator Ludwig, I thank the opposition for its indication of support on this. In relation to the dissemination of the amendment, no discourtesy was meant. I understand that a combination of the bill being brought forward a little earlier than expected and the Clerk being on leave when our application for drafting the amendments came into play ensured that there was some regrettable delay in the circulation of this. Otherwise the amendments would have been circulated along with the others at the right time.

Question agreed to.

Senator GREIG (Western Australia) (12.29 p.m.)—by leave—I move Democrat amendments (1), (3), (6) and (7) on sheet 3118:

(1) Schedule 1, item 1, page 3 (line 12), after “section 13 applies” insert “with the exception of an offence under subsection 13(2)(a)(iv)”.

(3) Schedule 1, item 1, page 4 (line 27), after “section 13 applies” insert “with the exception of an offence under subsection 13(2)(a)(iv)”.

(6) Schedule 1, item 1, page 8 (line 8), after “section 13 applies” add “with the exception of an offence under subsection 13(2)(a)(iv)”.

(7) Schedule 1, item 1, page 9 (line 22), after “section 13 applies”, insert “with the exception of an offence under subsection 13(2)(a)(iv)”.

These amendments collectively, in many ways, go to the heart of what opposition amendment (1) sought to achieve, only they go somewhat further. These amendments, if passed, would prevent altogether searches and seizures at political protests. Our view is that there is much at stake here in terms of freedom of speech and civil liberties and that it ought not necessarily be the case that these new powers be extended in the way proposed. We would argue that these powers ought not to be used against people who are engaged in legitimate political protest. Where such protest might tend towards violence, as I accept sometimes happens, then the rightful way for the state to respond to that is through its existing police services. We feel that the legislation proposed ought not to apply, as drafted, to legitimate political protest.

As I have said in an earlier contribution to the minister, there is some concern, some fear, in the community that legislation of this nature is aimed at legitimate political protest. Rightly or wrongly, many people feel that. It is our view that that concern can and should be addressed and that there ought not to be any ambiguity—let alone trying to negotiate
the difficulty of defining ‘political protest’. We would all have, I think, different views on what is and is not ‘political’ and, indeed, on what is and is not ‘protest’. We feel that this amendment goes to the heart of protecting and preserving rights and freedoms and that it does not detract from the legislation. Nor does it make citizens vulnerable to potential terrorist threats, because of the existing opportunities for the state to respond through existing police services.

Senator LUDWIG (Queensland) (12.31 p.m.)—Senator Greig is right in that we think that these amendments are of similar purpose to opposition amendment (1), which was moved earlier. I think they do go a little further but, given that they deal substantively with the same issue, we are happy to support them. I suspect the government might want to have a far better and closer look at this issue in the time available. It is a matter that the Democrats and Labor have highlighted. It is a substantive issue that the opposition think requires a bit more consideration by the government to ensure that people’s rights are adequately protected. It comes to a balance that has to be struck. One of the things that weighs heavily with us, of course, is to ensure that the AFP and the APS have adequate powers and adequate ability to be able to respond to emergent circumstances as the need may arise. We do not think this detracts from that. We think the balance can be struck. We think also that, in this instance, this would provide a better balance and therefore we think that the government should take the opportunity to consider it more fully.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.33 p.m.)—For the record, the government opposes these amendments on similar grounds to those which were covered in relation to opposition amendment (1). In order to expedite matters, I will not go over those again.

Question agreed to.

Senator LUDWIG (Queensland) (12.34 p.m.)—We will not be moving opposition amendment (2). We acknowledge that the same purpose is achieved elsewhere—I am not sure whether the minister understood that at the time. If we can clarify that now, it will be helpful. Government amendment (1), albeit through a slightly different mechanism, achieves the same purpose. Therefore there is no necessity to move our amendment.

Senator GREIG (Western Australia) (12.34 p.m.)—I move Democrat amendment (4) on sheet 3118:

(4) Schedule 1, item 1, page 5 (lines 14 to 16), omit paragraph 18B(3)(c), substitute:

(c) otherwise—any other person who is of the same sex as the person who is requested by the protective service officer and who freely consents to conduct the search.

This amendment would ensure that a member of the public must freely consent to conducting a search, if requested to do so by the APS, and that they should not be asked to do something which makes them feel uncomfortable, particularly if they are not suspected of any offence and are merely being asked to assist. This is simply a case, I believe, of ensuring some kind of protocol and not placing APS officers in a difficult diplomatic situation with the citizenry if this kind of scenario should occur. We feel it is a sensible administrative amendment which ensures some kind of protocol in the event that someone other than an APS officer is asked to conduct a search.

Senator LUDWIG (Queensland) (12.35 p.m.)—The opposition see our way clear to support this amendment. We again stress that this is really to give the government the opportunity to have a look at Senator Greig’s and Labor’s amendments on the same issue that I earlier referred to and to be able to
consider it more fully, given the time frame in which these matters were brought on and the amount of time people have had to look at Senator Greig’s amendments. We think this amendment is helpful in the overall process of ensuring that there is clarity in operation of this piece of legislation. We indicate our support for the amendment.

Senator Ellison (Western Australia—Minister for Justice and Customs) (12.36 p.m.)—The government are always willing to take on board constructive suggestions and in this instance we agree with the amendment and will support it. It states something which we think is already in the bill but, to remove any uncertainty or misunderstanding, we are quite happy that the Democrat proposed amendment be inserted in the bill and that the third person who is present during the search should be one who freely consents. We have no problem with this and support the amendment.

Question agreed to.

Senator Greig (Western Australia) (12.37 p.m.)—I move Democrat amendment (5) on sheet 3118 as amended:

(5) Schedule 1, item 1, page 5 (after line 16), after subsection 18B(3), insert:

(3BA) If the protective service officer makes a request of an officer of Customs pursuant to paragraph (3)(b), or of another person pursuant to paragraph (3)(c), to conduct the search, the protective service officer must explain to the officer of Customs or other person:

(a) if the officer of Customs or other person has been requested to conduct an ordinary search, the meaning of an ordinary search pursuant to subsection (8);

(b) if the officer of Customs or other person has been requested to conduct a frisk search, the meaning of a frisk search pursuant to subsection (8);

(c) that, when conducting the search, the officer of Customs or other person must not use more force, or subject a person to greater indignity, than is reasonable and necessary in order to conduct the search.

I think the amendment in toto is fairly self-explanatory in that it aims to deal with the explanation of the purpose of the search. The amendment ensures that, if the Protective Service officer makes the request of an officer of Customs to conduct the search pursuant to paragraph (3)(b), or of another pursuant to paragraph (3)(c) as we discussed in the second reading and committee stages, the Protective Service officer must explain the following three things to the officer of Customs or the other person: firstly, if the officer of Customs or another person has been requested to conduct an ordinary search, the meaning of an ordinary search pursuant to subsection (8) must be explained; secondly, if the officer of Customs or other person has been requested to conduct a frisk search, the meaning of a frisk search pursuant to subsection (8) needs to be clearly explained; and, thirdly, when conducting a search, the officer of Customs or other person must not use more force or subject a person to greater indignity than is reasonable and necessary in order to conduct the search. In summary, I would argue it is another form of protocol for when the legislation is up and running.

Senator Ludwig (Queensland) (12.40 p.m.)—The opposition will support the amendment moved by Senator Greig. We do see merit in the amendment. We do think that, given the time frame of this bill, the government should have a look at the amendment moved by Senator Greig. It brings to mind the fact that not everyone
who may be asked to conduct a search would be familiar with the operation of the legislation. Although it is likely that it would be in exceptional circumstances, nonetheless it merits a closer look by the government. In the first instance, however, Senator Greig’s amendment merits our concurrence.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.41 p.m.)—The government do not have any problems with this amendment. The government believe that it sets out something that quite obviously should be done. Nonetheless, let us have it contained in the legislation—we believe that the Democrat amendment is a sensible one. As I indicated earlier, the government want to achieve balance and safeguards in this bill and, whenever you increase the powers of law enforcement, you should have that. The process that is required of the officer to explain what is involved is important, and the government will support that amendment.

Question agreed to.

Senator LUDWIG (Queensland) (12.42 p.m.)—I move opposition amendment (3) on sheet 3087:

(3) Schedule 1, item 1, page 5 (after line 24), after subclause 18B(5), insert:

(5A) A person must not be detained under this section for longer than is reasonably necessary for a search to be conducted in accordance with this section.

Opposition amendment (3) adds subclause (5A) to 18B. This amendment is designed to make clear to the public that the power conferred by this legislation to detain a person is limited to conducting a search in accordance with the legislation. Continued detention would depend on the exercise of the power of arrest already conferred on the APS and AFP officers. Similarly, we believe that this amendment would maintain the effectiveness of these powers but would make clear to the public that the power to detain has been conferred for a definite purpose and not to cause undue disruption to the public in their daily lives—for example, by creating the risk that the exercise of the power will cause them to miss their plane at a security designated airport or the like. I understand the government may find its way clear to accept this amendment, so I will not continue to talk it through.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.43 p.m.)—For the record, the government supports the opposition’s amendment. Again it is a question of balance, which we have been talking a great deal about in this debate. Senator Ludwig is saying that the officer concerned should not detain the person longer than is reasonably necessary to conduct a search. We believe in any event a court would imply that. Again, it is something that could easily be put into the legislation to make it absolutely clear and to reinforce the balance that is achieved between exercising proper legal authority and maintaining an individual’s rights and liberties. On that basis we support the amendment.

Senator GREIG (Western Australia) (12.44 p.m.)—The Democrats will support the opposition amendment before us.

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.44 p.m.)—Before I move government amendment (1), I table a supplementary explanatory memorandum that relates to the government amendments to be moved to this bill, which was circulated in the chamber on 10 September 2003. I move government amendment (1) on sheet RC212:

(1) Schedule 1, item 1, page 6 (after line 15), after the definition of ordinary search, insert:
vehicle includes any means of transport (and, without limitation, includes a vessel and an aircraft).

The bill, including government amendments, is a measured response to equip the Australian Protective Service and the Australian Federal Police with adequate tools to deal with potential security threats in a proactive and preventive manner.

Progress reported.

MATTERS OF PUBLIC INTEREST

The DEPUTY PRESIDENT—Order! It being 12.45 p.m., I call on matters of public interest.

Environment: Tasmania

Senator BARNETT (Tasmania) (12.45 p.m.)—I stand to speak about the importance of the Meander dam and the most recent revelation regarding the actions of the Tasmanian Conservation Trust and the green lobby in Tasmania to appeal the recent decision by the Howard government to give that dam project the go-ahead. The Howard government’s go-ahead for the Meander dam is subject to strict environmental conditions. The decision genuinely boosts protection of the Meander Valley environment while giving a large boost to our rural economy. The federal conditions are so strict that, when they were announced, the conservation movement was moved to question whether the state government could meet the strict criteria. I can think of no better endorsement of the conditions stipulated by the Minister for the Environment and Heritage, Dr David Kemp, and his department, Environment Australia. On behalf of the Tasmanian Liberal Senate team, I would like to congratulate Environment and Heritage Minister Dr David Kemp and his department, Environment Australia, for a sound, historic and unimpeachable decision that protects the environment as well as providing a boost for our rural economy. This has been through a thorough approval process involving the most stringent assessment by the government’s Environment Australia. The strength of the conditions placed on this approval for the dam is testimony to that.

The Tasmanian Conservation Trust, in that regard, have won an important victory by ensuring that the two governments, the federal government and the state government in Tasmania, have in place a regime that makes sure the dam does not unduly harm the environment. But today I am making public some information I have received that confirms that the Tasmanian Conservation Trust is now fundraising to help pay for an appeal against the decision by Environment and Heritage Minister Dr David Kemp. In my view, this action is futile and a misuse of public donations. The Tasmanian Conservation Trust, in their efforts to raise these funds for the appeal, say that these donations will be tax deductible. On behalf of the many Tasmanians that I represent, and on behalf of the Tasmanian Liberal Senate team, I will be objecting to the wrongful use of these donations for such a purpose.

The Tasmanian Conservation Trust have a right to pursue such action, but I believe it is politically immoral. They are considering a Federal Court appeal based on the process and based on their reading of the Administrative Decisions (Judicial Review) Act and their reading of the Environment Protection and Biodiversity Conservation Act. They have every right to request—and it is my understanding that they have requested—the statement of reasons for the decision, as have I. They are an interested third party and they are entitled to that statement of reasons. That will be made available on 18 October. As an interested party and as a senator for Tasmania I have also requested that statement of reasons and will be considering it carefully. I have no doubt that it will be consistent with the decision made by Dr David Kemp and
with the outline of his reasons that he expressed in my office when he made the decision some weeks ago, setting out the environmental conditions and the strictness of those conditions before the Tasmanian and the Australian public.

The Tasmanian Conservation Trust will then have approximately 28 days under the act to appeal and, as I say, they are now raising funds to pursue that appeal. I have requested publicly and privately that they desist from such an appeal. There are a number of reasons why I caution the Tasmanian Conservation Trust and request that they publicly state they will not proceed. The reasons are: the decision is a great outcome because the dam has received the go-ahead but in a way that preserves our environment, especially the spotted-tailed quoll and the Epacris, which is a heath plant, which may have been threatened. However, I want to caution the Tasmanian Conservation Trust, and for that matter the Australian Democrats, if they plan to launch an appeal against the Meander dam decision or to oppose other similar water projects. I do so because I believe there is a fine line between the legitimate scrutiny of land use decisions and playing destructive politics for purely political objectives.

It disturbs me to discover that the trust is starting to raise funds for an appeal against the Meander dam decision. I understand that effort is now well under way. I reiterate that I will be opposing most strongly their efforts to use that money and to make it tax deductible for those people who wish to provide donations. The Australian government's approval process was a tortuous and thorough challenge for the Tasmanian government, and it involved a stringent assessment. The spotted-tailed quoll and the Epacris will now receive even stronger and better protection as a result. I am confident there is no basis for any appeal, and I am happy to provide a copy of Dr Kemp's decision to anyone who would like it. It is also available on my website at www.guybarnett.com. As I said, I understand the statement of reasons for the decision will be available from 18 October, and that will indeed be made public.

I call on the Tasmanian Conservation Trust to now consider their position very carefully, given the damage to the Tasmanian economy that land use debates have caused in the past. From 1973 Tasmanians have been politically divided over resource and land use issues, starting with the flooding of Lake Pedder, then the Franklin River, then Tasmanian forestry operations—shamelessly straight after the Franklin dam saga—and even value-added projects such as the giant Wesley Vale pulp mill project in 1988-89.

The Tasmanian forest debate has involved a High Court battle between the federal and Tasmanian governments in 1983 and indeed in 1987, numerous inquiries, and in 1997 the regional forest agreement resulting from the work of both federal and state Liberal governments at the time, and federal and state Labor at the time and since in terms of support for that agreement. I acknowledge that and thank those who have supported those agreements.

Despite the much-heralded RFA process, the forests in Tasmania continue to be misused as the environmental battleground for votes and political supremacy in both the Tasmanian and Australian parliaments. I am not saying that all environmental scrutiny is bad. In fact, some of it has been good for the environment. However, since the early 1980s Tasmania has been used by both Labor governments and minor parties at a federal level as a battleground for the hearts and minds of voters in the bigger states who are not directly affected in any adverse way because the battles are not in their backyards. This has been disastrous for Tasmania. Just ask Tasmanian Premier, Jim Bacon. I have heard
him lamenting the damage done to Tasmania’s investment reputation and credibility because of environmental-cum-political campaigns.

You now have 40 per cent of Tasmania locked up in reserves, national parks or World Heritage areas, but still the environment remains one of the key battlegrounds between political parties and interest groups in Tasmania. We have a chance to change the politics of the environment with the Meander dam decision, because, thanks to Environment and Heritage Minister Dr David Kemp and his department, Environment Australia, we have a sound and unimpeachable decision which is good not only for the farmers and the rural community but also for the environment in the Meander Valley. Unlike previous years, when investors took one look at environmental politics in Tasmania and took their business elsewhere, the Meander dam project stands out as a beacon for the resolution of environmental conflict. Dr Kemp’s approval will add $53 million per year to the Tasmanian economy and 150 more full-time jobs, with an extra $5.5 million in wages each year, primarily in the Meander Valley region.

The Australian government decision will: ensure protection for endangered or threatened species in the area; provide a reliable water supply for industrial and domestic irrigation; improve the health of the river, especially its lower reaches; reduce the risk and damage of flooding and drought; and provide a new source of clean and renewable hydroelectricity—in fact, enough electricity to power a town the size of Deloraine, which is in the heart of the Meander Valley. It will also boost farm exports and accelerate value adding. It is these things that we have been pushing for for many years. Finally, it will provide scope for new and improved recreational activities. As a keen trout fisherman, I am looking forward to the opportunity.

The state government’s second and last submission to Dr Kemp was far superior to its submission to the tribunal last year. These efforts can be acknowledged, and so can the scrutiny by the Tasmanian Conservation Trust. I make no apologies for having joined the Tasmanian Liberal Senate team to lobby hard for the dam, because my family farmed on the banks of the Meander River for 40 years, and therefore I know of the floods in the winter and the lack of water in the summer. I support carefully planned development, when it has been subjected to stringent economic and environmental scrutiny. I believe the Australian and Tasmanian governments have done everything humanly possible to secure a project that is both economically viable and compatible with the environment. As I said earlier, environmental conditions imposed by Dr Kemp will in fact strengthen the protection for the Epacris and the spotted-tailed quoll.

I am sure that a legal campaign by the Tasmanian Conservation Trust, the Democrats or anyone else in the green lobby would fail, but their actions would, in my view, be economically disastrous for our state. It would be purely a case of playing environmental politics for the sake of votes and blocking a project, with no regard for Tasmanians, the environment in the Meander Valley and the benefit to the Meander River itself. The conservation movement will not endure and broaden its support base in Tasmania while it misuses legitimate land use issues for pure political gain. Scrutiny of the Meander dam by governments, by the legal sector and by the community has been beyond reproach. It is now time to stop the political conflict and move on.

Housing: Affordability

Senator MACKAY (Tasmania) (12.58 p.m.)—I rise to speak about the important issue of housing affordability. For perhaps
the first time in history, my home state of Tasmania is experiencing a housing boom. House prices are spiralling upwards and the newspapers are full of stories of Tasmanians locked out of the housing market and of mainlanders cashing in on our still relatively low prices and buying up big in Tasmania. Whilst no doubt part of a national trend, the increased demand in Tasmania is also due in no small part to the amazing results the state Labor government has achieved in turning around the state’s economy and making Tasmania again a place people want to come to rather than somewhere people leave to seek opportunities elsewhere.

Whilst the increased demand is a good thing, the lack of affordability for ordinary Tasmanians is worrying. We have heard quite a lot about how the GST has affected housing prices. The Housing Industry Association has estimated that the replacement of wholesale sales taxes with the GST has added approximately eight per cent to the price of a new home. While GST is not applied to the sale of existing homes, the application of GST to new homes, as well as to renovation and maintenance costs, has resulted in flow-on effects across both the new and existing housing markets. The fact that the GST impacts on both sectors of the market was the primary justification for the First Home Owners Scheme applying to new and existing housing.

So what does an eight per cent GST-induced price rise mean in real terms? In my home state of Tasmania, based on a median price of $165,000—this is for the June quarter in 2003—the GST has added $12,222 to the cost of a house. What is the first home owner’s grant worth? It is worth $7,000. Tasmanian first home buyers have gone backwards over $5,000 thanks to the Howard government.

The other issue we have been hearing a lot about recently, including here in this chamber as recently as 10 September, is that of the stamp duty applied to the acquisition of residential property. Senator Barnett, who was speaking just before me today, made a speech on 10 September and I would like to have a look at what he had to say. As usual, a lot of figures were thrown around with scant regard for how they should be applied if he was seeking to portray the real situation. Firstly, Senator Barnett crowed about how his government had paid out more than $28 million in first home owner grants to 3,800 Tasmanians. However, as I have already outlined, even after that $28 million was paid out those 3,800 Tasmanians were left with a shortfall of $19.8 million. I fail to see how the so-called incentive has sustained the housing boom in Tasmania as he claims nor why he is ‘so proud to be part of a government that has made this happen’. There is nothing to be proud of as far as I can see in putting home ownership beyond the reach of many Tasmanian families, thanks to the GST.

Senator Barnett then went on to have a go at the Tasmanian state government, and other state governments I should add, about what he calls a ‘double taxation’—the fact that state and territory governments all around the country apply stamp duty to the GST inclusive price of houses. This is true, they do. In fact it is a longstanding policy of successive state and territory governments that their taxes are applied after the impact of Commonwealth tax has been taken into account. The application of state and territory taxes to the GST inclusive price of a range of goods and services is therefore the principle adopted by all states and territories, and the Commonwealth—seemingly with the exception of Senator Barnett—accepts this. Under this principle, depending on whether the replacement of wholesale sales tax by the GST reduced or increased the base price, the
revenue from some state taxes decreased while that from others increased. However, the overall effect on state and territory budgets is neutral.

Despite this clear understanding between the Commonwealth and the states, Senator Barnett could not resist trying to have a go at the states. Unfortunately, he got a bit too tricky for himself when he again tried to play one of the government’s word games, saying that the Treasurer had used his discretion to ensure that many state taxes, fees and charges are free of the GST so there is ‘minimal double taxation’. I assume that minimal double taxation was meant to also include the Commonwealth’s double taxation where the GST is applied on an excise inclusive price for petroleum, diesel and liquor. I think the expression ‘people who live in glasshouses shouldn’t throw stones’ springs to mind.

However, that is to suggest that perhaps the state governments are doing something that they should not—this is the issue—and I do not believe for a minute that they are. The federal government is squeezing the Tasmanian state government and every other state and territory government around this country and, as a result, they need every bit of revenue they can get. Whilst this federal government has been taxing Australians at the highest level in history, the Tasmanian government has been providing substantial tax relief in both the 2001-02 and 2002-03 budgets with a total benefit to the businesses and the Tasmanian community of approximately $44.1 million per annum.

At the same time, in every negotiation on Commonwealth-state funding agreements, the Commonwealth has dudged the states. The key issue in Commonwealth-state financial arrangements at the present time is not one of whether the states have received some imaginary bonus from the Commonwealth but by how much the Commonwealth is going to cut funding for vital services such as hospitals, public housing, disability services, education, the environment and transport. Senator Barnett, in his discourse on housing last month, spoke at length about the so-called windfall gain Tasmania will receive from 1 July this year because of GST revenues. He was very careful, as is everybody in this government—and judge them very carefully by what they say because the devil is always in the detail—to say from 1 July, because in spite of trying to imply otherwise he knows that in the three years since the GST’s introduction Tasmania has been no better off than it would have been under pre-GST Commonwealth-state financial arrangements. That is in the IGA, the interim arrangements with respect to the GST. So let me just have a quick look at what Senator Barnett did claim. He said:

In my state of Tasmania the windfall gains in GST revenues started on 1 July this year, with an extra $8 million windfall payment to the state government of Tasmania as a result of being part of this federation.

That figure of $8 million is pretty interesting. It actually rings some bells with me. Where have I heard that figure before? That figure of $8 million per annum is what the previous health minister, Senator Patterson, took from the Tasmanian government under the recently renegotiated Australian health care agreements. By not carrying forward the terms of the old agreement, Tasmania was short-changed by about $40 million over five years, or $8 million per year. Now there is a coincidence. So give with one hand and take away with the other. That is what this government is doing at every turn. And the Liberal senators from Tasmania should be here defending the living standards of Tasmanians, rather than toady ing along with the current government putting the right spin on things. I must say that we have not heard
much from Senator Abetz lately. Maybe he is a bit busy working on his own preselection. Maybe if he was here standing up for Tasmanians he might have some success or better success in the forthcoming Senate preselection. I do not normally talk about this sort of thing but, given that it is Senator Abetz and he does talk about this sort of thing a lot, I will make that comment.

Tasmanians deserve better. They deserve to have their interests protected by all their elected representatives, not just those on this side of the chamber. Therefore, I call on Tasmanian senators opposite to ensure that their government meets all its obligations under the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations, the IGA, in respect of special purpose payments and other matters. This is a really critical issue. The 2003-04 Commonwealth budget and other recent developments have confirmed the fears of the states in relation to the Commonwealth’s intentions for specific purpose payments. We were on to it immediately, here in the Labor Party. We predicted that SPPs would be the next thing to fall. It is obvious that through either cutting funding or imposing more onerous financial commitments on the states, the Commonwealth is deliberately clawing back the so-called GST windfalls. In fact, recent Tasmanian Treasury estimates suggest that, rather than there being any windfall over the next three years, Tasmania will be faced with reduced funding in the crucial areas of health, housing, disability and education services, totalling some $40 million.

It is not good enough for Tasmanian senators from the other side to keep claiming that Tasmania has received some mythical benefit under Prime Minister Howard. Alternatively, they should be working with the state government and lobbying the Prime Minister and the Treasurer to ensure that this government meets its obligations under the intergovernmental agreement. To do any less is to sell Tasmania short. The issue with the IGA from when it was first introduced is that for the vast majority of states, including my home state of Tasmania, there is a seven-year transitional period within which Tasmania is no better off as a result of GST revenues. So for people to come in here and say that there is $8 million of GST revenue from 1 July is totally misleading. It does not take into account the issue of the Commonwealth Grants Commission, the issue of the equalisers and the provisions of the IGA itself, which stated that it would take Tasmania seven years from the implementation of the GST before it realised any revenue in addition to what it was receiving from the Commonwealth.

My understanding is that the only state that is in a different position is Queensland, but I am not up to speed with the figures there. Certainly, the vast majority of states, including my state of Tasmania, will not see any real revenue increase from the imposition of the GST for at least another four to five years. In the meantime, however, we have seen major cuts to health. We have seen $40 million already gone in health funding—that is, $8 million per year. We have seen a huge cut in the Commonwealth-State Housing Agreement. So everywhere we look, in terms of what are loosely called specific purpose payments, the cuts are occurring now and that is before any additional revenue may be derived as a result of the GST, if in fact it is. Who knows what economic circumstances are going to prevail.

That is the reason I arise today. I came in here to set the record straight. I noticed that some newspapers are, unfortunately, buying the government’s line on stamp duty. It is a furphy. I think it is important that the facts are out there. This is yet another example of the government being mean and tricky with figures, which we are used to. I think it is important that the Senate and the people of
Australia do hear the other side, and I challenge any of my colleagues from Tasmania who have an issue with anything I have said to raise it with me personally, and I will double-check. But that is certainly the issue with respect to stamp duty and it is generally the issue with respect to the fiscal arrangements for Tasmania at the moment.

Health: Mental Illness

Senator ALLISON (Victoria) (1.11 p.m.)—As honourable senators will know, this is Mental Health Week, and I rise to speak about the matter of depression and how it affects adolescents and young people. Depression amongst our young is now so widespread that I think it is time for us to renew our emphasis on finding the possible causes and dealing with those causes and the associated tragedy, which is suicide. According to our national depression advocacy group, beyondblue, one in five Australians suffers from depression every year, with 100,000 of those being young people. Depression is the most frequently reported health problem for young people. It has its onset in adolescence but is rarely recognised or diagnosed, and less than one in three young people seek help from a mental health professional. But perhaps most alarming of all, depression is predicted to become the second highest medical cause of death and disability after heart disease, globally, by 2020. If this is not a wake-up call then I do not know what is or what should be.

In Australia, which has one of the highest youth suicide rates in the world, one young person takes his or her life every day, and 80 per cent are male. For every young person who takes their life, many more will make an attempt. The rate of suicide in this country is twice as high as that in France, five times the rate in Italy and 10 times the rate in Greece, according to the Victorian organisation Here for Life. A couple of weeks ago in Melbourne the media reported on a 15-year-old girl who ended her life by throwing herself in front of a train. Sadly, this is now such a common occurrence that the response of travellers is often one of hostility at having their schedules disrupted. We need to ask: is this the sort of entrenched lack of feeling and compassion that triggers the vulnerable to become depressed and end their lives in the first place?

It is almost banal to keep saying that love, care and connectedness are of paramount importance to human mental health, but I would argue that so is resilience. Developing resilience is the subject of author Anne Deveson’s most recent and very important book on the subject. But there are other factors too, such as drug and alcohol use. In recent times, marijuana, especially now in its current highly fortified form, has been accepted as being a major cause of suicide, schizophrenia, psychosis, personality disorders, paranoia and antisocial behaviour.

There are also other factors, such as parental pressure to achieve at school and develop career ambitions, peer group pressure to conform to consumer and body ideals according to advertising images and bullying. I have heard glowing reports of the MCEETYA progress on a national approach to making schools safer places for children. I take this opportunity to congratulate the minister on taking up an initiative which the Democrats began in this place with a set of amendments to a schools bill. I am pleased that this has been taken up by our Labor education ministers and supported by the federal minister.

There is no simple answer to solving depression and suicide but it is my personal conviction—based on what I have read and what I know—that early relationship problems, particularly those that might be exacerbated or identified by bullying, are very
significant factors in the development of self-esteem. Those relationships are very important in developing resilience and sound mental health to continue throughout life.

We live in a society that continues to maintain that wealth and worldly achievement are the only reliable paths to personal fulfilment and happiness whilst almost no attention is paid to relationships and to the psychological needs of the young adolescent. The normal crises that teenagers go through as they experience themselves as unique individuals for perhaps the first time are made difficult by external pressures, which can skew their development and make them overly vulnerable to exploitation and material pressures.

I know of the work of beyondblue and Here for Life, which are two organisations interested in suicide and depression. I have also personally experienced an antibullying program called Solving the Jigsaw, which has been used in a very small primary school near Bendigo and which, I am glad to see, has now spread to a number of other schools in the region. These schools have all implemented comprehensive programs and resources to combat this problem. But I was somewhat dismayed to hear from beyondblue that they have not been able to establish that their programs are actually preventing depression and suicide. This exposes a major gap in our knowledge about what exactly it is that we should be doing.

We must do the research and we must seriously evaluate it. We must test it and be rigorous in determining what works and what does not. Some programs contribute to the skills needed by adolescents and young people to build sound relationships and to find their place in and contribute to communities. These appear to be essential factors in psychological health.

Of course, the human body and mind are delicate organisms but have the capacity to develop enormous strength if we understand them thoroughly enough. As well as a greater emphasis on the inner needs of adolescents, we need to understand the links between mind and body and between the human being as a whole and his or her environment. According to the National Institute for Environmental and Health Sciences in the United States, about 30 per cent of the population is genetically more sensitive to environmental factors than the rest; this needs to be taken into account and examined more thoroughly.

We need greater public awareness of this issue and a more intensive research effort by parents, psychologists, schools and the government to resolve the problems. That research would do well to take into account the ABC’s Compass program last Sunday, which revealed that a top Melbourne psychologist is pioneering a new form of cognitive therapy for those suffering from depression that integrates meditation into the usual therapeutic methods and medication. His patients were eloquent in their confirmation of this as an effective way to heal anxiety, trauma, depression and lack of hope. The program also cited World Health Organisation experts in this area as having concluded that a lack of meaning is the cause of much of our modern angst. In some respects that is easy to say; all we need is a bit of meaning. But it is like self-esteem, it is not something you can order by the dozen and it is not something that you can simply say we need and can get.
In conclusion, we need to be very much aware now, as always, that children are our future but that they are also, to some extent, symbolically like canaries in a mineshaft. If we do not solve the problems that are emerging and if we do not listen to the predictions that by 2020, in this case, the problem is going to be very serious indeed then we will have a very serious problem to solve much further down the track. We must help young people. We must find ways to discover the answers to these very complex problems and questions. One way that the government can assist in doing that is, firstly, to help raise awareness but also to do the research, make sure it is rigorously evaluated and that what works is repeated, promoted, funded and taken up throughout the country.

Queensland: Welfare of Children

Senator SANTORO (Queensland) (1.21 p.m.)—The latest information to become public as a result of inquiries forced upon the Queensland government about the sorry and long-standing lapse of the state’s authorities in the duty of care towards children at risk makes sad and shocking reading. It is also the reason why the Queensland government must now grasp the nettle, however much it stings—and, indeed, whomever it stings—and establish a royal commission. It must be independent, it must be well-funded and it must have strong and clear terms of reference.

It has been clear for a very long time that the Queensland authorities have sought to hide the truth about the plight of children for whom the Department of Families is ultimately responsible. It is clear today, as it has been for a long time, that the political interest of the Premier of Queensland is to protect his preferred heir, Anna Bligh—now education minister, but families minister from 1998 to 2001. It was Ms Bligh who tabled the Forde report—a forensic examination conducted by former State Governor Leneen Forde—in the Queensland parliament on 8 June 1999 and gave the assurance that active and serious consideration was being given to all of the 42 recommendations in that report. It was Ms Bligh who, despite specific reference in the Forde report to the need to make it mandatory to refer any allegation of child abuse in the state system to the Children’s Commissioner, failed to do this in this case of two state MPs who brought allegations of sexual abuse of children in foster care to her attention. Seeking to avoid responsibility and evade the political sanctions that would inevitably follow, she now says that she relied on departmental officers.

Veteran investigator Bob Bottom made an interesting speech at a forum in Brisbane on 6 August, in which he made the point that in 1999—four years ago—Ms Bligh, as families minister, put through the state parliament a new child protection bill that was supposedly directed at ensuring that the issue of responsibility was properly addressed. There were problems evident then. It was evident after the passage of the 1999 bill that the problems remained. Yet, in 2003, Premier Beattie’s star cabinet performer is still pleading ignorance. That indeed may end up being her only defence.

The latest tragic case, that of baby Kirra, revealed in an Ombudsman’s report, shows that even in 2001—when problems within the Queensland Department of Family Services were very widely known—decisions made by staff of the department about children in their care were unsound. Yesterday morning the Courier Mail headlined the case ‘Blunders and cover-ups’. Sadly, that is very evidently the case. That is why the delaying tactics and the prevarication of the Queensland Premier and his minister for families—and I use the terms ‘delaying tactics’ and ‘prevarication’ very deliberately—must now end. Humanity, let alone every principle of
good governance, demands that the hide-and-seek and the smoke and mirrors approach to government that the Premier in particular employs can go on no longer. Sadly, from the evidence of proceedings of the Queensland parliament this week, the Premier will have to be dragged from under the rock beneath which he has tried to hide on this issue and be made to bring this to account. As Bob Bottom wrote in the *Bulletin* magazine recently:

The ghosts of the past are stirring ... Continuing disclosures over the failure of authorities to deal properly with allegations of child abuse in Queensland have created an atmosphere in the state reminiscent of the pre-Fitzgerald era.

That is why Beattie, who is not due to go to the polls until next May, is keeping a close eye on the spectres of previous scandals. Beattie knows, perhaps better than anyone else, that it was allegations of child abuse that triggered the events that led to the Fitzgerald inquiry and the ultimate downfall of Joh Bjelke-Petersen and his regime. Ominously, the current focus on government failures over child abuse revolves around the release of files detailing a litany of complaints of abuse by one particular foster family dating right back to 1984, none of which was acted upon. Back in 1984, allegations over child sexual abuse forced an inquiry by Des Sturgess QC. Follow-ups to the Sturgess report in 1985, especially by Phil Dickie in the *Courier Mail*, led to the historic inquiry by Tony Fitzgerald QC.

In the current climate, the inevitable question is being asked: what has changed in the state of Queensland? They are Bob Bottom’s words. For all these reasons, it is no longer any use—if it ever was—for the Premier of Queensland to say that the Crime and Misconduct Commission has all the powers of a standing royal commission. He knows that it is already so overcommitted to inquiring into allegations of wrongdoing in other parts of the Beattie empire that it would be impossible for it to give the matter the detailed and focused attention that it must have. No longer can the issue of inquiring into, and fixing up, the mess that is Queensland’s record and current performance in matters of child abuse be simply part of a basket of other issues on the CMC’s desk. This is a situation that requires specific terms of reference to be dealt with by a royal commissioner. The commission of inquiry must have the intellectual, financial and motivational clout to pursue matters down to the last punctuation mark. In my view, anything less would condemn more Queensland children—infants, toddlers, young children and teenagers—to the kind of abuse that has been so obviously exposed.

It is not only baby Kirra—identified in the Ombudsman’s report by the pseudonym Kate—who demands justice from the society of which she was a member for just 10 weeks. Her short life speaks volumes about the incapacity of the Queensland system to care for at-risk children to cope with the realities that must every day confront it. In 2001, the Queensland Department of Families operated a minimal intervention strategy. This meant in the tragic case of baby Kirra that, effectively, no-one intervened. She was dead at 10 weeks, one of 75 children known to the department to have died in the past four years. Her story has been canvassed widely in the Queensland media. The state Ombudsman’s report is comprehensive and starkly clear in its damning indictment of state inaction.

We have gone past the point where an Ombudsman’s report is an adequate response, however comprehensive it is. Baby Kirra is just the latest example in a lengthening list of failures of the system. The system itself demands attention. The Queensland government knows that and the Queensland government must act. It demands action that
goes much further than just the extra money the Queensland government is now, at the eleventh hour, pumping into the system. Let me say in this place that it is good to see the Premier of Queensland was able, in 2002, to find an additional $188 million over four years—from the $10 billion he gets in revenue a year—to pump into the fight to help children and families in crisis. It is good that Queensland is now spending more than $167 million a year on child protection and switching the focus of that effort to prevention and early intervention.

But it is not an answer to the wrongs of the past that still demand forensic examination and which, so sadly, the Premier and his hapless present Minister for Families, Judy Spence, and her predecessor, Anna Bligh, are still refusing to accept must be undertaken. The Queensland government’s response to questions in the state legislature this week on this issue shows that the Premier and his ministers are still unwilling to face the music. Premier Beattie told state parliament in a ministerial statement yesterday that the Crime and Misconduct Commission is due to start its in-depth inquiry into the foster care system and child abuse allegations next week. He said again, as he does so often when pushed into a corner, that the CMC has all the powers of a royal commission. That is a cop-out. Mr Beattie knows that it is a cop-out. I say this to him: it is time to face the music. I say this to Mr Beattie and the Labor Party: some of the problems today besieging the care of children by state agencies in Queensland are of very long standing. They stretch back decades. But I say this, too: the Labor Party has been in power in Queensland for all but 2½ of the past 13 years. Premier Beattie cannot evade responsibility. The people simply will not buy his favourite ‘nothing to do with me but we’ll fix it’ line on this one. This is something Labor could have fixed a long time ago. The Forde inquiry clearly lit the way, but Mr Beattie and his government dropped the torch.

The best way to finally right all of the wrongs—the most effective way of clearing the air, sweeping clean and starting again—is to hold a royal commission that can focus on the real problem. Premier Beattie says that the problem is money. That is not the problem, and he knows that it is not the problem. The problem, clearly, is attitude. The problem, clearly, is ineptitude. The problem, clearly, is political cowardice. That is the bottom line. If Premier Beattie and Labor have nothing to hide, they have nothing to fear.

Unfortunately the record indicates that Labor does have things to fear and things to hide. That is another reason—the administrative reason—why a royal commission must be held. The statistics nationally and from within Queensland demonstrate with awful clarity what the problem is and its extent. According to a Queensland University of Technology study by Dr Christine Eastwood—and I referred to this study in a speech in this place on 9 September and mentioned that she was a board member of the Bravehearts organisation—in 2000-01 Queensland police recorded 2,635 sexual offences against victims aged from under one to 19. They involved 208 infants and toddlers aged from zero to four, 541 children aged from five to nine, 1,000 children aged from 10 to 14, and 886 aged from 15 to 19.

At a national level the Australian Bureau of Criminal Intelligence estimates that 40,000 Australian children will be sexually abused in any 12-month period. I said in this place on 9 September, and I repeat it now: we simply cannot ignore these grim statistics. Child abuse is a national issue. It transcends politics, it ignores borders and it takes no account of differences in wealth, standing,
culture or any other demographic measure-
ment.

Figures from the Australian Institute of
Health and Welfare show that substantiations
of child abuse and neglect rose from 24,732
in 1999-2000 to 30,473 in 2001-02. They
show that the number of children placed in
out-of-home care increased from 14,078 to
18,880 over the same period. They show that
51 per cent of children in out-of-home care
are in foster care. What we know from the
Queensland experience—and specifically
what can be surmised from that experience in
terms of the government and bureaucratic
responses to child sexual abuse—points to
one acceptable outcome only: the fullest,
most independent, best resourced, clearly
focused and far-reaching inquiry possible.
Premier Beattie must deliver this. He has
nowhere left to run or hide.

I want to close with a few words on one
other sorry and sad aspect of Labor’s
maladministration in Queensland. The
Queensland government’s dismal financial
management is killing off the gynaecological
department at the Princess Alexandra Hospi-
tal in Brisbane. The state’s shadow health
minister, Fiona Simpson, has attacked the
Beattie government for failing to put some of
its $250 million GST windfall, which it re-
ceived this year, into maintaining this essen-
tial service. As she says, the Princess Alex-
andra is a teaching hospital with one of the
largest emergency departments in Australia,
but for five years the Beattie government has
been stripping staff positions from the gy-
aecological unit and now, or at least from
31 December, it will no longer operate.

This major tertiary hospital—a place that
constantly takes emergency cases from other
hospitals that are turning away ambu-
lances—is being stripped of its capacity to
deliver comprehensive women’s health ser-

has been driven by a health bureaucracy that
delivers medical services by abacus and that
has clearly captured the state health minister.
Recently, 102 of the 104 senior medical staff
at the hospital voted against the removal of
the unit. But the experts in the state health
bureaucracy think that they know better than
the real experts in health services delivery—
the doctors, nurses and other professionals
who actually work at the coalface.

The health bureaucracy thinks that the
way to service gynaecological needs in the
huge area for which the Princess Alexandra
Hospital is the hub is to farm them out to the
nearby Mater Hospital and the more distant
Queen Elizabeth II Hospital. These are the
institutions that are frequently on ‘bypass’—
that is the bureaucratic term for playing shuf-
fleboard with ambulances carrying emer-
gency patients for whom the hospitals have
no room. The plan is that they will send a
gynaecologist to the Princess Alexandra if
there is an emergency patient there who for
medical reasons cannot be moved. There is
still time, even at this late hour, for someone
in the Queensland government department
and the ministry to overturn this extremely
poor decision that will do absolutely nothing
for those Queenslanders requiring emergency
treatment.

Kirkpatrick, David Gordon ‘Slim Dusty’

Senator STEPHENS (New South Wales)
(1.35 p.m.)—It is our duty in this place to
mark the passing of a great Australian whose
life set an example of harmony and unity in
these times of discord and division. His
name was David Gordon Kirkpatrick, and we
all knew him as Slim Dusty. Slim epitomised
the true values of the Australian working
people, including loyalty, mateship, love of
the bush and support for the battler. His was
a life filled with humility, humour, recogni-
tion of the unsung or forgotten people in our
society, both men and women, and the prin-
Chamber of a fair go. He has been compared with Henry Lawson, whose works were his lifelong inspiration, as were the poems of Banjo Paterson.

Slim Dusty was the boy from Nulla Nulla Creek in the Kempsey district. He came from a poor dairy farming Irish-Australian family—as we know, in Australia half the population is Irish and the other half wish they were. His wife, Joy, his sister-in-law Heather, his daughter Anne and his son David are all successful musicians. Slim chose his own stage name at the ripe old age of 10. Known all over this country as the king of country music, Slim grew up listening to Irish folk music—his dad played the fiddle and was known locally as Noisy Dan. Slim loved American cowboy tunes, and he combined elements of both in a distinctive Australian style which had universal appeal. It is worth noting that he did not sing the jingoistic red-neck songs so often associated with American country; he sang a simpler Australian version of country known as bush ballads—songs that celebrated a love of the bush and the simple life.

Slim’s gift was his capacity to take a simple personal experience, capture its mood and give it a universal significance. ‘Every day’s a Sunday when you’re catching barramundi’, ‘gum trees by the roadside and willows by the creek’ and ‘a fire of gidgee coals’ were all evocative phrases. It is sobering to think that some of those experiences he sang about may soon be a thing of the past, like ‘catching yellowbelly in the old Barcoo’. But Slim’s philosophy was simple: he said he sang ‘songs about real Australians. I have to be fair dinkum with my audience. I can’t see any other way of doing it.’

In the course of his long career, Slim played at all kinds of venues, from the packed Opera House to tiny audiences in the most remote parts of the country. His concert at the Grand Ole Opry in Nashville was the launch of his international singing career. People turned up for a Slim Dusty concert wherever they got the chance, and he would perform anywhere—at the local RSL or the showground, in a dried up creek bed, at a school of arts hall in a remote country town, on the back of a flat-top truck, in the church hall or at the rodeo. He loved the bush and was uneasy in the city, or ‘the smoke’ as he called it. He was happiest singing in country towns and Aboriginal communities.

Slim had a huge following among Indigenous people, and in his early touring days his was the first white music some of them had ever heard. They loved both his music and his manner. They respected him as an uncle, and he treated them as he treated everyone—with respect. He also said of Aboriginal people, ‘Just given half a chance they all do well.’ Slim was a major influence on Lionel Rose, Herb Laughton, Kevin Gunn and Troy Cassar-Daley. From his earliest days he encouraged country Aboriginal singers, and that was unusual in what was a fairly racist industry. Mandawuy Yunupingu of the Indigenous rock band Yothu Yindi called him ‘the first pioneer of reconciliation between black and white Australia’ and said that the message in Slim’s songs ‘brings harmony and balance between people and the land’. More formally, Slim was made an ambassador for reconciliation by the Council for Aboriginal Reconciliation and was a proud sponsor of National Sorry Day.

Slim’s work transcended political parties, although he occasionally joked about starting his own. He sang many politically progressive songs such as This Country of Mine, where he attacked the government’s policy of blindly following the USA into the Vietnam War. He was known to be unhappy with Australian troops being sent to Iraq. He also sang socially progressive songs like Joe Daly’s Trumby, a great ballad about a young
Aborigine who was a wonderful stockman but died because he could not read a sign by a waterhole telling him that the water was poisoned. It is not widely known, but Slim offered his support to the then minister for education, John Dawkins, to help promote the government’s adult literacy campaign in the International Literacy Year of 1990, because Slim understood that, for Indigenous people, literacy was a key to reconciliation.

Slim’s great skill was to be able to use everyday events as metaphors for the most significant concerns in our society. In this respect he was a gentle, persistent social conscience for the nation. The song I mentioned earlier, *Trumby*, asks why, with all the progress we have made, a man should die because he could not read and write. Adult literacy is still a problem in this country, especially in our Indigenous communities. It is extraordinary that in a First World country like Australia we still have some 48 per cent of adults who have difficulties with reading, writing and basic maths.

Slim was a very practical man and gave generously to supporting the careers of many young people. He was a true mentor: he was generous in his praise and constructive in his criticism. He always there, always challenging his proteges to believe in themselves. He actively fostered talent, particularly in the country music industry—a fact attested to by those who performed at his funeral, which was in fact a glorious celebration of his life.

Slim Dusty’s career spanned six decades and is marked by a number of significant achievements. He held 35 Golden Guitar awards from the Tamworth Country Music Festival, a record unlikely ever to be equalled. He had more gold and platinum record awards than any other Australian artist. In fact, he was the first Australian to have an international record hit and the first Australian to receive a gold record—his is the only gold 78 rpm record in this country—and he was working on his 106th album when he died. Slim was also the first singer in the world to have his voice beamed from space, when in 1983 astronauts Bob Crippen and John Young played Slim singing *Waltzing Matilda* from the space shuttle *Columbia* as it passed over Australia. This was also the song he sang at the closing of the 2000 Olympic Games, when his voice was broadcast to an estimated four billion people. In his typical quiet way Slim commented later: ‘Just me, the world and my guitar ... amazing.’

Slim had an MBE and an Order of Australia. In 1999 he was named Father of the Year, an award that recognised his status as a national treasure. In the same year, he was also named the inaugural Senior Australian of the Year. He had a good business head too. He understood that the industry that had served him so well and supported him for decades needed to establish some corporate governance in the interests of protecting the intellectual property rights of Australian musical talent. To support this aim, he initiated the Country Music Association of Australia and was its chairman until he died. Slim was a philanthropist. There are many stories of his generosity. He gave practical help in his own quiet way and was unfailingly generous, finding the time in his extraordinary touring schedule to visit the sick or to play at a concert for those less fortunate. He was particularly supportive of the work of the Australian Heart Foundation.

It was Slim’s capacity to remain humble and self-effacing that endeared him to powerful and ordinary people alike. He did not just perform and walk away; he always made a point of listening to his fans. At the end of every concert he would meet them at the front of the stage and take in what they had to say. They trusted him enough to tell him about their lives, and he incorporated their
stories into his songs. He sang about many unsung heroes, such as in the song *Jim*, a song about Jim Radburn of Trunkey Creek, a friend of my own family.

While he was a man of his time and his generation, Slim was also a man before his time in terms of his vision about reconciliation and the environment. The song *When the Rain Tumbles Down in July* is a glorious example of his concern for place and his respect for the power of nature and the elements. Among his many friends Slim included Peter Garrett, head of the Australian Conservation Foundation, who said at his funeral:

Slim Dusty was a pioneer, poet and an ever-present performer rolled all into one, an unassuming giant amongst us, plain in speech, humble and fair in character.

The huge state funeral was a privilege Slim deserved. It was an opportunity for those who were touched by his life and his music, from bush and city, from all racial and social backgrounds, from the most powerful to the simplest in the land, to acknowledge his life and to say goodbye.

Slim Dusty’s success lay in the fact that it did not matter who or where you were; having a beer in sideshow alley at a dusty rodeo in Rockhampton or sipping chardonnay in suburban Sydney, Slim’s songs evoked memories for all of us about the things we remember and hold dear about our childhoods and how life used to be. Slim Dusty’s whole life can be aptly summed up in the title of his 100th album, *Looking Forward, Looking Back*. His is an enduring legacy for us all.

**Kirkpatrick, David Gordon ‘Slim Dusty’**

**Health: Tough on Drugs Strategy**

Senator McGauran (Victoria) (1.47 p.m.)—I would like to endorse the comments of Senator Stephens regarding the passing of that great Australian, Slim Dusty. As I travelled around I was always amazed at just how popular Slim’s music was, just how loved the man really was and how many different generations said that they grew up with his music. A measure of the man and his popularity was the fact that two national networks, Channel 9 and the ABC, covered his state funeral live across the country. Few, if any, could muster such attention on their passing or bring such focus to the nation. It is no exaggeration, as Senator Stephens said, to compare this man to the Aussie greats such as Lawson and Paterson and others. Time will see that through. It is our loss and heaven’s gain.

I would also like to take this opportunity just before question time to address a national scourge, and that is the drug culture in this country. The thought of a child becoming addicted to drugs, in particular that very deadly drug heroin, is one of the greatest fears of all parents, yet parents so often feel helpless against this sinister culture. Whatever the worry a parent may feel, one thing is for sure: being soft on drugs is not the answer. Since 1997 the whole approach to fighting the drug culture was turned around from a somewhat liberal harm minimisation approach to a get tough on drugs policy. The contrast of the two policies could not be starker. The harm minimisation approach promotes softer and more tolerant sentencing laws for drug use along with community based policies such as free heroin to addicts and the establishment of injecting rooms. The Tough on Drugs philosophy has at its heart the need to take the fight right up to the peddlers of menace and sorrow in our society by introducing tougher policies and sentencing laws.

The Tough on Drugs policy was much criticised when it was first launched but the results are now in. You beat a predatory pusher or a drug baron the same way as you beat a merciless dictator or a terrorist—
through pre-emptive action and relentless determination. At the vanguard of the Tough on Drugs policy is the newly established Australian Crime Commission. This crime fighting body is assigned to fight the drug trafficking syndicates and their bosses. To win the never ending fight against the drug barons, institutions like the Australian Crime Commission must be given full powers of surveillance, search, interrogation and arrest. Tough policing policies may be seen by some as an intrusion on the civil liberties of the citizens of Australia. That is a just thought but it has to be remembered that the actions and directions of those crime bosses affect the very civil liberties of all Australians. So long as society is willing to give the green light to law enforcement agencies to fight the war unshackled then the battles can be won. It does mean giving the police extra powers not dissimilar to those that society has recently handed over with regard to tracking down terrorists. But it is worth it. Since the Tough on Drugs policy was introduced, extra powers and resources have been given to greatly enhance police operations, particularly in the area of surveillance and tapping. Tapping is expensive and time consuming but it does produce results. You would be amazed how much the criminal does talk.

While the Tough on Drugs approach incorporates money for education at the school and community levels and rehabilitation centres for the addicts, the real fight against drugs must continue to focus on the crime bosses—that is, those who supply the streets. Their evil organisations can be matched only by the resources and the might of institutions such as the Australian Crime Commission—and the proof is in the pudding. Law enforcement and health authorities have reported a significant heroin shortage across Australia. There is no other country in the world that is experiencing such a significant and prolonged heroin shortage as there is in Australia. The heroin drought has come about because of record busts. A real case example occurred earlier this year in my own state of Victoria, where the largest ever heroin seizure occurred in the coastal township of Lorne. Also, just a couple of weeks ago, Australia’s largest drug bust occurred for an illicit drug used to make amphetamines. With these busts come arrests, convictions and the scattering of that drug syndicate to the four winds.

I think the best proof is in the Melbourne Herald Sun. It has a daily ‘Stop the carnage’ toll, which gives statistics on the road toll and the heroin overdose toll. When they first started this several years ago, the road toll tragically matched the heroin overdose toll. Today the road toll is still far too high but the heroin overdose toll has been more than halved and it is now well below the road toll. That is the best evidence yet that because of agencies on the street, saving lives, the death toll is way down. You cannot get a better result. That is the cascading effect of all the work done, the laws passed and the funds given by this parliament. Keeping this sort of hope alive requires vigilance today or that fight will be lost tomorrow. If the Tough on Drugs strategy works, the federal government—my own government—and the parliament, with the cooperation of the opposition, needs to get even tougher on drugs and increase financial resources for law enforcement agencies.

Sitting suspended from 1.54 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE
Australian Defence Force: Anthrax Vaccinations

Senator CHRIS EVANS (2.00 p.m.)—Can the Minister for Defence confirm that on 10 March, 10 days before the start of hostilities, the ADF put a stop to its anthrax inocu-
lation program? If so, can the minister explain why the anthrax inoculation program was halted, given that Saddam Hussein’s alleged stock of anthrax and other chemical warfare agents was cited by the coalition as one of the main justifications for war? Who took the decision to suspend the inoculation program, and what advice was that decision based on? Given that 52 ADF personnel were returned to Australia after deploying to the gulf because they declined to be inoculated, why were personnel on subsequent deployments not inoculated against anthrax at all?

**Senator HILL**—Senator Evans is 24 hours out of date, of course. This concerns an article that appeared in yesterday’s press and I would have thought, had it attracted any interest, we would have been asked the question yesterday.

**Senator Chris Evans**—You must have an answer then. Where’s the answer?

**Senator HILL**—In fact, I have responded to the relevant newspaper saying that their article is grossly misleading. I am pleased that I have now been given the opportunity in this place to say that it was grossly misleading. The anthrax program was not stopped, as suggested by the journalist. The article referred to a decision to defer the program of inoculation in relation to subsequent rotations. When it got closer to the subsequent rotation, the inoculation program went ahead. The inoculation program was not stopped until some time after Baghdad was taken and when it was deemed to be safe to do so, except that forces who were to be engaged in sensitive operations which may have been dealing with weapons of mass destruction were still to be inoculated. I regret that after all the information was provided to the journalist, pursuant to a freedom of information application, he reported the story in such misleading terms.

**Senator CHRIS EVANS**—Mr President, I ask a supplementary question. I thank the minister for his answer. Can the minister then make it clear whether all Australian defence forces deployed to the area of operations during the conflict and subsequent involvement in Iraq were inoculated against anthrax or did some go into the area of operations without having been inoculated? It was not clear to me from his answer which was the case. Can the minister advise whether he undertook the anthrax vaccination prior to his visit to the area in late April?

**Senator HILL**—I undertook the anthrax inoculations—all three injections—because that was the advice given to me. The answer to the first part of the question really depends on the timing of the deployment. Certainly, before the decision that I mentioned that it would no longer be necessary after the taking of Baghdad, forces within the area of operation should have been inoculated. If the honourable senator wishes me to check that all were inoculated, I will do so, but that is my understanding of the guidance that had been set by the Chief of the Defence Force.

**Corporate Law Economic Reform Program**

**Senator BRANDIS** (2.04 p.m.)—My question is directed to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Will the minister inform the Senate how the Howard government is improving Australia’s corporate regulatory framework, particularly in relation to disclosure of information and accountability to shareholders? Is the minister aware of any alternative policy approaches?

**Senator COONAN**—I thank Senator Brandis for his keen interest in corporate law reform. The government today released its draft bill on the most recent stage of the Corporate Law Economic Reform Program, which has—from now 1 to 9—covered the
landscape on corporate and business law reform since John Howard assumed the prime ministership of this country. The key reforms have embraced the notions of substance over form, a principles based approach rather than prescription and a well thought through system of disclosure as the most effective way to ensure compliance and to empower shareholders.

The bill incorporates the majority of recommendations contained in the Corporate Law Economic Reform Program paper No. 9, which colloquially has become known as CLERP 9. In releasing the exposure draft, the government has undertaken extensive consultation with stakeholders on the CLERP 9 paper. I acknowledge the input of the business regulation advisory group to this process. The bill also implements recommendations from the Ramsay report, the HIH Royal Commission and the review of independent auditing by the Joint Committee of Public Accounts and Audit.

Last but not least, I would like to take the opportunity to acknowledge the sterling work of my colleague Senator Ian Campbell on the CLERP 9 reforms. The fact that he has moved on and upwards does not mean that his work here will be unappreciated. The government’s objective with these reforms is to improve the operation of the market by promoting transparency, accountability and shareholders’ rights. The bill takes a balanced approach to corporate regulation without overburdening business with unnecessary regulation. The government has sought to strike a balance between the need for improved corporate accountability and not being overly prescriptive. Measures in the bill include the expansion of the role of the Financial Reporting Council to cover oversight of the audit standard-setting process and monitoring and advising on auditor independence; the requirement of auditors to meet the general standard of independence and to make an annual declaration that they have maintained their independence; restrictions on financial and employment relationships between auditors and clients—for example, a waiting period of four years will apply to partners of the audit firm directly involved in the audit of the company; compulsory audit partner rotation after five years; and the requirement of auditors’ attendance at company AGMs.

Most importantly, there will be a requirement of disclosure of directors’ and executives’ remuneration in a clearly marked section of the directors’ annual report. Shareholders will be able to comment on the content of the report and vote on a non-binding resolution to adopt the remuneration disclosures. The existing remuneration disclosure requirements will be extended to apply to the corporate group, not only to the listed entity. In this respect, disclosure of the top five senior managers in the group will also be required. Importantly, there are many measures, and I commend CLERP 9 to those who have an interest in this area. Australia is a great share-owning nation. Half of the Australian adult population owns shares either directly or indirectly. It represents 7.3 million people nationally. The reforms announced by this government provide for greater transparency for boards to be more responsive to shareholders.

Senator Conroy’s discussion paper, on the other hand, on corporate governance has been rattling around for about a year. The latest suggestion he has on disclosure is that it should go from five to 10. Five plus five equals 10 but not much else. A prescriptive approach is simply an invitation to find loopholes and to find the easiest way for minimum compliance. *(Time expired)*

**Senator BRANDIS**—Mr President, I ask a supplementary question. Can the minister provide further information to the Senate on
alternative policy approaches to corporate regulation?

Senator COONAN—The reforms announced by the government do provide for greater transparency and for boards to be more responsive to shareholders. Senator Conroy’s discussion paper has been out for some time. It does not seem to have gained much traction. It does adopt a black-letter approach to corporate law, which does little to address the need for best corporate practice and remuneration. A prescriptive approach, as we all know, is simply an invitation to find loopholes and to find the easiest way for minimum compliance. The CLERP 9 response by government is a measured and balanced response. It has been reached after very careful consultation with the relevant stakeholders. It deserves the support not only of the business community but of shareholders, and it deserves the support of the Senate.

Insurance: Medical Indemnity

Senator SHERRY (2.09 p.m.)—My question is to Senator Coonan, Minister for Revenue and Assistant Treasurer. Can the minister confirm that she was responsible for overseeing the flawed calculations of the medical indemnity levy? Given that the Treasurer, Mr Costello, said yesterday that the new actuarial investigation would now take account of tort law reform, why didn’t the minister ensure that the Government Actuary took these important reforms into account in his original calculations? Why did the minister make such a massive error?

Senator COONAN—The problem with Senator Sherry’s question is of course that the calculations are not flawed. What we need to understand is how the calculations were in fact arrived at. They certainly were not arrived at by me. The IBNR estimate for UMP, which is the relevant organisation, is $460 million as at 30 June 2002. The estimate was provided by UMP’s own actuaries. The estimate was provided to the Australian Government Actuary as well so that he could report to the Minister for Health and Ageing, not the Minister for Revenue—have you got that, Senator Sherry?—on whether UMP needed to be included in the IBNR scheme this year. The actuarial estimate of UMP’s IBNR liability provides an allowance for tort law reforms, including the New South Wales legislation, which had been enacted at that date. That arose, of course, under the Health Care Liability Act 2001 and the Civil Liability Act 2002. It also allowed for the New South Wales visiting medical officers initiative whereby the state government indemnified doctors for public work in public hospitals. UMP’s unfunded IBNR estimate will be updated and released at least once a year by the Australian Government Actuary in accordance with the Medical Indemnity Act. This was provided for in the legislation that the Senate passed. I would have thought, seeing that Senator Sherry takes such a keen interest in it, he would have realised that this gets updated every year. You could hardly factor into actuarial projections something which has not yet occurred because a lot of tort law reform is still to be enacted.

Clearly, as actual experience emerges over time, as you would expect, a more complete measure of the impact of tort law reform will be available. At the moment, it is very difficult to estimate that because of the tail and because of their very nature those claims have not been brought forward. They are claims that have been incurred, but they have not yet been made into claims. The claims in respect of the tail have not been made. Obviously, as they come on-stream and the claims are made and assessed in accordance with the new tort law reforms across the country, the figure will be updated. The notion that the calculations somehow or other are the direct responsibility of the government is absolute nonsense. They are the calculations
of UMP. The calculations are checked by the Government Actuary, as is required under the act, and they are reported to the relevant minister.

Senator SHERRY—Mr President, I ask a supplementary question. If the calculations are not flawed, why are they being recalculated, as the Treasurer admitted yesterday in the House of Representatives? Will the minister now table the original and secret calculations from the Australian Government Actuary which formed the basis of the government’s original charges? And will the minister undertake to table the new set of actuarial calculations?

Senator COONAN—That is a very comical supplementary, if ever I heard one. The calculations are updated every year in any event. The approach to the IBNR calculation was, on my understanding, as I have just said, certainly not flawed. It emerges as other factors impact as the tail unwinds and claims are made in accordance with the tort law reform that has in some respects been made universal throughout the country, but in some respects it has not. There are some measures that are relevant that have been announced but not enacted. There are some states that have not yet moved in ways that are necessary in accordance with the lpp reforms. The tort law reforms will be factored in when the information becomes available and, in any event, the calculations are updated every year.

Economy: Fiscal Policy

Senator EGGLESTON (2.15 p.m.)—My question is to the Minister for Finance and Administration, Senator Minchin. Will the minister inform the Senate of the importance to national savings of responsible fiscal policy? Is the minister aware of any alternative approaches?

Senator MINCHIN—I thank Senator Eggleston for a perceptive question. During the last sitting week, I made the point that the most significant policy a government could pursue is to add to national savings by keeping the budget in surplus. As I said yesterday, we managed to do that to a considerable degree. With the surplus in 2002-03, we added $7.5 billion to our savings and repaid $67 billion of the debt we were left. This issue of national savings was raised a couple of weeks ago, not by us but by the shadow Treasurer, Mr Latham, when he foreshadowed that he would be revealing Labor’s grand plan for boosting savings. That was of considerable interest to us. We would be delighted if the Labor Party would take some interest in national savings, having spent most of its time in office dissaving to the tune of $10 billion in its last annual budget. Even in opposition, it has opposed most of our measures to reduce taxation, to reduce the superannuation surcharge and to abolish the FID and stamp duty on share transfers. The opposition ridicules our tax cuts, but of course reducing taxation is the best way we can help ordinary Australians enhance their savings.

So we were very excited in anticipation of Mr Latham’s policy, but it was an extraordinary damp squib, as those opposite know. There was a great blaze of publicity, but then all we got was a research paper circulated around the gallery which apparently had never been through shadow cabinet and was not actually official policy. All it discussed was the possibility of a pilot project targeting only 150 people. What we had was a proposal for matched savings accounts, but according to the very numbers in Mr Latham’s own discussion paper around 70 per cent of the costs associated with this project would go on administration. The program was proposed to provide $350,000 to match the savings of low-income people, but there was going to be $850,000 for staff, administration and marketing. It was a make-work scheme
for the Public Service and not a savings scheme for low-income earners.

The Treasurer has already noted that similar schemes in the US cost taxpayers $5 for every $1 of savings generated, but Mr Latham's proposal was even worse value for money. His proposal was for a two to one ratio of government contributions to private savings. Under his proposal, the taxpayer would outlay $1.2 million in order to generate just $170,000 in savings. But you do not need to listen to us in relation to Mr Latham's scheme. Just have a listen to what Mr Swan, one of Mr Latham's fellow shadow ministers, had to say about it in a most extraordinary attack on a fellow shadow minister's proposal. Mr Swan said of low-income Australians:

We should not disappoint them with boutique solutions or paternalism imported wholesale from the United States that is marginal to the needs of battling Australians.

This is one shadow minister talking about another shadow minister. He also said:

In politics at the moment there are too many men in tights, leaping across the public stage, ignorant of what goes on around the kitchen table.

Of course, he was talking about Mr Latham. God forbid that we ever see Mr Latham dressed in tights! Once again, we are witnessing the rabble on the opposite side. They fight over Senate preselections, they fight over policies, they fight over everything and never deliver any policies. Meanwhile, the government is delivering high growth, low interest rates, low taxes, low inflation and high jobs growth.

**Roads: Western Australia**

**Senator COOK** (2.19 a.m.) — My question is to Senator Ian Campbell, Minister for Local Government, Territories and Roads. Does the minister recall saying yesterday:

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 ... spend a bit more time thinking about roads outside the Perth CBD.

Is the minister aware that the real minister for roads, the Deputy Prime Minister, Mr Anderson, yesterday confirmed in a question on notice that Main Roads Western Australia has advised that a reserve has already been set aside for the Peel deviation, that detailed environmental assessments and a public environmental review report have been completed, that environmental clearance has been granted and that preliminary design for this road will commence this year? Given that preparation and planning are well under way by Western Australian roads, will the minister now correct the record? (Time expired)

**Senator IAN CAMPBELL**—Senator Cook's question was a bit like Minister MacTiernan's railway: it gets going and then gets chopped off before it ever gets built. The Peel deviation is a project which has been driven and pushed very hard, to the great credit of the member for Canning, Don Randall, who represents those southern suburbs of Perth so successfully. I am very pleased that Senator Cook has made the point that the Deputy Prime Minister and Minister for Transport and Regional Services, Mr Anderson, has been putting pressure on the WA state government, as I did here in question time yesterday, to ensure—

*Opposition senators interjecting—*

**Senator IAN CAMPBELL**—I am very pleased to see that we have such a fantastic, rapid response over their embarrassment about going slow on the necessary approval and planning processes. As Senator Cook said, the preliminary work is under way. We are very pleased the preliminary work is under way, but we want to ensure that all of the proper processes are completed so that the
Commonwealth can take on the Peel deviation and build it. We are entirely relying, as we are with all of the states, on their ensuring that their planning processes are in place. The Commonwealth commits money to projects such as the Roe Highway in Western Australia, where the minister for transport in Western Australia was in the process of rezoning land which had been reserved by previous governments for Roe Highway stage 8, and again under leverage and pressure from the Commonwealth saying that we would not give them any more money until we get a commitment that they would not rezone it. She of course has had to do yet another backflip.

If this is due to the pressure that the Deputy Prime Minister—and now myself—have exerted on the WA state government to put in place the necessary planning for the Peel deviation, then I will be very pleased. I look forward to the state government doing not just preliminary planning. I reiterate what I said yesterday: the WA people are being short-changed by the state Labor government. It is pumping billions of dollars into this white elephant of a southern railway, which will cost the WA taxpayers going generations forward and give them a dud of an option for transport. It will suck money away from regional roads, it will suck money away from rural roads and it will suck money away from the Peel deviation. I reiterate what I said yesterday and I stand by what I said—that is, the minister in Western Australia should take away her myopic focus on this white elephant of a southern railway option that she is building and spread her gaze to some of the other glaring needs for regional and rural roads in Western Australia.

Senator COOK—Mr President, I ask a supplementary question. Minister, will you not acknowledge that in your debut Dorothy Dixer yesterday you were just plain wrong and have been contradicted by the real minister for roads, the Deputy Prime Minister? It is a bad look to mislead the Senate on the first day in the job, and you should now correct the record. Can you also confirm that your senior minister was asked if the federal government regards the Peel deviation as a potential road of national importance in order to attract 50 per cent federal money, and the real minister for roads answered that the program was ‘fully committed at this time’—in other words, not one federal cent has been, or will be, committed? When will the Howard government finally get its act together and start thinking about roads in Western Australia properly? Would you mind giving not a misleading answer but a confirmation that you were wrong yesterday and that you retract those statements?

Senator IAN CAMPBELL—The sad fact that Senator Cook cannot swallow, because it is a fact, is that the Western Australian state government have announced that they are cutting $200 million—and Senator Cook has not contradicted this—from roads, almost exclusively from regional and rural roads and roads that affect that southern corridor. Two hundred million dollars have been slashed as the Commonwealth government is putting in $200 million a year. That is the fact of the matter in Western Australia. They are ripping money out of regional and rural Western Australia and siphoning it into this white elephant of a southern railway. Senator Cook knows that is the truth, and that is the fact that he cannot swallow.

Medicare: Bulk-Billing

Senator ALLISON (2.26 p.m.)—My question is addressed to the Minister representing the Minister for Health and Ageing. The Medicare statistics for the June quarter 2003 show that, overall, bulk-billing rates dropped 2.7 per cent and patient contributions increased by more than 10 per cent in most states—and by almost 16 per cent here
in the ACT—in the last year. The Medicare inquiry has heard time and time again that very few doctors will increase bulk-billing with the so-called A Fairer Medicare package. In fact, bulk-billing would likely drop much further. What new measures will Minister Abbott introduce to increase the rate of GP bulk-billing, particularly in electorates like Murray, where less than a third of consultations are bulk-billed—or Ballarat, Barker or Farrer, where it is only about 40 per cent? What evidence does the government have that the private health insurance being proposed for increasing gaps is going to benefit anyone other than the private health insurance industry? For those patients who are not bulk-billed, what ideas—

(Time expired)

Senator IAN CAMPBELL—I think I get the gist of Senator Allison’s question. I am absolutely certain that she will ask a supplementary question if I have not. Firstly, on behalf of the minister for health, I welcome the constructive approach that the Australian Democrats and Senator Lees in particular have taken to the Medicare reforms introduced by my colleague Senator Patterson. Of course, Mr Abbott—the new minister—has made it very clear in his short time in the portfolio that he is very keen to see them legislated through the Senate. The government have that the private health insurance being proposed for increasing gaps is going to benefit anyone other than the private health insurance industry? For those patients who are not bulk-billed, what ideas—

Measures Mr Abbott may bring forward in the future are clearly a matter for him. He has indicated a willingness to talk to people like the Australian Democrats—and, again, I would welcome Senator Allison’s constructive approach and Senator Lees’s constructive approach—to ensure we get this package through the Senate. Mr Abbott demonstrated his propensity to seek consensus and cooperation, for example, in his approach to industrial relations reforms. Senator Andrew Murray will remember that only in the last sitting fortnight we put some important industrial relations reforms through because Mr Abbott was prepared to negotiate with the Australian Democrats and seek a compromise package. He showed that same earnest, cooperative approach that he is becoming renowned for. I think he will bring those skills to the health portfolio. I look forward to being part of the negotiations with the Australian Democrats and other senators
who are taking a constructive approach to strengthening Medicare—as opposed to the Australian Labor Party’s approach, which is to go around and scaremonger and send around petitions. I understand Senator Joe Ludwig sent around a misleading petition to people in Brisbane. He was trying to scare people about the policies of the government on Medicare. (Time expired)

Senator ALLISON—Mr President, I ask a supplementary question. Minister, for those patients who are not bulk-billed, what ideas does the government have to reduce the huge increases in patient costs and keep fees down? Will the government at least abandon its plan to introduce private health insurance for GP consultations? Does the government at least acknowledge that the high cost of patient contributions for GP consultations is now unaffordable to too many patients?

Senator IAN CAMPBELL—The aim of the government is to make sure that Medicare’s availability is universal, that all Australians get access to bulk-billing and that access to a GP and good medical services is affordable. That is why we have addressed the health issues in Australia in looking at the massive increases in patient costs that occurred under Labor. Leading up to 1996 I think they were increasing at seven or eight per cent a year, and private health insurance was down below 30 per cent. We now have private health insurance up over 50 per cent. Many of those Australians with private health insurance are low-income earners; over one million people with incomes of less than $20,000 have private health insurance. These measures seek to address that affordability, and Minister Abbott is committed to ensuring that we get A Fairer Medicare package through. (Time expired)

Trade: Live Animal Exports

Senator O’BRIEN (2.33 p.m.)—My question is to Senator Ian Macdonald, the Minister representing the Minister for Agriculture, Fisheries and Forestry. Can the minister confirm that the loading of the MV Cormo Express with sufficient fodder for a three-week journey will conclude today and that the ship will be forced to depart its Kuwaiti port? Does the minister recall Minister Truss’s declaration of 30 September that a decision about the fate of the sheep would be made ‘within days’ and that once the Cormo Express was resupplied ‘we will want to know where it is going’? Minister, where is the Cormo Express and its unfortunate cargo of sheep going?

Senator IAN MACDONALD—Senator O’Brien again draws attention to an issue which is concerning all Australians, particularly those involved in the live animal industry. It is a very significant industry to Australia. It is worth over $1 billion and employs directly and indirectly some 9,000 people. It contributes very substantially to the progress and further support of rural and regional Australia. That is why we as a nation—and, I suggest, we in this chamber—need to work together to find a solution to the difficulty that has confronted us through, I might add, no fault of the Australian government. The shipment was purchased by a private purchaser. It was loaded on a ship owned or hired by the purchaser, and the purchaser has had difficulty finding a destination for the sheep, particularly in Saudi Arabia. Against that background, the Australian government has tried everything possible to achieve an outcome that enhances Australia’s reputation as a live animal exporter but at the same time shows a humanitarian concern for the welfare of the animals involved.

Senator O’Brien asked whether the ship is reprovisioned and ready to leave. There have been some delays, but the latest advice I had was that its reprovisioning was almost completed and that it would be leaving very shortly. We would hope, and efforts continue
very seriously and very energetically at the present time, to approach countries that will allow for an import permit for the consignment of sheep. A lot of commercial interest in acquiring the sheep has been expressed, but unfortunately none of that commercial interest is accompanied by consent to bring the sheep across the wharves at any particular port. The Australian government is continuing its work and will continue right until the final day to find a port that will take the sheep. I want to emphasise that the sheep have been determined as not having any dangerous or contagious diseases by not only an Australian vet, the chief veterinary scientist of Australia, but also an independent vet from the organisation that deals in the welfare of animals worldwide. The shipment of sheep has been determined fit for human consumption anywhere in the world and to not have diseases that could impact on our or anyone else’s stock on the homeland.

At the present time, there has been no resolution. The ship will leave Kuwait when it is reprovisioned and will start heading back to Australian waters. But we will continue the efforts to find a proper venue—a port that will take the sheep. As I say, those efforts will continue. I ask Senator O’Brien to direct his energies and enthusiasm to helping the Australian government in this very difficult situation, which is not of the making of the Australian government, but one which if a solution can be—

Senator Chris Evans—We know you’re in trouble when you want O’Brien to fix it for you.

Senator IAN MACDONALD—You are quite right, Senator Evans: if we have to ask Senator O’Brien to help, it must be a problem. (Time expired)

Senator O’BRIEN—Mr President, I ask a supplementary question. Given that the minister has discussed the healthy state of the sheep, could he advise the Senate how many sheep have now died on the MV Cormo Express’s 64-day-long voyage? In an effort to assist the government, perhaps he can advise me when the government will commission the high level independent review into the live export industry which was agreed by all Australian agriculture ministers at last week’s meeting of the Primary Industries Ministerial Council. Will this review receive public submissions and will its findings be released to the public?

Senator Lightfoot—The Labor Party want all the sheep to die.

Honourable senators interjecting—

The PRESIDENT—When the Senate comes to order, we will continue with question time.

Senator IAN MACDONALD—Picking up on the senator’s interjection, I must say the approach of the Australian Labor Party has not been very helpful to this whole situation. One would think that they are determined to destroy the live animal trade and impact so heavily on rural and regional Australia. Senator O’Brien asked when the review will be set up. It is being worked on at the moment. It is a review that was fully discussed with the Labor state ministers at the ministerial council in Perth last Thursday and Friday, and work is proceeding. Senator O’Brien asked me whether the results will be made public and whether submissions will be taken. Certainly submissions will be taken: how else can you conduct a review unless they are fully investigated, and that is the intention of the government.

Senator Sherry—Are you going to make it public?

Senator IAN MACDONALD—Obviously the results will be made public. (Time expired)
Information Technology: Tasmania

Senator MURPHY (2.40 p.m.)—My question is to Senator Kemp, the Minister representing the Minister for Communications, Information Technology and the Arts. In December last year the former minister for communications and the minister for education announced, as part of the Backing Australia’s Ability action plan, $42.5 million for the Australian Research and Education Network—a program designed to significantly increase bandwidth connectivity between universities and keep them at the forefront of education and research. In that announcement, Tasmania was cited as a high priority area, needing improved bandwidth. To date, Tasmania is still not connected to the AREN. Can the minister inform the Senate as to whether the new minister for communications has any plan to get Tasmania online and enable our university to fully participate in Backing Australia’s Ability?

Senator KEMP—I thank Senator Murphy for that very interesting and important question. Now that I am on my feet, I pay tribute to the previous minister for communications, Senator Alston. Senator Alston, as we all know, was a very strong policy person. Senator Alston has added many great achievements to the portfolio. Senator Alston has added many great achievements to the portfolio. Senator Alston, I am sure all of us in this chamber have benefited from the patient way you have been able to explain to our colleagues what has been happening in the communications portfolio. I assume Senator Murphy was speaking about the Launceston broadband project. Is that correct? If that is not correct, Senator Murphy, I will take the question on notice and I will respond to you as soon as possible.

Senator MURPHY—Mr President, I ask a supplementary question. Given the minister’s response—I will not say ‘answer’—perhaps he might also like to investigate why the ministers made such a statement, especially in respect of Tasmania, when there was a departmental report available to them that said increases in bandwidth in Tasmania were not affordable in the short term.

Senator KEMP—I am one of those ministers who like to be helpful to senators. I will certainly put your question to the new minister for communications and see whether he is able to provide you with any additional information.

Family Services: Child Care

Senator JACINTA COLLINS (2.43 p.m.)—My question is to Senator Patterson as the new Minister for Family and Community Services and as Minister representing the Minister for Children and Youth Affairs. Can the minister confirm that recent broadband consultations with the child-care sector indicate that the child-care cash benefits system is not delivering affordable child care to low-income families; that there is a shortage of over 28,000 outside school hour care places, a shortage of over 2,500 family day care places and a serious shortage of places in long day care for children under the age of two; that there is no decision imminent from government about how to redevelop the Child Care Support Broadband Program; and that, despite two years of consideration, the national agenda for early childhood has not provided a framework or a vision for early childhood services in Australia? How much longer does the government—quote the Prime Minister from Monday—need to look at ‘what more might be done to allow the system to respond more effectively to demand’?

Senator PATTERSON—There have not been very many questions on child care since we came into government at the last election. The child-care benefit has been made more accessible to more families than ever before. If you go back and have a look at Labor’s
record, you have nothing to crow about in terms of child care. There has been significant growth in expenditure on child-care services since the government came to office—$8 billion has been allocated to child care over four years to 2006-07. The number of child-care places has increased from 306,000 to over 500,000 since the government came to office. The ABS child-care survey which came out in June 2002 showed that 94 per cent of children required no additional formal child care. The government does not limit long day care centre places that can receive the child-care benefit; the government provides choice for families in child care. Family day care also provides care for children under two. There were over 48,000 under two-year-olds using long day care centre places in 2002—an increase of nearly 7,000 from 1997. So, from 1997, just after you left office—

Opposition senators interjecting—

The PRESIDENT—Minister, I remind you to address your remarks through the chair and ignore the interjections.

Senator PATTERSON—The number of children under two who are in long-term day care has increased by over 7,000 since 1997, so there has been a significant increase. In addition, around 21,000 under two-year-olds used family day care in 2002, an increase of around 3,500 since 1997. The broadband redevelopment announced by Minister Anthony is examining all aspects of child-care broadband funding. It will determine how to support child-care services and ensure the best use of available resources to meet the needs of children in a family. There has been widespread consultation from December 2002 to August 2003, and the process provides opportunities for participation from all parts of the children’s services field, families and other stakeholders in all states and territories. The child-care sector has responded positively and constructively to the consultation opportunities. The departmental task force is now examining the results of the consultation process and will provide advice and recommendations for consideration by Minister Anthony. No decision has been made, and any decision will be made in the context of the government’s commitment to improving work and family balance. One of the issues we are addressing is families being able to balance work and family, which will be included under initiatives such as the development of the national early childhood agenda.

Senator JACINTA COLLINS—Mr President, I ask a supplementary question. I remind the minister that even the Prime Minister accepts that there is a crisis here. Can the minister, who was dumped last week as health minister, confirm that the Prime Minister has also taken issues directly related to early childhood out of her hands and that the child-care response is now being formulated by the Department of the Prime Minister and Cabinet? Has the Prime Minister at least informed the minister of a release date for the government’s framework? What is the date to be?

Senator PATTERSON—I think Senator Collins ought to go outside cowards’ castle and say what she just said. Senator Vanstone may have a view about what she just said, but that is beside the point. I am sure she would have a view about it, because this portfolio has double the funding that the health portfolio has. Senator Vanstone will have a very strong view about this portfolio, I can tell you. Let me just say that we have done more for child care than you ever did in government; in particular, we have extended after hours school care. You have nothing to crow about. You should go back and do some more policy. Mr Anthony will announce in due course the results of the national early childhood agenda.
childhood agenda. We have done more than you ever did in child care.

DISTINGUISHED VISITORS
The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the United Kingdom, led by the Right Hon. Gavin Strang, MP. On behalf of senators, I welcome you to the Senate and I hope that your visit will be both informative and very enjoyable.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE
Drought
Senator HEFFERNAN (2.48 p.m.)—My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Ian Macdonald. Will the minister update the Senate on how the Howard government is continuing to support farmers and their families in dealing with the economic consequences of drought, something they do not teach in the Kremlin? Is the minister aware of any alternative policy approaches?

Senator IAN MACDONALD—Senator Heffernan demonstrates why he is regarded as one of the best advocates for country Victoria around—

Opposition senators interjecting—

Senator IAN MACDONALD—And for country New South Wales, country Queensland, country Western Australia and country South Australia. He is a man who understands what rural and regional Australians are about. Of course, that is because Senator Heffernan comes from the country areas of our country. He understands the difficulties being confronted by rural and regional Australians.

Opposition senators interjecting—

Senator IAN MACDONALD—you can tell from the clamour from the opposition that none of them have any interest whatsoever in country Australia. I am delighted that there are people like Senator Heffernan from country New South Wales who understand the plight of country Australians.

Opposition senators interjecting—

The PRESIDENT—Order! For goodness sake, senators on my left will come to order!

Senator IAN MACDONALD—It is a real embarrassment to this parliament that no-one on the other side of this chamber has any interest in rural and regional Australia. Senator Heffernan draws attention to the fact that the drought is causing real difficulties to our economy, with 0.75 per cent predicted to fall off our national growth figures—some $5.7 billion from the national economy—in 2002-03 as a result of the drought. That is something like a $2.7 billion reduction in the net value of farm production. Senator Heffernan understands these things, and that is why he has an interest in them. Senator Heffernan, as a New South Wales senator, will be delighted to know that on 2 October the Minister for Agriculture, Fisheries and Forestry, Mr Truss, accepted the advice of the NARC that full EC support would be extended to eligible farmers in New South Wales in the regions of Braidwood, the Central Tablelands and the Mudgee-Merriwa area. I thank Senator Heffernan for his support in the processing of those particular applications.

Unfortunately, whilst the Australian government will spend a deal of money—we expect up to $1 billion—on helping with drought relief over the next three to four years, the states have not even put in one-tenth of that amount and it is not expected. We are trying to get reform but unfortunately are not getting any help from the states whatsoever—I have to tell the Senate that one of
the reasons is that we are getting very poor support from the states. The NRAC have found that those industries not already covered by EC in north-eastern and northern Victoria do not qualify for EC assistance at this time.

NRAC based their recommendation on updated advice provided by the Victorian government. The Victorian government have been very tardy in supplying the information that is needed. NRAC have said that there was only limited information provided by the Victorian government, and that limited information did not substantiate a review of the EC application. The Victorian government only provided some of this very limited information as late as 23 September. That has caused the Australian government to have to extend the EC interim relief, first of all to 30 September and then to 31 October, so that these assessments could be dealt with. Until the state governments can provide the information and be serious about it, we cannot get on with the necessary assessments— (Time expired)

Centrelink: Budget

Senator JACINTA COLLINS (2.53 p.m.)—My question is to Senator Patterson, as the Minister for Family and Community Services. Is the minister aware of a $47 million budget shortfall in Centrelink which has forced cost cutting within the organisation and which may result in staff being laid off? How much of this budget shortfall can be explained by unexpected or previously unreported liabilities? Can the minister guarantee that no Centrelink employee will lose their job as a result of Centrelink budgetary problems?

Senator PATTERSON—I do not have all the actual details of the Centrelink budget, but what I want to say is, first and foremost, as Senator Vanstone has said over and over, Centrelink officers perform a tremendous task under difficult circumstances in dealing with a wide range of complex matters and with people who are sometimes in quite difficult circumstances. On the issue that you asked me about—whether I can guarantee that nobody in Centrelink will lose their job—I actually am not going to be in a position to make a comment about the administration of Centrelink. Centrelink is a statutory authority—or an authority at arm’s length from the minister—and it has the responsibility to run in a way that is efficient and actually delivers services to its clients.

With regard to any shortfall, I will get back to you if I can get details, but I am not in fact privy to that depth of information in my second day as Minister for Family and Community Services. As I said, Centrelink runs as a statutory authority. The day-to-day running of Centrelink is not the responsibility, directly, of the minister—in the same way as the HIC runs at arm’s length.

Senator Faulkner—Is it a statutory authority or an executive agency?

Senator PATTERSON—Senator Faulkner asked me, ‘Is it a statutory authority or not?’ It is an authority, an agency, that runs at arm’s length from the minister. As HIC is to the health minister, so is Centrelink—

Senator Faulkner—It’s not a statutory authority.

Senator PATTERSON—It is running at—

Senator Faulkner—I think you’ve misled the Senate. I hope you know what you’re talking about.

The PRESIDENT—Order! Senator Faulkner, it was Senator Collins’s question, not yours.

Senator PATTERSON—Centrelink runs at arm’s length and independently of the minister, yet it is within my gamut—as it was with HIC—to actually work with the
director of Centrelink. But, with regard to the debt and shortfall in budget, I am not aware of any. I will get back to you as soon as I possibly can.

Senator JACINTA COLLINS—Mr President, I ask a supplementary question. Further to the minister’s comments about Centrelink operating at arm’s length, can the minister—who was humiliatingly dumped—confirm that Centrelink staff have been told, as a result of recent complaints from Senator Vanstone’s ministerial staff, in an internal circular:

DO NOT—and the circular stresses ‘DO NOT’—

refer to cut backs, staff shortages or inappropriate allocation of resources as a contributing factor or the major reason for the lack of timely processing of a customer’s claim, or payment, or process that have caused delays.

Minister, wouldn’t it be better—I am sure you will agree—to properly staff Centrelink offices rather than, as Minister Vanstone did, threatening employees who tell their customers the real reason they are not getting the service they deserve?

Senator PATTERSON—The Centrelink officers—and I cannot remember the detail—actually process millions and millions of payments and millions and millions of phone calls to the offices about issues with regard to income and assets. They process a huge amount, and there will be some delays. There will be areas where there are delays. But, with regard to any memo that Senator Vanstone’s staff or somebody sent, I am not privy to that. That is not within my gamut. My responsibility is to ensure that the policy principles are set in place to ensure that we get as efficient a service as possible to the millions of clients of Centrelink and the millions of people who receive benefits from this government—benefits which far exceed and far outweigh the benefits you gave them.

If you want to go back—and I am not going to be personal—(Time expired)

Environment: Great Barrier Reef Marine Park Authority

Senator BARTLETT (2.58 p.m.)—My question is to the Minister representing the Minister for the Environment and Heritage. On page 5 of the Australian newspaper today, a spokesperson for the Great Barrier Reef Marine Park Authority is reported as saying that the final Great Barrier Reef zoning plan will bear little resemblance to the draft plan that was released in June this year, that the overall level of no-take zones will be reduced in the final plan and that the placement of the no-take zones will be significantly altered to ensure they have no impact on commercial fishers. Can the minister please explain why no-take areas are being relocated to ensure they have no impact on commercial fishers when the objective of the rezoning is intended to be to protect biodiversity and the long-term health of the marine park? Is the decision of the final rezoning going to be based on scientific assessment and scientific principles, as was promised, or is it going to be based purely on political convenience?

Senator HILL—The draft zoning plan for the Representative Areas Program was always going to change. You could not have a consultative process that delivered some 30,000 submissions, over 20,000 of them in the second change, and not see some change. The expectation of change has always been acknowledged by the GBRMPA and by the government. The commitment to deliver a RAP which protects the biodiversity of the reef remains, however, unchanged. That commitment is to protect at least 20 per cent of each of the 70 bioregions in the Great Barrier Reef Marine Park.

Senator BARTLETT—Mr President, I ask a supplementary question. Minister, the
Great Barrier Reef Marine Park Authority stated quite unequivocally that, in preparing the new zoning plan, the views of all stakeholders would be given equal consideration. Given that 96 per cent of the jobs reliant on the Great Barrier Reef in the marine park catchment in central and northern Queensland are generated in the tourism industry and less than four per cent of the jobs are generated in commercial fishing, why is it that commercial fishers are getting more consideration than other parts of the community?

Senator HILL—That is not correct. We take seriously all representations, not only those from industry groups—but we do take seriously representations from industry groups. We take seriously representations from the broader community as well. As I said, there have been a very large number of representations on this matter and they will all be taken into account. However, the important thing is that the commitment to deliver a Representative Areas Program that protects the biodiversity of the reef remains unchanged and, as I said, that commitment is to protect at least 20 per cent of each of the 70 bioregions of the Great Barrier Reef Marine Park. That will be historic reform.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Trade: Live Animal Exports

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (3.02 p.m.)—Senator O’Brien expressed some interest in the number of sheep that had died and I did not have time to complete the answer. The answer is 5,203 as of yesterday; the figures for today are not in yet.

ANSWERS TO QUESTIONS ON NOTICE

Question No. 1642

Senator ALLISON (Victoria) (3.02 p.m.)—Pursuant to standing order 74(5), I ask 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.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (3.03 p.m.)—Senator, I do not have any advice in relation to that question. If it is the question you asked me about yesterday, which you are indicating to me that it is, I think I said to you yesterday that it was expected to be finished yesterday but I would rather say you would get it today—and you will get it today. You obviously have not received it yet, but you will get it today.

Senator ALLISON (Victoria) (3.03 p.m.)—I would urge the Minister for Immigration and Multicultural and Indigenous Affairs to honour her commitment on this question.

Senator Faulkner—Mr President, I raise a point of order. I do not think it is competent for Senator Allison to speak again without either seeking leave or moving a motion. Given the nature of Senator Vanstone’s response, I suspect it would be more appropriate, if Senator Allison did wish to speak, for her to seek leave to do so for a brief amount of time. But it is not competent for Senator Allison, at the time when we are to take note of answers to questions without notice, to just get up and speak. I do not think you should have recognised her.

The PRESIDENT—Until the senator stands I do not really know what she is
about, but I agree with you, Senator. Senator Vanstone has given an undertaking. The only avenue open to Senator Allison is to move a motion.

Senator ALLISON (Victoria) (3.04 p.m.)—I apologise for not moving that way in the first place. I move:

That the Senate take note of the minister’s failure to provide either an answer or an explanation.

I make the point again that the Minister for Immigration and Multicultural and Indigenous Affairs did make a commitment yesterday to provide this answer, and I remind her again that 21 July was a very long time ago. I know there were a number of questions within that question but many weeks have passed since the question was asked. They are critical questions; they go to the Prime Minister’s promise that alternative accommodation would be found particularly for families who are currently held in detention. They are straightforward questions that the government ought to be able to answer easily. I refrained from making a speech yesterday because the minister did commit to getting the answer to my office by late yesterday. I did make some attempt to find out from the minister when it did not appear yesterday; we called today and were just stonewalled.

I give the minister notice that there will indeed be a debate tomorrow if the minister does not meet the commitment that she has just made. I do not want to hold up the chamber and the work that needs to be done today, but the fact of the matter is that this government is just ignoring questions that are put on notice. Minister Hill has not answered a question of mine that is now 161 days old. This is not good enough. The government is simply treating the Senate with disdain, effectively saying, ‘We’ll answer questions when we jolly well feel like it!’ I would again say to Minister Vanstone that I will accept her explanation and expect to see the answer provided. Otherwise, I will be forced to waste time in this place by debating why the answer has not been given and speaking on this issue when it is not necessary to do so.

Question agreed to.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Family Services: Child Care
Centrelink: Budget

Senator JACINTA COLLINS (Victoria) (3.07 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Family and Community Services (Senator Patterson) to questions without notice asked by Senator Collins today relating to childcare and to funding for Centrelink.

The main point that I would like to stress is that the Howard government has failed to deliver on family policies. Senator Patterson, in some of her answers today, seemed to not comprehend the state of realisation that even the Prime Minister has finally reached on some of these issues. Let us go back to a very broad indicator of the standing of families today compared with the past. Currently 75 per cent of taxpayers who lose more than 60 per cent of their extra earnings in tax and the withdrawal of benefits are from families with dependent children. Excellent work by NATSEM has established that the number of taxpayers who lose this much is approaching double those in 1997. So much for the Howard government’s tax and welfare reform—it simply has not occurred. Today, double the number of families face these circumstances than back in 1997. The government can no longer shirk from dealing with these issues.

Let us go to an area more specific to the discussion today: child care. On Monday in the Australian, John Howard said that the child-care system is not perfect. This was not
reflected in Senator Patterson’s answer to my question, which amongst other issues dealt in a broad sense with the lack of action by this government on the national agenda for early childhood. It has now been two years since the government started work in this area. In the past, Minister Anthony has acknowledged the work of quite a number of ministers on the development of this framework. On 23 September, in the parliament, Minister Anthony said:

Yesterday I announced the first step towards building a national agenda for early childhood.

He thanked some key members of the government ‘who have been working quietly behind the scenes to develop a national agenda and an approach’, including the former Minister for Health and Ageing, Senator Patterson; the Minister for Education, Science and Training; the Minister for Immigration and Multicultural and Indigenous Affairs; and the Attorney-General—everyone, it would seem, but the senior minister for the portfolio, Senator Vanstone. Is it any wonder that Senator Patterson is now left with this enormous void that leaves her uninformed when she responds to the Prime Minister’s acknowledgment of the chronic shortage in child-care places? Indeed, the Prime Minister does accept that shortages exist in some local areas and in some service types. The rhetoric that comes out of the department at the moment seeks to deny that.

The data being produced by the department is void in some significant areas. Let me give one example from the data on the number of long day care places. Anyone who understands the demographics of Australian society and work force participation would anticipate a growing increase in demand for long day care places for children. But what do we find? We find that there has been an overall decline in the number of long day care places under the stewardship of this government. Whilst the government produce rhetoric about some growth in places, they are not talking about—and they are deliberately avoiding talking about—long day care places for children. The most chronic shortage, which I raised in my question today, is in care for children under the age of two. In some places, parents simply cannot find a place. The most recent example I heard of—and I actually wondered why the centre even maintained a list—was five years. If you take the Howard government’s rhetoric about choice, can you imagine Australian couples trying to exercise that choice contemplating that, if they live in a particular region, they have to plan five years in advance if they want to maintain their work force participation when they have very young children? It is simply bizarre. What is the government doing about that? Very, very little.

We do not know when we will ever see this national agenda for children. Minister Anthony said in 2002 that several ministers were working behind the scenes. Today, 12 months on, we ask: working behind the scenes on what? Australians need to see progress in these areas. There is a problem with a shortage of places. ABS data shows that an additional 175,000-odd children need formal child care. The Family and Community Services data says there is a shortage of over 30,000 places and parents keep saying there is a shortage of places for children under the age of two, which the government is not even measuring. The other problems are shortages of staff and a failure to recognise and remunerate the valuable staff in this sector. (Time expired)

Senator HUMPHRIES (Australian Capital Territory) (3.12 p.m.)—I rise in this matter to indicate that, in the course of the remarks made by Senator Collins, I have heard very little to effectively cast much of a shadow over the government’s plans on developing more real child-care options for
Australian families. The fact is that this government does have a national agenda on child care. Developing that agenda has been a priority for this government and for ministers responsible for this area—particularly the minister in the other place, Mr Anthony. In setting and developing that agenda, we have seen a focus on child care that has not been matched by those opposite during the time that they were in government. I will come shortly to the reality of how child-care options have improved in the last seven years under this government and how in reality there are much better choices available to Australians as a result of the work put in by the Australian government.

I found it difficult to follow the argument put forward by Senator Collins. I found it hard to see the basis on which the shadow minister felt that the government had fallen down in this area. She pointed out that, in remarks in 2002—presumably in the House of Representatives—Mr Anthony thanked other ministers who were working quietly behind the scenes. He thanked the Minister for Immigration and Multicultural and Indigenous Affairs, the Attorney-General, the Minister for Health and Ageing, and the Minister for Education, Science and Training but he failed to thank the Minister for Family and Community Services, Senator Vanstone. My response to that is: so what? What exactly do the opposition think they are achieving in this debate by making those sorts of comments? What kind of traction are the opposition hoping to gain on issues of importance in this place when that is the kind of argument they bring forward in this debate?

I would rather look at what has actually changed for Australian families in the course of the last seven or so years to determine whether we are making headway in giving Australian families access and choice in the area of child care. The facts, not the rhetoric, are quite impressive. I think that what this government is doing about fee increases facing families, about access to affordable child care and about the number of child-care places in Australia speaks for itself. There has been a record allocation of around $8 billion over the four years from 2002-03 to 2005-06. More than $7 billion was delivered to child care in the first six years that this government was in office, until 2001-02. That represents an increase of over 70 per cent in real terms, compared with Labor’s six years in office, yet the opposition in this place have the temerity to rise and tell us that we are not doing enough about child care. There has been a 70 per cent increase in allocation from the federal government to child care, yet those opposite complain. I would like to know what they think they could have done better with that additional $7 billion.

Fee increases for centres have halved. Average increases since 1996 have been 4.3 per cent per annum, compared with an average increase of 8.5 per cent per annum during the years that Labor was in office. That is a practical step towards making child care more affordable for Australian families. Child-care fees have increased by only 5.3 per cent since June 2000. The CPI over that period of time increased by 12 per cent. That says that the relative cost of child care is decreasing and that the cost of child care has increased far less than general prices in Australia. That is an impressive achievement. That is something that the government should be given credit for, but we hear none of that from those opposite. Child-care benefits have provided substantial increases in assistance for most families, boosted by indexation of three per cent on 3 July this year. The maximum assistance now available to Australian families is $137 per week for one child and $286.36 per week for two children. (Time expired)

Senator McLUCAS (Queensland) (3.17 p.m.)—I rise to also speak in this debate to
take note of answers given by Senator Patterson today. Issues surrounding the provision of quality health care and the provision of good family support services rate very highly in the minds of Australians not only in a political sense—which of course is very important to us who sit in this place and in the other place—but most importantly and significantly because of the way that policies of governments affect the welfare of their families. That is why we must always have competent and effective ministers in the portfolios of health and family services. Both portfolios have a direct impact on the lives and futures of Australians and, in particular, on their children.

The Prime Minister’s reshuffle announced last week has confirmed what we on this side of the chamber have known for quite some time. It confirms what the health industry, an industry not known for personal criticism, has been increasingly prepared to enunciate. The reshuffle announced by the Prime Minister last week has confirmed that the former Minister for Health and Ageing was not a competent or effective minister. Only recently people in the health industry made the following comments about former health minister Senator Patterson to a range of journalists. They said that she was ‘the worst health minister ever’, that she ‘had no big picture vision for the health system’ and that she ‘lacked clout with cabinet colleagues’. ‘Nothing short of embarrassing’ was one embarrassing comment. They said that she had very little idea of what was happening and that her lack of knowledge was ‘quite staggering’ and that suggestions ‘went over her head’. The comment that caught the imagination of most of the media was that her actions and behaviour were very ‘Monty Pythonish’. A survey of the pharmaceutical, consumer and medical groups gave Senator Patterson a mark of between one and five out of 10.

Minister Patterson wished to be remembered as the minister for prevention. It is sad to say that that will be the case. She will be remembered as the minister for the prevention of access to general practitioners, with bulk-billing rates falling even further under her stewardship. She will be remembered as the minister for the prevention of access to affordable pharmaceuticals, with her continuing attempts to increase the copayment, which particularly affected low-income earners. She will be remembered as the minister for the prevention of access to adequate hospital funding; she did not even attend the meetings between the state ministers and the Commonwealth minister in the lead-up to the signing of the Australian health care agreements. Very concerning, she will be remembered as the minister for the prevention of access to best practice immunisation through not funding her own recommended immunisation schedule.

Sadly for Australian families, former health minister Senator Patterson was an underperformer in health, which was demonstrated by the need to remove her. She and the Prime Minister both claimed she would be able to handle the families portfolio. Australians hope so. As the health minister she continually failed to subsidise child immunisation and she introduced user pays. Families with young children now have to find $500 to immunise their children against chicken pox and pneumococcal virus. The decision undermined the integrity of the immunisation system in this country and will put children at risk.

The Family and Community Services portfolio and the Children and Youth Affairs portfolio have stagnated under successive under-performing Howard ministers. Senator Vanstone came to the portfolio promising a reform of family payments. Senator Patterson now has opportunities to deal properly with impending debts. Rather than warning
families about them, why don’t we find a way for families to get knowledge about their correct entitlements? We should immediately stop stripping family tax returns until the government can find a way for people to pay their correct entitlements. Maybe we should conduct an urgent investigation into the government’s attempts to save money by trawling back through a decade’s worth of Centrelink records in search of errors—records that have never been cross-checked.

To quote our shadow minister for family and community services, Mr Wayne Swan, the truth is that ‘Howard’s decision to put bantamweights rather than heavy hitters into the families portfolio demonstrates his contempt for Australian families’. (Time expired)

Senator COLBECK (Tasmania) (3.22 p.m.)—Senator McLucas rose to take note of answers and yet spent all of her time basically giving a spray against ministers on almost a personal basis without much regard to the issue that is supposed to be being debated here today.

Senator Faulkner—It was a very fine speech, I thought.

Senator COLBECK—You might think so. So where in the overall scheme of things does Labor policy exist on this matter? Senator McLucas might like to spend more of her time basi-cally giving a spray against ministers on almost a personal basis without much regard to the issue that is supposed to be being debated here today.

Senator Faulkner—It’s no problem taking five minutes off from policy development to give your side a very warranted bucketing.

The DEPUTY PRESIDENT—Senator Faulkner, you might desist from commenting. And, Senator Colbeck, you might address your comments to the chair.

Senator COLBECK—I apologise, Mr Deputy President. Again I say that Senator McLucas might like to concentrate on policy so that the Labor Party do have something to address to the Australian people. The Australian government, under the leadership of John Howard and the ministers spoken of previously, has an extremely proud record in improving the child-care system in Australia. In fact, the number of places available in Australia is about 190,000 more than in 1996 and the number of services is up by 2,000.

Senator McLucas—Why are the waiting lists growing?

Senator COLBECK—It may have something to do with the fact that the economy is growing under the stewardship of the Howard government and demand is increasing. It may be that as the economy grows more people will be able to find jobs and therefore the demand will grow. It would be very interesting to see what the situation would have been had things remained as they were under the previous administration, with almost 200,000 fewer places in June 1996. Now there are in excess of 500,000 places across different service types catering for 750,000 children.

This government has made a record allocation of around $8 billion over four years—more than $7 billion in the first six years of office and over 70 per cent more in real terms than in Labor’s last six years in office. This demonstrates a very clear and proud record by the Australian government with respect to child care. It is interesting to note that, while essentially the Commonwealth largely pays the bills with respect to child care, it does not control the conditions under which the services are delivered. They are controlled by the states. In my state of Tasmania the state government has at last recognised that it has a role to play. The provisions in Tasmania for child-care services are some of the toughest in the country, which is obviously a very good thing, and the state government has recognised that it has a financial
role to play and has actually started to put some money into the child-care system. I welcome the decision by the state government in Tasmania to provide some funding towards what is recognised by all of us as a very important part of our economic system and our welfare system, providing the capacity for people to move back to work after having their children and also providing for early childhood development, which plays, after all, a most important part in a child’s early years.

As was stated previously this afternoon, fee increases for centres have halved since 1996, from an 8.5 per cent average increase under Labor to 4.3 per cent. Child-care fees have increased by only 5.3 per cent since June 2002 whereas the CPI has actually increased by 12 per cent over the same time. This means that the cost of child care has increased far less than general prices. This demonstrates that this government is providing for a very strong and growing child care sector. (Time expired)

Senator HUTCHINS (New South Wales) (3.27 p.m.)—I want to take note of the answers given by Senator Patterson this afternoon to questions from Senator Collins. I do not think we can go past the fact that only yesterday a new Minister for Health and Ageing was sworn in. We have seen in the last few days while Mr Abbott was preparing for his swearing-in that what he has done is in quite strong contrast to what Senator Patterson did not do. In her period of two years in the health portfolio she presided over the most rapid decline in bulk-billing in the country, she tried to introduce legislation which would have increased the cost of medicine by 30 per cent and she failed to provide adequate funding to the states for a hospital system which was suffering as a result of the decline in bulk-billing rates.

In the last fortnight we have seen the new minister, Tony Abbott, hinting that he has found money to get the government’s Medicare reform package through the Senate. We can only wait and see what that holds. We have seen the new minister go out and talk to GPs, the AMA and other health and medical groups, in stark contrast to Minister Patterson having ignored them. We have seen Mr Abbott go out there and start listening, talking, negotiating and preparing to act. Once again, this is in strong contrast to the previous minister in her two years in that position. Effectively, Minister Patterson has been sacked from that portfolio. She has been given another opportunity by the Prime Minister to no doubt come back in her new portfolio of Family and Community Services. One can only hope that she is going to be far more compassionate than her predecessor and will show some leadership in this portfolio, but that remains to be seen.

On Monday the Australian reported in an article written by the Prime Minister:

*Access to quality, affordable childcare is essential for parents trying to balance work and family responsibilities.*

Quite clearly, the Prime Minister knows that child care is an issue out there. He is having to step in where two ministers have failed already. Neither Senator Vanstone nor Minister Larry Anthony has been able to address the critical shortages in child care. In fact, it seems the Prime Minister is going to have to manage this barbecue stopper of balancing the demands of work and family himself, rather than rely on these underperforming ministers.

The facts are that in the western suburbs of Sydney parents are offering to pay a year’s fees in advance just to receive a place in outside school hours care services. In New South Wales, from data collected by the minister’s own department, there is a shortage of
nearly 12,000 places. In Queensland, the government knows that around 8,000 children each day are going home from school to empty houses because the caps remain in place on outside school hours care. In Victoria, a local government has had to employ security guards when they conducted a ballot for outside schools hours care places. This is because parents are desperate to get their children into these child-care positions. The ABS reports that an additional 174,500 children require formal care.

Parents are saying that there are long waiting lists for centre based care and that parents may as well give up looking for child-care places for under-twos because they will only be able to find it after the child has turned two. Under-two places are non-existent. Labor knows that the first priority has to be creating more places. John Howard knows Senator Patterson does not have the time to spend listening, thinking and deciding. As the Prime Minister knows, and as we know, she has to act. As the Prime Minister said in the *Australian* this week:

The Government is looking at what more might be done to allow the system to respond more effectively to demand.

Labor knows that meeting demand requires better planning, and the sector knows that too. The challenge is for Senator Patterson to act, to respond to the needs of those families. I remind Senator Patterson that this may be the opportunity to resuscitate her political career. We saw it with Senator Vanstone, when she got sidelined after the 1998 election. She came back in 2001.

Question agreed to.

**Medicare: Bulk-Billing**

Senator ALLISON (Victoria) (3.32 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 Allison today relating to Medicare and the decline in the rate of bulk billing.

Professors Swerissen and Duckett were commissioned by the Senate Select Committee on Medicare to look at the inflationary impacts of the government’s A Fairer Medicare package. What they found was that the government’s package, in order to bring GP incomes back to where they were 10 years ago, would require GPs to increase the number of people they would bulk-bill, particularly in metropolitan areas. On the other hand, people in rural areas would face increases in co-payments—the gap payment or the amount of money which must be paid that goes over and above the rebate. The key reason this would happen, when it is not happening now, is the government’s proposed measure that would allow the bulk-bill administrative process, otherwise known as the swipe card process, as well as an up-front co-payment. The ALP measure was found to be more sound. Under Labor’s proposals, GPs could meet income targets without having to increase co-payments.

However, neither of these packages is convincing. The ALP measure looks only at bulk-billing—setting an initial target of 70 per cent in the country—but says nothing about how high it would be prepared to see the copayment go for the 30 per cent of people who would pay over and above that rebate. As we have already said, the two-tiered approach that the government wants to introduce is not acceptable to the Democrats, although we acknowledge that structuring payments to provide incentives for rural services will be necessary. It is clear that the two issues that really need to be addressed are affordability of primary care and access. These are critical issues.

The government has acknowledged that AMWAC got its work force numbers wrong. It appears that the 1996 restriction on pro-
vider numbers has decreased the per capita GP consults. This might be appropriate if people were going to GPs too often for frivolous matters, but then again the decrease might be the result only of people who cannot afford GP copayments. It could be totally unrelated to the frivolousness or otherwise of the consultation and more to do with the income capacity of patients. The decade-old research of Professor Richardson supports the theory that low-income households go less often to GPs, irrespective of their need, citing income as a barrier. As I pointed out in the introduction to my question, there have been substantial increases in the last 12 months of those co-payments. It is a 10 per cent increase across most states and 16 per cent here in the ACT.

In a more recent survey of below average income patients, Blendon, Schoen DesRoches et al in 2002 found that 22 per cent found it harder to get GP care than two years ago and that 19 per cent were mostly unable to get it. In the later study by Blendon et al, 21 per cent did not fill a script because of the cost, 17 per cent did not get follow-up tests, 14 per cent would not visit a doctor due to costs and 17 per cent had problems paying medical bills. Given that the emphasis on health should be on prevention, we should be encouraging more people to have screening, health checks and attending early so that acute—and expensive, I should say—interventions are not required further down the track.

In our view, silo medicine is not good. Silo economics in medicine suggests that efficiencies can be made by limiting the numbers of times people see GPs. A more comprehensive approach suggests that primary care access is useful and should be encouraged. For instance, we want mothers and new babies to attend health centres, often just to have their concerns allayed. We want greater information made available to them about what is worrying them and what is not. This is good preventative health. What we do not want is this to be a highly expensive exercise where the expectations of the professional provider are not met. It is more appropriate for a new mother to talk through concerns with a maternal health nurse rather than a GP. (Time expired)

Question agreed to.

PETITIONS

The Clerk—Petitions have been lodged for presentation as follows:

Health: Rural, Remote and Metropolitan Area Classification

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

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

by The President (from six citizens).

Medicare: Bulk-Billing

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

This petition of certain citizens of Australia draws to the attention of the Senate:
• The need to restore bulk-billing by doctors;
• The need to increase the number of doctors in rural and regional Australia, and
• The need to preserve Medicare as a system of universal health coverage for all Australians.

Your petitioners therefore request that the Senate reject the Howard Government’s proposed changes to Medicare.

by The President (from six citizens).

Australian Broadcasting Corporation: Funding

To the Honourable Members of the Senate in the Parliament Assembled.

The Petition of the undersigned draws attention to the recent Government funding cuts to the ABC resulting in the substantial reduction of the educational programming budget and the axing of the popular educational show “Behind the News”.

“Behind the News” has been providing valuable information to students since 1969 in a format they can understand and deal with in a non-threatening way and represents a cost effective and valuable teaching aid for teachers and students across Australia.

ABC is the only national network that has devoted significant resources to educational broadcasting. As well as the axing of “Behind the News”, a further $1 million has been cut from the ABCs educational programming budget, impacting considerably on available teaching resources.

Your petitioners ask the Senate in Parliament to call on the Federal Government to reverse the recent funding cuts to the ABC to ensure the educational programming budget is restored and allow for the immediate re-instatement of “Behind the News”.

by The President (from 71 citizens).

Defence: Involvement in Overseas Conflict Legislation

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

The Petition of the undersigned calls on the members of the Senate to support the Defence Amendment (Parliamentary Approval for Australian Involvement in Overseas conflict) Bill introduced by the Leader of the Australian Democrats, Senator Andrew Bartlett and the Democrats’ Foreign Affairs spokesperson, Senator Natasha Stott Despoja.

Presently, the Prime Minister, through a Cabinet decision and the authority of the Defence Act, has the power to send Australian troops to an overseas conflict without the support of the United Nations, the Australian Parliament or the Australian people.

The Howard Government has been the first Government in our history to go to war without majority Parliament support.

It is time to take the decision to commit troops to overseas conflict out of the hands of the Prime Minister and Cabinet, and place it with the Parliament.

by Senator Bartlett (from 15 citizens).

Education: Higher Education

To the honourable, the President and Members of the Senate in Parliament assembled:

The Petition of the undersigned shows:

The opposition of students, staff and supporters at the University of New South Wales College of Fine Arts to the governments proposed:

• Introduction of Optional Membership of Students Organisations
• Increase in HECS fees
• Interest on the proposed help loans
• Introduction of a five-year time restriction on full time degrees
• Increase in places allocated to full fee paying students

Your Petitioners request that the Senate should:

Oppose any legislation that seeks to introduce any of the above-mentioned changes within the Commonwealth of Australia

by Senator George Campbell (from 290 citizens).

Terrorism: Suicide Bombings

To the Honourable the President and members of the Senate assembled in Parliament
We the citizens of Australia note that the practice of suicide bombing is a crime against humanity. This crime and its participants, organisers and supporters are guilty of a crime which has been committed against innocent civilians.

Further, we the undersigned note that there is no moral, religious, or political justification for this crime.

Your petitioners, declare therefore, that the perpetrators of these crimes should be prosecuted and punished by the appropriate international courts of justice.

We the citizens of Australia call on the Senate to act immediately to facilitate a debate at the next United Nations conference to declare, clearly and unequivocally, that the practice of suicide bombing is a crime against humanity.

by Senator Jacinta Collins (from 620 citizens).

Medicare: Bulk-Billing
To the Honourable the President and Members of the Senate assembled in parliament:

The petition of certain citizens of Australia draws to the attention of the House:

• That under proposed changes to Medicare, families earning more than $32,300 a year will miss out on bulk billing, and doctors will increase their fees for visits that are no longer bulk billed;
• That the rate of bulk billing by GPs has plummeted by 11% under John Howard;
• That’s more than 10 million fewer GP visits were bulk billed this year compared to when John Howard came to office;
• That the average out-of-pocket cost to see a GP who does not bulk bill has gone up by 55% since 1996 to $12.78 today;
• That public hospitals are now under greater pressure because people are finding it harder to see bulk billing doctors.

We therefore pray that the Senate takes urgent steps to restore bulk billing by general practitioners and reject John Howard’s plan to end universal bulk billing so all Australians have access to the health care they need and deserve.

by Senator Ludwig (from 510 citizens).

Petitions received.

PERSONAL EXPLANATIONS

Senator LUDWIG (Queensland) (3.37 p.m.)—I seek leave to make a personal explanation.

Leave granted.

Senator LUDWIG—Yesterday Mr Tony Abbott in the House of Representatives and today Senator Ian Campbell in the Senate indicated that I had either lied or misled about our Medicare system in the petition that I lodged. Clearly, the petition was in order and had been lodged in order and was returned to my office from many constituents who were concerned about our bulk-billing system, and they did that in good faith. Therefore, if Mr Abbott and Senator Ian Campbell are going to accuse me of either lying or deceiving the Senate, it is up to them to put up or shut up. They have not done so. They have not indicated in any way, shape or form where the petition is in error or is wrong. Therefore, the petition, which highlights the parlous state that the bulk-billing system has fallen into, stands. Until such time as they can otherwise point out where it might be erroneous, they should apologise and withdraw their statements.

NOTICES

Presentation
Senator George Campbell to move on the next day of sitting:

That the time for the presentation of the report of the Employment, Workplace Relations and Education References Committee on labour market skills requirements be extended to 30 October 2003.

Senator Forshaw to move on the next day of sitting:

That the Finance and Public Administration References Committee be authorised to hold a public meeting during the sitting of the Senate on
Senator Tierney to move on the next day of sitting:

That the time for the presentation of the following reports of the Employment, Workplace Relations and Education Legislation Committee be extended to 30 October 2003:

(a) Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 and the provisions of the Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003; and

(b) Workplace Relations Amendment (Improved Remedies for Unprotected Action) Bill 2002.

Senator Nettle 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 and the Minister representing the Minister for Trade, no later than 4 pm on 15 October 2003, all documents relating to the proposed Australia-United States free trade agreement and the regulation of labelling of genetically-modified foods in Australia and/or the United States, including but not limited to correspondence generated since 1 November 2002 between:

(a) the Australian and United States Governments;

(b) Commonwealth departments;

(c) Commonwealth and state and territory governments;

(d) Commonwealth government ministers; and

(e) Commonwealth and state and territory ministers.

Senator Harradine to move three sitting days after today:

That the Senate—

(a) notes that the Council of Australian Governments (COAG) is not directly accountable to the Australian people, yet determines many important policies that affect all Australians;

(b) reaffirms the primacy of Australian parliaments over consultative and coordinating bodies like COAG and rejects any attempts to impose COAG’s will on Australian parliaments; and

(c) calls on the Australian Government and the state and territory governments through COAG to provide greater transparency and accountability to the Australian people by:

(i) amending freedom of information legislation to cover COAG,

(ii) establishing a detailed and dedicated COAG website,

(iii) providing on the website transcripts of all meetings,

(iv) providing on the website agendas and notices of meetings, and

(v) providing on the website copies of papers considered at meetings.

COMMITTEES
Selection of Bills Committee
Report

Senator FERRIS (South Australia) (3.40 p.m.)—I present the 12th report of 2003 of the Selection of Bills Committee.

Ordered that the report be adopted.

Senator FERRIS—I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 12 OF 2003
1. The committee met on Tuesday, 7 October 2003.
2. The committee resolved to recommend—

That—

(a) the provisions of the Maritime Transport Security Bill 2003 be referred immediately to the Rural and Regional
Affairs and Transport Legislation Committee for inquiry and report on 27 October 2003 (see appendix 1 for statement of reasons for referral); (b) the provisions of the Migration Legislation Amendment (Migration Agents Integrity Measures) Bill 2003 and the Migration Agents Registration Application Charge Amendment Bill 2003 be referred immediately to the Legal and Constitutional Legislation Committee for inquiry and report on 25 November 2003 (see appendix 2 for statement of reasons for referral); (c) the provisions of the Spam Bill 2003 and the Spam (Consequential Amendments) Bill 2003 be referred immediately to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report on 27 October 2003 (see appendix 3 for statement of reasons for referral); and (d) the following bills not be referred to committees: • Aboriginal Land Grant (Jervis Bay Territory) Amendment Bill 2003 • Family and Community Services and Veterans’ Affairs Legislation Amendment (2003 Budget and Other Measures) Bill 2003 • Farm Household Support Amendment Bill 2003 • Higher Education Support Bill 2003 • Higher Education Support (Transitional Provisions and Consequential Amendments) Bill 2003 • Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2003 • Petroleum (Submerged Lands) Amendment Bill 2003 • Offshore Petroleum (Safety Levies) Bill 2003 • Telecommunications Interception and Other Legislation Amendment Bill 2003.

The committee recommends accordingly.

3. The committee deferred consideration of the following bills to the next meeting:

Bill deferred from meeting of 12 August 2003
- Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003.

Bill deferred from meeting of 19 August 2003

Bill deferred from meeting of 7 October 2003

(Jeannie Ferris)
Chair
8 October 2003
Appendix 1
Proposal to refer a bill to a committee
Name of bill(s):
Maritime Transport Security Bill 2003
Reasons for referral/principal issues for consideration
Short timeframe for industry consultation Draft regulations still not available for HOR but important to the operation of the bill Allow public submissions on rigor and practicality of this important new regulatory framework that has the potential for significant impact on trade and port costs
Possible submissions or evidence from: MUA, AIMPE, Australian Shipowners Association, Association of Australian Ports and Marine Authorities, state governments
Committee to which bill is referred:
Rural and Regional Affairs and Transport Legislation Committee
Possible hearing date: 20 November 2003
Possible reporting date(s): 27 November 2003

Appendix 2

Proposal to refer a bill to a committee

Name of bill(s):
Migration Legislation Amendment (Migration Agents Integrity Measures) Bill 2003
Migration Agents Registration Application Charge Amendment Bill 2003

Reasons for referral/principal issues for consideration

To examine whether the legislation will achieve its stated goals and what the possible impacts will be on migration agents, lawyers and consumers.

Possible submissions or evidence from:
Migration Institute of Australia
DIMIA
Individual migration agents
Community legal centres
Migration Agents Registration Authority
Law Council(s)
Australian Federal Police

Committee to which bill is referred:
Legal and Constitutional Legislation Committee

Possible hearing date: 31 October 2003
Possible reporting date(s): 25 November 2003

Appendix 3

Proposal to refer a bill to a committee

Name of bill(s):
Spam Bill 2003
Spam (Consequential Amendments) Bill 2003

Reasons for referral/principal issues for consideration

The Spam Bill 2003 contains some areas of concern relating to “consent” and to “exemptions” of certain agencies which need to be further examined.

The Spam (Consequential Amendments) Bill 2003 contains provisions relating to the search and seizure of premises and property—especially computer systems without a warrant.

Possible submissions or evidence from:
Electronic Frontiers Australia
Australian Consumers Association

Committee to which bill is referred:
Environment, Communications Information Technology and the Arts Legislation Committee

Possible hearing date: 17 October 2003
Possible reporting date(s): 27 October 2003

Rural and Regional Affairs and Transport Legislation Committee

Extension of Time

Senator FERRIS (South Australia) (3.41 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 Rural and Regional Affairs and Transport Legislation Committee on the provisions of the Aviation Transport Security Bill 2003 and a related bill be extended to 9 October 2003.

Question agreed to.

Rural and Regional Affairs and Transport References Committee

Meeting

Senator RIDGEWAY (New South Wales) (3.42 p.m.)—by leave—I move:

That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate today, from 4 pm, to take evidence for the committee’s inquiry into forestry plantations.

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 the Leader of the Australian Democrats (Senator Bartlett) for 9 October 2003, relating to the disallowance of clause 4(3) of the Housing Assistance (Form of Agreement) Determination 2003, postponed till 14 October 2003.
General business notice of motion no. 542 standing in the name of Senator Mackay for today, relating to the cancellation of the ABC program Behind the News, postponed till 2 December 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 9 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 9 October 2003.

General business notice of motion no. 609 standing in the name of Senator Nettle for today, relating to the World Trade Organization meeting and free trade agreements, postponed till 9 October 2003.

General business notice of motion no. 609 standing in the name of Senator Mackay for today, relating to the cancellation of the ABC program Behind the News, postponed till 2 December 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 9 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 9 October 2003.

COMMITTEES

Finance and Public Administration References Committee

Extension of Time

Senator FORSHAW (New South Wales) (3.44 p.m.)—I move:

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.

Question agreed to.

Rural and Regional Affairs and Transport References Committee

Extension of Time

Senator RIDGEWAY (New South Wales) (3.44 p.m.)—I move:

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.

Question agreed to.

Economics Legislation Committee

Meeting

Senator FERRIS (South Australia) (3.45 p.m.)—At the request of Senator Brandis, I move:

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.

Question agreed to.

Economics Legislation Committee

Meeting

Senator FERRIS (South Australia) (3.45 p.m.)—At the request of Senator Brandis, I move:
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.

Question agreed to.

National Capital and External Territories Committee

Meeting

Senator FERRIS (South Australia) (3.45 p.m.)—At the request of Senator Lightfoot, I move:

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.

Question agreed to.

NOTICES

Presentation

Senator ALLISON (Victoria) (3.45 p.m.)—by leave—I give notice that, on the next day of sitting, I shall move:

That the Senate notes, with concern, that the statement by the Prime Minister (Mr Howard) on so-called ‘Senate reform’ was provided to the media at midday on Wednesday, 8 October 2003, but that advance copies had not been provided to senators through the usual channels three and a half hours later.

NUCLEAR WEAPONS CONFERENCE

Senator ALLISON (Victoria) (3.46 p.m.)—I move:

That the Senate—

(a) notes:
(i) the ‘Depleted Uranium—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.

Question agreed to.

SOCIAL WELFARE: GAMBLING

Senator ALLISON (Victoria) (3.47 p.m.)—I move:

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.

Question agreed to.

HEALTH: BIPOLAR DISORDER

Senator ALLISON (Victoria) (3.47 p.m.)—I move:

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.

Question agreed to.

NATIONAL DRUG RESEARCH STRATEGY

Senator ALLISON (Victoria) (3.48 p.m.)—I move:

That the 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.

Question agreed to.

HEALTH: VACCINATION PROGRAMS

Senator ALLISON (Victoria) (3.48 p.m.)—I move:

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.

Question agreed to.

DEFENCE: CLUSTER MUNITIONS

Senator ALLISON (Victoria) (3.49 p.m.)—At the request of Senator Stott Despoja and Senator Bartlett, I move:

That the Senate—
(a) notes:

(i) its previous motion calling on the Australian Government to support a moratorium on the production, transfer and use of cluster munitions and to guarantee that Australian forces will not use, or be involved in the use of, these cruel and indiscriminate weapons,
(ii) that the effect of such explosive remnants of war on communities is similar to that of anti-personnel landmines, in that they kill and injure indiscriminately and have significant negative impacts on social and economic reconstruction post-conflict,
(iii) that the recent conflict in Iraq has highlighted the negative impacts of explosive remnants of war, especially those that result from the use of cluster munitions with high failure rates, with UNICEF reporting on 17 July 2003 that more than 1 000 Iraqi children had been injured by explosive remnants of war, and
(iv) that Landmine Action, in its report, *Explosive remnants of war: A global survey*, found that at least 82 countries are affected by explosive remnants of war and that casualties were reported in 59 countries between January 2001 and June 2002; and

(b) calls on the Australian Government, in the current negotiations on a Protocol to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to be Excessively Injurious or to Have Indiscriminate Effects*, to support the Protocol including the following provisions to cover explosive remnants of war:

(i) that the parties to any conflict promptly clean up, or arrange for clearance of, all unexploded ordnance, bearing full responsibility for the munitions that they have generated where that can be determined,
(ii) include in agreements to terminate hostilities, peace negotiations and other relevant military technical agreements, provisions allocating responsibility, standards and procedures for signing off land as cleared of unexploded ordnance,
(iii) parties to the conflict are to inform demining and/or unexploded ordnance clearance agencies of where munitions strikes have occurred and to provide technical data on all munitions used, to enable the unexploded munitions to be rendered safe or destroyed,
(iv) parties to the conflict are to provide appropriate information, including pictures and warnings to civilians, about the dangers of unexploded ordnance, both during and after the conflict,
(v) a prohibition on the use of weapons with large amounts of submunitions in or near concentrations of civilians,
(vi) that all munitions have high quality fuses and detonation systems to ensure explosion on impact or self-destruction within seconds of impact, or that render munitions safe if they fail to detonate,

(vii) a moratorium on the manufacture, transfer and use of munitions with submunitions until such munitions can be demonstrated to have failure rates that are no higher than other munitions that do not cause large amounts of unexploded ordnance (which typically generate less than 1 per cent live duds), and

(viii) the compilation of a list of banned submunitions that have already been demonstrated to generate large humanitarian problems in places where they have been used and based on experience in the field, this list to include the BLU 26 (US), RBL 755 (UK), BLU 97 (US), Multiple Launch Rocket System M77 submunition (US), BL755 (UK), Mk 118 ‘Rockeye’ (US), M42 and M46 Dual Purpose Improved Conventional Munition (DPICM) submunitions (US) and the Mk 6/7 ‘Rockeye’ (US).

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Trade: Live Animal Exports

The DEPUTY PRESIDENT—The President has received a letter from Senator O’Brien proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The government’s mismanagement of the MV Cormo Express crisis which has brought Australia’s export reputation and animal welfare standing into disrepute.

I call upon those senators who approves of the proposed discussion to rise in their places.

More than the number of senators required by the standing orders having risen in their places—

The DEPUTY PRESIDENT—I understand that informal arrangements have been made to allocate specific times to each of the speakers in today’s debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

Senator O’BRIEN (Tasmania) (3.50 p.m.)—Today is day 65 of the Cormo Express fiasco. Each day the federal Minister for Agriculture, Fisheries and Forestry, Warren Truss, permits this fiasco to drag on, the more damage he does to Australia’s export reputation and to our international animal welfare standing. If the minister had had any credibility when it began, the fiasco would have been swept away long ago. The MV Cormo Express fiasco is the latest in a long series of disasters to hit the live export industry while Mr Truss has been the minister. A live export disaster invariably means an animal welfare disaster. The Australian Labor Party and the Australian people have had enough. It is time the live export industry was cleaned up. Those responsible for unacceptable animal mortality—the rogues of the live trade—need to be driven from the industry.

Consistent with the current co-regulatory regime, Labor believes the minister responsible for the industry, Mr Truss, should also be held accountable for his record—not just of animal welfare disasters but of a failure to institute reforms to prevent their reoccurrence. Labor recognises the contribution of the live export sector to the economic viability of Australia’s sheep and cattle industries. The export income it generates and the 9,000 rural jobs it sustains cannot be dismissed out of hand or simply washed away—or wished away, for that matter. The government’s administration of the industry cannot continue in its current form. The Howard government put the current unsatisfactory model in place and has failed to act when the manifest in-
adequacy of its model has been exposed again and again.

In July this year Labor released a live export plan to deliver improved animal welfare standards, a more accountable industry and a more accountable minister. I again recommend it to the minister, not in an act of political one-upmanship but in the interests of the live export industry, Australia’s livestock producers and animal welfare.

In the absence of evidence to the contrary, it would appear that misbehaviour is not an issue in the MV *Cormo Express* fiasco. The livestock carrier left Fremantle on 5 August this year laden with more than 57,000 Western Australian sheep. Upon arrival at the Saudi port of Jeddah on 21 August, raw mortality was 544. This was less than one per cent of the shipment and well below the two per cent mortality benchmark for live sheep exports. The sheep did not get off the vessel, because a Saudi Ministry of Agriculture official claimed that six per cent of the sheep were afflicted with scabby mouth. I understand that one official claimed that 30 per cent of the sheep were displaying symptoms of this disease, but this assessment was reduced to six per cent—just one per cent over the acceptable level mandated by the administrative order governing our live trade with the Saudis. The assessment was immediately rejected by the AQIS accredited veterinarian accompanying the ship.

Following the Saudi assessment, the ship was directed to the Jordanian port of al Aqaba, where it arrived on 23 August. It was not allowed to berth, let alone unload its cargo. At that time there was a delegation of Australian officials in Riyadh for the discussions with Saudi officials about animal import protocols, amongst other issues. A senior officer from Mr Truss’s department, Mr Greg Read, led the delegation. I understand that Mr Truss instructed Mr Read and his team to seek a further veterinarian inspection by the Saudis to facilitate the off-loading of the sheep at Jeddah. I understand that the negotiations were positive, and the vessel arrived back in Jeddah on 26 August in anticipation of this further inspection. The Australian delegation then waited for advice on the reinspection of the ship.

Late on 27 August, Saudi officials contacted the Australian ambassador to advise that the offer to reinspect the sheep had been withdrawn. However, the Saudis advised that the sheep could be reinspected if the vessel sailed for seven to eight days on the Red Sea and returned to Jeddah. Mr Truss said that seven days was unacceptable on animal welfare grounds but would accept two days sailing. I am advised that the Saudis insisted on seven days, and negotiations foundered at that point. The fact that the sheep have now spent more than 40 additional days at sea suggests that Mr Truss must now be rueing his rejection of the original Saudi offer.

The breakdown of these negotiations resulted in the Australian suspension of live exports to Saudi Arabia. On behalf of the federal opposition I supported the minister’s decision to suspend that trade. I did so because it made sense to prevent the departure of additional shipments before the impasse over the MV *Cormo Express* was sorted out. I also assumed that Mr Truss had a plan to deal with the 57,000 sheep sitting in the port of Jeddah. Clearly, my confidence in the minister was wildly misplaced.

On 28 August the MV *Cormo Express* set sail for the United Arab Emirates port of Umm al Qaywayn, where it was, mercifully, permitted to berth. On 5 September Dr Nigel Brown from Meat and Livestock Australia organised an independent examination of the sheep by Dr Ghazi Yehia, regional manager for the international animal disease organisation OIE. I am advised that Dr Yehia gave
the sheep a clean bill of health. UAE officials then boarded the ship and tested the sheep. I understand that they told Australian officials that the sheep could be off-loaded in the UAE, but before paperwork could be completed the advice changed and the sheep were formally rejected. The ship was then forced out of port.

One of the problems Mr Truss has sought to conceal throughout this saga is the pressing matter of fodder supply. After sailing aimlessly for a few days, the MV Cormo Express was back off the UAE coast by 11 September. It needed additional fodder and the situation was becoming urgent. I am advised that the UAE initially refused permission for the vessel to berth, permitting it only to enter the port of Al Fujairah. It took a firm commitment not to return to the UAE before the local authorities finally agreed to let the MV Cormo Express berth. The vessel was permitted to load a small supply of fodder before it was required to leave the port.

On 18 September fodder was running low again, and again access was sought to the UAE. This time permission to berth was denied, and the MV Cormo Express was forced to drift eight miles off the coast of Al Fujairah and load bag fodder from barges. On 13 September Mr Truss said that negotiations for the sale of the sheep were at a delicate stage and were being handled by a Saudi importer. The following day, Mr Truss’s spokesman announced that the owner of the sheep had decided to give them away. He said, ‘There has been an offer made by the owner of the sheep for them to be given away.’

If the owner was locked in delicate negotiations to sell the sheep on 13 September, you might wonder why the minister would suggest 24 hours later that they were being given away. It is clear that the minister’s announcement that the sheep were distressed goods—so distressed that they were free—destroyed any commercial options available to the owner of the sheep. The minister’s announcement also heightened fears in the region that the sheep were, in fact, diseased. In the face of Mr Truss’s bumbling and his insistence that the sheep were not his responsibility, it is obvious that the Saudi importer and the crew aboard the ship were doing everything possible to keep the sheep alive. In addition to the burden of caring for more than 50,000 sheep, the owner would have faced a bill exceeding $60,000 a day.

It is noteworthy that just a few days after Mr Truss’s original offer of free sheep his office told a potential receiver of the distressed cargo that the offer was off the table. By 19 September key rural industries had lost patience with Mr Truss and his inept handling of the growing crisis. Senior producer representatives met with the Prime Minister’s office in an attempt to get the matter taken out of Mr Truss’s hands. On the same day the Cattle Council of Australia wrote to the Prime Minister expressing deep concern about the administration of the live export industry and urging him to reregulate it until industry standards are improved.

On 24 September agreement was reached to transfer ownership of the sheep to the Australian live export industry at a cost of $4.5 million. On that day Mr Truss did a doorstop in Canberra. He continued to run the line that the importer owned the sheep when agreement had already been reached to transfer control of the sheep to the Australian industry. He said:

The sheep are actually owned by a Saudi importing company.

The following day, 25 September, Mr Truss issued a media release repealing the claim that the sheep were the property of the Saudi importer. These claims were at best seriously misleading. The minister in fact conceded
this point at his media briefing last Tuesday when he told journalists that the sheep had changed hands on 24 September. The transfer agreement on 24 September was predicated on the expectation that the sheep would be quickly off-loaded in Iraq as food aid.

I understand that on 26 September Meat and Livestock Australia finalised arrangements to off-load the sheep at the port of Basra. The unloading was to commence at midday Australian time on 27 September and the ship was relocated to an area just off the Kuwaiti coast. Despite this, Mr Truss issued a misleading statement on 26 September denying any plan to unload the sheep in Iraq. I understand problems with the plan did not in fact emerge until around mid-evening on 26 September. I am given to understand that British military concern about the logistics of off-loading the sheep and distributing them as food aid overwhelmed prior arrangements.

At his media briefing on 30 September Mr Truss told journalists he was considering bringing the sheep back to Australia. He said he already had an import risk assessment to deal with any risks ‘that might be associated from a quarantine perspective’. I asked Mr Truss to reveal any consideration of this matter on 24 September and reaffirmed my demand following his statement on 30 September. I wrote to him on 1 October seeking the full disclosure of the relevant import risk assessment. I was not the only one concerned about the minister’s plan, I must say. On 3 October Dr Bill Gee, the former chief veterinarian, wrote an open letter expressing alarm at the prospect of the sheep being returned to Australia. He said the return of the sheep would pose an unacceptable quarantine threat to Australia and called on the government to rule out this option.

It is now clear that the prospect of the sheep being off-loaded for slaughter in the Middle East is becoming a forlorn hope.

While renewed consideration is being given to transporting the sheep to Afghanistan via land transport through Iran, this option remains deeply problematic not least from an animal welfare perspective. The MV Cormo Express berthed at a Kuwaiti port for resupply last week. That resupply is almost complete and a final decision on the fate of the sheep now looms. It appears that just two options remain: slaughter at sea, or return to Australia. Both, I might say, are most unattractive but remain on the table because Mr Truss has systematically destroyed all reasonable alternatives.

One of the government’s key failures in this matter was its failure to recognise the serious consequences for animal welfare arising from the adverse Saudi veterinary assessment on 21 August. The minister should have been aware that the Gulf States have a formal agreement that prevents a shipment rejected by one state on quarantine grounds from off-loading in another. The minister should have known from the outset that high-level diplomacy was the key to resolving the crisis. In the event that Mr Truss did not understand these facts, more senior ministers should have stepped in and taken the matter out of his hands. He should not have been permitted to bumble along while Australia’s export reputation and animal welfare standing suffered so grievously.

Rather than resolve the crisis, Mr Truss adopted a strategy of denial and obfuscation. From the outset he has provided no information or incomplete information or deliberately misleading information. More mortality details have been provided to the Australian public by the ship’s owner, Vroon BV, than by the Australian government. Mr Truss himself has provided more information to foreign governments than to the Australian parliament. Until 30 September Mr Truss refused to disclose almost any detail about the MV Cormo Express due to commercial and
diplomatic sensitivities. But on that day he held a media briefing and provided considerable detail about negotiations, including those then under way. That briefing exposed Mr Truss’s earlier refusal to provide details as no more than a sham.

The fact is that if Mr Truss had kept the media and the public properly informed about this matter, damaging national and international coverage could have been considerably reduced. That coverage is damaging our animal welfare reputation and causing collateral damage to our carcass trade in key markets. The chair of the Western Australian Meat Marketing Cooperative, Mr Dawson Bradford, has told the ABC that his company is getting negative feedback from the United Kingdom about our animal welfare reputation and that this may have a negative impact on demand for Australian lamb in the UK market. I fear other key markets for Australian meat are also being damaged by this long-running fiasco, with serious long-term trade and regional employment implications. The announcement that repatriation of the sheep is a live option has consolidated exporters’ fears. The failure to release an import risk assessment has escalated the fears of livestock producers and other primary producers who trade on Australia’s excellent quarantine status.

In addition to demanding the release of the completed quarantine analysis, Labor has laid out a five-part plan for the immediate future of the industry. The first step must be the removal of Mr Truss from portfolio responsibility for the industry. Secondly, the government must commission a high-level independent review of the operation of the live industry co-regulatory regime including accreditation, auditing, mortality reporting and the operation of the third party veterinarian scheme. Thirdly, the government must order AQIS to assume direct control of live export industry standards, including accreditation and auditing pending the outcome of the independent industry review. Fourthly, the government should establish protocols to govern the resolution of commercial, quarantine and diplomatic disputes affecting the welfare of live exports. Fifthly, the government should immediately develop and, as soon as possible, implement an industry plan to promote an enhanced carcass trade in existing live export markets.

It is clear that the fate of the sheep aboard the MV Cormo Express will be determined in the coming hours. Whatever the eventual outcome, Australia’s export reputation and animal welfare standing will remain damaged by this shocking affair. The government is seriously damaged as well. Last week, Alan Jones told his radio listeners:

... you can talk about budget surplus and interest rates and the state of the economy and all the rest of it, but the public will gather their perception of a government and what kind of government it is by the way in which simple issues like this are handled.

The way Mr Truss has handled this fiasco says a lot about his competence, or lack thereof. If he survives this fiasco as the minister with responsibility for live exports, the damage to Australia’s international reputation will be permanent, I fear.

With regard to the opposition’s position, I did hear one government senator suggest that the opposition wanted these animals killed. I remind that senator and others in the government that the fact is that the animals were being sent to the Middle East to be slaughtered for consumption. If they are returned to Australia they will be slaughtered for some purpose, and if there is another course of action in the middle, the animals will indeed be slaughtered. The opposition did not set out with the purpose of having these animals slaughtered; that was the purpose of their export and that is the consequence of the calamity they are now in, in any case.
The only slaughter that will occur today is through the disgrace of the Labor Party making this a political issue when it is a national interest issue. You come in here and say, ‘We’d have swept this away.’ That was what you said in your opening statement, Senator O’Brien, then you spent 20 minutes outlining a diary of recent events, with no solutions. Well done, Jack! It is just the detail with no solutions. So what is this about? This is a national interest issue because it is an attempt, for reasons unknown—and you certainly did not provide any—to play Australia on a break. Some sort of secret Saudi men’s business is what I suggest to you we are on about here. The initial allegation was that 30 per cent of the sheep had scabby mouth—sure, someone did put that up but they quickly reduced that to six per cent, conveniently, as you say, over the five per cent mark, even though every other vet on the planet who has had a look says the figure is less than 0.3 percent.

The thing that you did not mention, Senator O’Brien, is that, conveniently—also just above the five per cent figure—there were no trucks booked. There was no attempt to get rid of the sheep from the port, so there was no intention to unload them, it seems. There may be an explanation which someone else can provide but certainly this was not about mismanagement by the Minister for Agriculture, Fisheries and Forestry or by Australia; this was about some secret men’s deal over there by persons unknown, probably a bunch of carpetbaggers on the other side. As you would know, Senator O’Brien, the vaccine for scabby mouth is an easy one to proceed with. I have personally vaccinated thousands of sheep—it takes just a simple scratch under the leg and you have got it. So scabby mouth is not the issue; let us put that away.

But what is the issue? The issue is that, for reasons unknown to any person who has stood in any public position, the gulf customs alliance—that is, the Gulf Cooperation Council which includes, for people who do not know, Oman, Bahrain, Kuwait, the United Arab Emirates and Qatar—decided that because one has gone they are all gone. No-one is interested in them. As a consequence of a flow-on, paddling under the water by people unknown to Australia, there have been 38 rejections of these sheep, and the folklore has built that there is something wrong with the sheep. As senators know, in recent days an independent vet has looked at these sheep and has said that they are okay.

Where does that leave us? Dear old Wally Curran’s mob are still at it. Dear old Wally Curran and the AMIEU want to get rid of this trade. I hope, Senator O’Brien, that the Labor Party resists this temptation, because you have spoken eloquently about what a great and important trade it is for Australia. In your own document, Labor’s reform agenda for the live export industry, you say:

Labor recognises the potential benefits of converting a portion—a portion unknown—of the live export trade to chilled and frozen carcass exports.

I know a lot of people who would agree with that but, Senator O’Brien, you forget that, back on the farm, farmers need as much competition in the marketplace as they can get. If you take the live export trade out of it, there will be fewer jobs left on the farm. You go on to say:

The Australasian Meat Industry Employees’ Union (AMIEU) has been at the forefront of the campaign to curb live exports based on the impact of the trade on the domestic meat-processing sector. The union represents many thousands of workers in this sector and has long made the case that the closure of smallstock killing centres [should be prevented with the] overall decline in processing jobs ...
This would be to the detriment of the people who produce the stock. So Wally Curran is still at it. It defies the fact that the customer is right. I am sorry, but your mob over on that side come out of the trade union movement; obviously, I come off a farm and I put that on the record. I am authentic in this area.

The customer is always right and, as you may care to hear and learn, the demand of the market over there is for stock on the hoof. That is what they want and that is what we are trying to provide. We have a lot of farmers in Australia who are prepared to go to the trouble to provide the market, despite what Wally Curran wants, with thousands and thousands of ram lambs, or whole sheep as they call them, in the paddock—and they are a bloody nuisance to manage, I can tell you. If this trade falls over I do not know what we are going to do with 200,000 or 300,000 ram lambs because, as you would be aware, Australians do not have an acquired taste for ram lamb except, of course, if it is a saltbush ram lamb and then it is a beautiful sheep. The value to Australia in 2002 of this export, and I would remind Wally Curran of this—

Senator Mackay—He’s not here.

Senator HEFFERNAN—I know; Wally Curran’s ghost, then—was $409 million. Are you listening, Wally? You never know! Saudi took 1.8 million sheep last year and to Australia’s farmers this was worth $127 million or 31 per cent of the total exports of $409 million. So it is valuable. Also, we have to protect the flow-on effects to the northern cattle live export market. Twenty years ago, when you were just a boy, Senator O’Brien, the foundation of the creation of an agricultural frontier that was very successful in northern Australia was built around live exports for cattle. Twenty years ago, if you went to the Territory, you could buy a place for the value of about $120 per head of stock on it and you got the land for nothing. But, because we have developed a very successful live export trade for cattle, the land up there has set the foundation stone, as the Senate would know, for a new agricultural frontier. I hope it will eventually allow us to escape from the 75 per cent of Australia’s water farming that occurs in the Murray-Darling Basin, where the sums will never add up, with 6.2 per cent of the run-off. I hope that we create a new agricultural frontier in northern Australia where 45 per cent of Australia’s run-off happens to occur.

To say that we have mismanaged live exports is an absolute joke because, in the meantime, while this particular one-off, secret Saudi men’s business has been going on, we have successfully exported several shipments which have landed in Saudi. In fact, the Al Shuwaikh unloaded 24,000 sheep on 23 August. There have been three shipments of over 150,000; there has been a shipment of 8,100 cattle to Aqaba; 2,000 cattle and 67,000 sheep on one boat have gone over there with no incident. So there has been plenty of successful exporting in the meantime. There is no impact, except the embarrassment of this particular incident for which there is no explanation, and certainly no explanation from the Labor Party today.

The current situation is that the vessel is reprovisioning, as you have said, in Kuwait and a small fire and some mechanical breakdowns in the loading episode have meant that the reprovisioning is going to take a bit longer than expected. Given no further delays, perhaps tomorrow the ship may be ready to leave. Arrangements are being made for an AQIS veterinarian and two experienced stockmen—I might volunteer for the job—to board the vessel. While in port an independent veterinary inspection was conducted by an OIE officer and he reported that the sheep are fit and healthy. Despite all the drama and the colour and movement out
there, the sheep are in fine order, free from disease and suitable for admission to any country in the region for slaughter and human consumption.

The OIE is the equivalent of the animals’ version of the World Health Organisation and, despite that certification, there has been an attempt to discredit this report by the people who are involved in this secret men’s business. In the last couple of days, there has been some attempt to discredit that report. Other ships that have been sent to the region since this has occurred continue to be unloaded without incident. I am pleased to report that there is no evidence to suggest that the circumstances surrounding this ship have in any way affected other elements of the trade or the attitude of other countries in that region towards accepting Australian sheep. Two large shipments, as I said, have unloaded in Kuwait without incident.

We should never lose sight of the fact that what we have to do today is to make sure that we make a statement to Australia that we are here to protect the long-term interests of Australia’s cattle and sheep graziers, to protect the interests and welfare of the sheep and to get the trade right. We have to overcome whatever this unknown secret men’s business deal over there is and in no way will we overcome that by standing in this place and alleging that somehow the government has mismanaged this proposition, because we have not. Today, the opposition have provided no answers as to what they would have done. We are confident that within the next few days we will have a solution. (Time expired)

Senator SCULLION (Northern Territory) (4.20 p.m.)—Senator Heffernan has summed it up very well. This issue really is about protecting the long-term interests of Australian primary producers and particularly those involved in the livestock industry. In a parallel sense to that, it is also about protecting the interests of Australia’s reputation as having one of the finest processes of managing animal welfare at sea and on our farms within Australia. The rejection of 57,000 sheep when they landed at Jeddah has been, as indicated earlier, a great disappointment. It has been a disappointment in a number of ways. It has been a disappointment because it has not actually been recognised as being completely anomalous to the successful export of literally millions of sheep in dozens and dozens of very successful exports by ship to these areas.

I am somewhat miffed that this matter of public importance alleges that somehow through mismanagement the government has brought into disrepute not only our industry but, apparently, our animal welfare issues. I will take the opportunity to run through what I consider to be one of the most comprehensive management regimes in terms of livestock trade. Livestock trade has changed in a global sense. Everybody recognises that something that was out of sight and out of mind had to change. The media played a very important role some five years ago in exposing not only to the Australian public but in a global sense that we needed to change the way things were done in order to ensure that this trade was sustainable.

So what happened to the ship before it left? The sheep were loaded, they were tested before departure and they met the full ambit of export certification that was needed.

Senator McGauran—By AQIS, no less.

Senator SCULLION—Indeed, by AQIS, and in fact they actually passed the livestock export assurance program that was written and had input from people like RSPCA and other animal welfare groups. We know that with the LEAP process we will be protected.

We make sure that livestock are absolutely fit for a voyage. We made sure that these
animals were going to have the very lowest mortality rates, as was evidenced by a mortality rate of under one per cent—less than 50 per cent of the trigger that is normally used, which is two per cent, for an investigation into mortality. We made sure that the livestock were prepared in accordance with overseas requirements, so we knew that we needed to ensure that scabby mouth was in fact in a proportion that was less than five per cent—0.03 per cent, which is well and truly within the limits. We met that requirement.

We made sure that the travel arrangements were adequate. So it was not only that the right ventilation was met but that the feed was the right sort and the right amount for the journey, and there was a certain amount of potable water, plus a contingency. And just as well we had that contingency or we would have been in a much worse situation than we are in now. They were all met. I can say that, in terms of the travel arrangements, often people would perhaps be smirking and saying: ‘What’s Scullion doing standing up in this place? He doesn’t have any sheep in the Northern Territory.’ That is quite right. During the loading of other livestock—and this is an issue about livestock, not about sheep—particularly camels, some 18 months ago in the Northern Territory, we had to unload the camels because the head space for the camels was insufficient. It did not meet the primary requirement that travel arrangements need to be adequate for that particular piece of transportation and for that particular voyage.

When they arrived in Jeddah, the sheep were rejected for reasons that are still unknown to all of us. We can only surmise, though I do not think it is particularly useful. But we know for sure that the reasons they were rejected are in fact not the right reasons. Our senior veterinary officer, Dr Gardner Murray, boarded the vessel and made an inspection himself, and, as we have heard, Dr Ghazi Yehia from the World Animal Health Organisation also inspected the sheep. He not only found that they were healthy but also that there was absolutely no evidence of any infectious or contagious disease to suggest that the consignment would be unsuitable for admission to any country, including Saudi Arabia. There was no evidence to suggest that there had been a significant outbreak of scabby mouth aboard the vessel at any time during the voyage. There was absolutely clear evidence that it was in fact a successful voyage that was managed extremely well under a very rigorous framework that does not deserve any criticism from anyone in this place or from any Australian.

It is really important to recognise that the trade for Australia just into Saudi Arabia is worth $195 million. It is well over 1.5 million sheep. It has a lot of prospects in terms of live export from other commodity items. It also has a lot of prospects because in this industry it is not about how many sheep over the gunwale or how many actual dollars. It is about the 9,000 jobs in Australia that this industry sustains. But, despite that, we made the tough management decision. You cannot manage sheep that do not belong to you on a boat that you do not own on the other side of the world. What did the Australian government do? Despite the rhetoric from the other side of this place, they made a tough decision: ‘We will buy those sheep; we will regain control, because then we can manage the perception that animal welfare issues are not correct and that the way we go about managing this business is not right and efficacious.’ It was a tough decision and, again, a good management decision that runs at cross-purposes with the concept that somehow the Australian government have mismanaged this issue. It is absolute rubbish.

Of course, people have alluded that we have not tried particularly hard to resolve
this issue. People, I think, play down the very great difficulty that this one anomalous trip was caused from some mischief on the other side of the world. We are not really sure what it is, but we have already tried to involve parties such as Iraq, Kuwait, the UAE, Afghanistan, Ethiopia, Jordan, Egypt, Pakistan, Libya, Cyprus, Tanzania, Eritrea, Qatar, Italy, Poland, Israel, Ukraine, Argentina, Mauritius, Indonesia, Malaysia—the list just goes on and on. Efforts have been made by this government to place these sheep in a safe manner that meets the requirements of the animal welfare issues that we are bound to.

It does not end there. There is a whole range of other countries we could have got the sheep to. As bad luck would have it, they would have had to pass through the Suez. It just happens that, at this moment in time—something that has been conveniently ignored—there is an outbreak of rift valley fever. So if they pass through the Suez Canal, it means that all those new markets that we could have put those sheep into are suddenly not open to us. I have to say that the sorts of comments that were made by the opposition spokesman on this matter with regard to the British Army not being able to take them were absolutely outrageous. They said, ‘They had some other prior arrangements.’ The ‘prior arrangements’ were ensuring security in Iraq. I think it is a pretty cute statement to say ‘some prior arrangements’. That is why the British Army could not be distracted by the distribution of these sheep.

The import risk assessment process involves far more consultation and is far longer than can possibly be done. There has, quite rightly, been a management process to ensure that an assessment is made so that if these sheep are brought back to Australia, it is all about contingency planning and that they will be brought back in a way that ensures that Australia’s great quarantine barriers are protected in perpetuity.

Senator STEPHENS (New South Wales) (4.28 p.m.)—I, too, want to contribute to this important debate. I noted with interest Senator Scullion’s remarks. I know he is a strong advocate of the live export trade, but I am not too sure he understands that in fact the RSPCA has not and does not endorse the live export accreditation program managed by Livecorp. On that issue, either he is misinformed or he misunderstands the RSPCA’s position.

Senator Heffernan described the issue as ‘secret Saudi men’s business’. It would be useful if that were the case, but in fact we are seeing the mishandling of the Cormo Express situation by Minister Truss and we know that it is adversely affecting Australia’s live export trade, our domestic livestock producers and Australia’s international animal welfare reputation. We know that is the case because we are reading about it in the media every day. There is international alarm about Mr Truss’s handling of the crisis, and we know that too because it continues to be reported in the media and we are seeing petitions and protestations all around the country about the issue. We know that our reputation as a country with a high animal welfare standard is under threat, and that concern is in the international media commentary. There are even protests in foreign capitals, not just here in Australia, and that is beginning to impact on our processed meat exports.

Domestically, there is also significant and building pressure on the whole actual live trade, not just on the sheep trade but also on the cattle trade. As well as that, the prospect of the ship being returned to Australia is causing very serious alarm on quarantine grounds amongst our domestic livestock industries and trading partners. The introduction of exotic diseases into Australia via the
return of these sheep should be a matter of concern to every senator in this chamber. Exotic diseases would not just hit the red meat sector but also other industries, including the future of Australia’s wool industry. I am very happy to declare a personal interest in the Australian wool industry and in the impacts that this would have on that industry, and that is the matter that I want to discuss in this debate.

My colleague Senator O’Brien has been calling on Mr Truss to release the import risk assessment related to the return of these sheep. We know that the import risk assessment exists, because Mr Truss himself has told us so, but so far he has refused to release it. If Mr Truss adopts the position taken by the Prime Minister and allows the sheep to return to Australia, he must first provide wool growers with a guarantee that exotic diseases will not accompany them and that any quarantine risk can be fully contained. Mr Truss must assure the wool growers in my state of New South Wales that these sheep will not, for example, introduce sheep pox. This is a serious disease that is endemic in the Middle East. Perhaps senators might not understand that sheep pox is a particularly hardy virus that can survive for up to three months on the skin of animals—and even longer in a cool, dark environment. This virus could also be carried on board the Cormo Express in the fodder that is being loaded at the moment to relieve the animals’ distress or by the equipment being used to load that fodder. An outbreak of sheep pox in the fine-wool regions of New South Wales would have a devastating impact on growers.

There is also great concern about the possible introduction of screw-worm fly, which is also endemic in the Middle East. Even first-year vet science students know that there is the potential on the Cormo Express for screw-worm fly strikes to go undetected, because the maggots fall off and burrow into the dung layer on the decks. Picture for a moment, if you can, what the conditions must actually be like on this vessel—sheep covered in manure and standing in inches of sloppy dung. The ammonia fumes must be overwhelming, with the temperature providing a breeding ground for these exotic diseases. Ordinarily, the best way to manage that risk would be to remove the sheep from the ship and clean it down. Clearly, that is a difficult control measure to implement and a logistical nightmare in the current circumstances. Even if it were possible, I am not convinced that it would reduce the risk to an acceptable level. Again, the wool producers of New South Wales would be utterly devastated by an outbreak of screw-worm fly. To eradicate an infestation like that would have an extraordinary impact on the national flock for years, take time and be extremely expensive. (Time expired)

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.34 p.m.)—This is a matter of public importance and it is also a matter of public interest and public concern. I think all politicians would acknowledge that the level of public concern and outrage about the situation involving the sheep on the Cormo Express is one of the most significant issues occupying the public mind at the moment. It is showing up significantly in letters to the editor and in calls to radio and also, I am sure, in emails to all senators. That frustration and anger from the Australian community are borne from a greater realisation of the immense cruelty involved in this trade.

It is no secret that the Australian Democrats have long had a policy of abolishing the live sheep and cattle trade. I accept that others in this chamber have different policies, but the bottom line is that the justification repeatedly used by successive governments—Labor and coalition—has been that industry standards are such that animal wel-
fare issues can be properly addressed. That has been the repeated pledge time after time from governments—Labor and Liberal—and from the industry, yet each time they make that pledge another incident involving horrendous cruelty occurs. The bottom line is that the government and the industry cannot guarantee that proper animal welfare standards will be met in this industry.

That being the case, I believe it is absolutely essential for the government to accept that extreme cruelty is inevitably a part of this industry and that they must work to develop the alternatives. It is not true to say that the banning or phasing out of this industry would result in the complete disappearance of jobs and money as though there was no other alternative, because there is an alternative. It is worth emphasising that the alternative of the processed meat trade, the packaged, refrigerated carcass trade, is actually four to five times greater in value than the live animal trade—and that is with very little government effort in trying to promote that trade, compared with the repeated efforts to expand the live animal trade. That not only means that money goes through the live animal trade rather than through the processed trade but it also means that value adding opportunities here in Australia are reduced. There have already been clear statements from some abattoirs and meat processing plants in Australia that they would happily slaughter these sheep—obviously, if quarantine issues were addressed—and that they have the capacity. Indeed, in Rockhampton in my own state of Queensland there was the issue a week ago of an abattoir not being able to operate consistently because it could not get enough stock, and yet we are continuing to send the live animal, the unprocessed animal, offshore.

As senators would know, being a fairly strong advocate of vegetarianism myself I am not normally prone to advocating the expansion of the slaughter of cattle and sheep for meat in Australia. But the reality that obviously has to be faced is that there is a demand and, whilst I might have views, I am not trying to unilaterally impose them on everyone else. It is far better to get maximum economic value for Australia out of that industry and it is also far better to have minimum impacts in terms of animal welfare issues. We do have a reasonable code of practice in Australia for the slaughter of animals. I can assure senators that those standards do not apply at all in the Middle East.

I refer the Senate to a speech I gave in this place a couple of months ago drawing attention to an article in the Australian Veterinary Association magazine detailing just some of the practices that occur in slaughtering the very animals that are exported from Australia. Those processes are absolutely unbelievably shockingly cruel. Footage of some of them—certainly not the worst of them—was shown on 60 Minutes some time back and produced, quite appropriately, an outraged response from the public. I think the public is not aware of many aspects of the reality of this trade—what the animals endure all the way through. It is not just a situation such as is on the Cormo Express where they are stuck at sea—that is obviously an extreme outcome and an appalling outcome from an animal welfare point of view. The everyday occurrences with this industry, even when things go well, are not good. It is not just the conditions on the ship during the voyage, and they are uncomfortable enough, but the offloading at those ports is often done extremely inappropriately and further transportation is often done in inappropriate vehicles often without cover in full sunlight and blistering heat. As I have just mentioned, the slaughtering practices at the end of that are simply unbelievable in their level of cruelty.

This is an Australian trade involving Australian animals and the government cannot
say, ‘It is not our responsibility once they leave our shores.’ If we are going to allow and license a trade involving animals we have to have responsibility for ensuring the humane treatment of those animals at all stages of that process. That is not done and I would suggest that it simply cannot be done. There is no way that proper humane treatment can be guaranteed. Therefore I believe that ethically we have to explore the alternatives. I am not immune to the reality of the economic and employment consequences to some people who rely on this industry. As with any industry when there is the need for a significant shift, appropriate assistance needs to be given. As I have stated, I believe there is significant opportunity for expansion in the processed meat trade and that a lot of the money and employment can be transferred across.

It is an area, as with many others, where we have seen significant secrecy from this government and from the industry body, LiveCorp. This body has refused to release reports in the past and the government has refused to comply with Senate returns to order about reports on previous voyages where things have gone wrong, saying that they are documents provided to LiveCorp and that it is a private organisation and it is up to it as to whether it releases anything. It is very difficult for the public to get to the bottom of what is actually happening or what the reports are showing about the conditions that animals endure on these voyages as a matter of course.

We have also had repeated statements from a number of government ministers, not just Minister Truss in recent times, that say there is no alternative to the live trade because cultural practices in the Middle East mean that the animals have to be slaughtered there. That is simply wrong. There is a halal authorised slaughtering process in Australia. There is a halal meat export industry—a significant industry that exports tens of thousands of tonnes of meat each year, including to the Middle East. There is plenty of scope for that to be expanded and if that was given assistance and promotion then that would certainly grow.

Similarly, whilst I acknowledge there are issues with refrigeration and storage of processed meat or preslaughtered meat in some countries in the Middle East, I would suggest that that would be far easier to resolve by industry assistance to the region than what is happening at the moment where there have been a few derisory attempts by the industry to provide assistance with better offloading and slaughtering facilities. There is clearly an alternative. If there is going to be an impact on people as that shift occurs then clearly appropriate assistance needs to be given. In my view and the view of the Democrats, there is a clear principle here. Firstly, there is an alternative—an alternative that is actually worth significantly more money. Secondly, it cannot be guaranteed or come close to being guaranteed that this industry can operate in a basically humane way in relation to the animals. If statements by government ministers and the Prime Minister himself are to be believed—that they do have concern for the welfare of animals, that they do want to ensure that decent standards apply—then they have to be measured by their own statements. There is simply no way that they can back up those statements with the outcome. If they are concerned about these matters then they should acknowledge the reality and the views of the Australian people and seek to wind down this cruel industry and move across to alternatives.

A petition of over 21,000 signatures—nearly 22,000—was tabled in this place yesterday. That is the highest number of signatures on a petition to be tabled so far in the Senate this year. Previous years have seen petitions with tens of thousands of signatures
around the same issue, also amongst the biggest petitions that the Senate has received. Animal welfare is not a fringe issue; people do not like unnecessary suffering—whether it is animals or human beings. We should seek to avoid it. The industry has had enough chances. The government have had enough chances—they have had 20 years or more to get this right. They cannot do it. They have run out of chances and run out of time. We need to now explore the alternatives. This latest farce is simply the latest in a long line and we should not be having more of them in the future.

Senator JOHNSTON (Western Australia)
(4.44 p.m.)—I would like to support the remarks of Senator Heffernan and Senator Scullion in this debate. I commence my response to what is a very worrying approach by Senator O’Brien and the opposition to this matter by drawing a picture of what this industry really means to Australia. In 2002, six million sheep at a value of $414 million, one million cattle at a value of $613 million and 130,000 feral goats—largely from my state of Western Australia—at a value of $10 million were exported live. The industry is the eighth top agricultural export earner. Four per cent of the total agricultural trade is livestock from the live export industry and this industry sustains 9,000 jobs throughout Australia. In short, and obviously to anybody who has the national interest at heart, this industry is far too important to be the butt of cheap political points.

The Saudis rejected the MV Cormo Express cargo because of scabby mouth allegedly affecting six per cent of the total cargo of 57,000 sheep. Within four days an Australian veterinarian assessed the number of scabby mouth affected sheep on that ship to be 0.35 per cent. That differential should send a message to Senator O’Brien that there is more to this than meets the eye. The value of the export industry to Saudi Arabia last year was $195 million. Of course, the Saudis are members of the Gulf Cooperation Council of states, which includes Oman, Bahrain, Kuwait, the UAE and Qatar. Those states have agreed that, if one state rejects a shipment for veterinary or quarantine reasons, each of the other states would similarly maintain such a negative stance towards the importation of that stock.

This is a nationally important export industry, particularly to the Middle East. It is attended by a unique degree of political sensitivity and should be viewed solely in the national interest. Indeed, that is not what Senator O’Brien’s matter of public importance brings to the parliament. In fact, Senator O’Brien simply does not care about such important matters as agricultural exports into the Middle East. They only want to make some political mileage out of this. I say that because there is not one hint of a solution in anything he or Senator Stephens have had to say. As we heard in question time, a couple of members in the opposition leaned back in their comfortable chairs and shouted, ‘Fix it!’ One could not envisage a more arrogant, simplistic and plainly ignorant approach. They say, ‘Just fix it!’ It is typical of an opposition simply going through the motions. Not once for one second today have we heard any hint of a solution. What is worse is that we have not heard any evidence of the mishandling. How has the minister mishandled this matter? The fact is that he has not mishandled it. He has been put in an absolutely invidious position with respect to this for the reasons that I have explained. The Saudis have rejected the shipment in the most confusing and perverse of circumstances and the vessel has not been able to find a home for those sheep in Oman, Bahrain, Kuwait, the UAE or Qatar, or I think in many other countries throughout that region, for reasons known only to the Saudis.
When one looks at the opposition’s particular plight in this—because it is a plight—one sees that they are seeking to seize upon the embarrassment of having this shipment rejected when there is patently nothing that obviously springs to mind other than to bring the sheep home. There has been no constructive contribution from this opposition, just the finger of blame pointed at an industry of national importance in relation to which they should be supporting the government. Of course, Labor have an alternative agenda relating to their reform agenda for the live export industry. That alternative agenda is about giving more power to the union movement. The Australasian Meat Industry Employees Union wants to slaughter more sheep, beef and goats onshore. That is what this is about—simply a shameful get-on-board approach and opportunism in attacking this minister in the hope that they will score some brownie points with respect to their union mates.

Over the past three years, the mortality rates for live sheep and animal exports have been between 1.14 and 1.31 per cent, which is a remarkably low figure. The mortality rate for cattle has declined over the last three years from 0.2 per cent to 0.15 per cent. These are outstanding figures and something that this industry can be very proud of. The industry has an oversight by the independent reference group comprising Dr Gardner Murray, the Commonwealth’s chief veterinary officer; Dr Hugh Wirth, President of the RSPCA; Professor Ivan Caple, Chair of the National Consultative Committee on Animal Welfare; and Mr Malcolm Foster, former Chair of the Red Meat Advisory Council. The Livestock Export Accreditation Program, the quality assurance program and the licensing process for this industry comprise one of the most rigorous agricultural export licensing processes in the country. LEAP underpins the co-regulatory regime for this industry.

COMMITTEES
Scrutiny of Bills Committee

Report
Senator CROSSIN (Northern Territory) (4.51 p.m.)—I present the 11th report of 2003 of the Senate Standing Committee for the Scrutiny of Bills. I also present the Scrutiny of Bills Alert Digest No. 12, dated 8 October 2003.

Ordered that the report be printed.

Public Accounts and Audit Committee

Report
Senator MURRAY (Western Australia) (4.52 p.m.)—On behalf of the Joint Committee of Public Accounts and Audit, I present the 396th report of the committee entitled Review of Auditor-General’s reports 2002–2003: first, second and third quarters. I seek leave to move a motion in relation to the report and to incorporate my tabling statement in Hansard.

Leave granted.

Senator MURRAY—I move:

That the Senate take note of the report.

The statement read as follows—

The Committee has reviewed the twenty nine Auditor-General’s reports tabled during the first, second and third quarters of 2002–2003, and selected eleven for further examination at three public hearings.

Mr President, rather than discussing the Committee’s findings in regard to each of these eleven audit reports, I would like to draw attention to some of the highlights of the Committee’s review.

You will be aware of the recent theft of computer equipment from Customs offices adjacent to Sydney airport—an event which Customs chose not to reveal to the Committee at a public hearing. The public hearings into two of the audit reports reviewed by the Committee revealed two other circumstances where information provided to the
JCPAA and others may have been misleading. I hasten to add that the Committee did not form a view that there had been a deliberate attempt to mislead the Committee.

The first example involved the use of the Department of Defence’s system for recording actions taken in response to the Committee’s and Audit Office recommendations. Evidence at the public hearing revealed that many of Defence’s responses to recommendations were being marked off by Defence personnel as “complete” simply because the due date for action had been reached.

This potentially compromises the veracity of Defence’s advice concerning its progress in implementing the recommendations to which it had agreed. The Committee has recommended that Defence immediately update its progress recording system and provide advice on the current status of all Committee and ANAO recommendations.

The second example involved the actions of the Child Support Agency in response to a JCPAA recommendation made in 1999. The ANAO audit, and subsequent evidence at the public hearing, revealed that the CSA had re-interpreted a Committee recommendation. The CSA had completed action in regard to the re-interpreted recommendation and reported to the Committee in an Executive Minute that the recommendation had been agreed to.

The Committee considers that its recommendations are sufficiently well-thought out and considered to warrant full implementation. If an agency disagrees with the recommendations of external reviewers it should make its concerns explicit to both its Minister and those reviewers. To do otherwise potentially misleads its Minister and (when parliamentary committee recommendations are involved) the Parliament.

To turn to more positive matters.

The Committee continues to find that agencies subject to audit are responding positively to the Auditor-General’s recommendations. In fact sometimes audit reports and the Committee’s subsequent review produce “good news stories”—I will provide two examples.

Audit Report No. 20, 2002–2003 reviewed the management of two employee entitlements support schemes by the Department for Employment and Workplace Relations (DEWR). The Committee notes that the administration of both the Employee Entitlements Support Scheme and the General Employee Entitlements and Redundancy Scheme has been a major challenge for DEWR because these schemes were the first of their kind in Australia.

The Committee commends DEWR on its positive response to suggestions for improvement from both the ANAO and a consultant engaged by DEWR. The Committee notes that many of the suggestions and recommendations have already been partially or fully implemented.

The second example concerns Audit Report No. 28, 2002–2003, Northern Territory Land Councils and the Aboriginals Benefit Account. The Committee is pleased to note that all of the Land Councils subject to the audit have understood and acted upon the recommendations regarding risk assessment, management and accountability; and regarding the collection and use of performance information.

The Committee commends the Land Councils for having accepted the advice of the ANAO in a responsive and proactive manner and for having acted quickly to apply the advice to their organisational practices.

Mr President, three of the audit reports examined by the Committee had a financial management flavour. These were:

- Audit Report No. 18, Management of Trust Monies;
- Audit Report No. 25, Financial Statements of Commonwealth Entities for 2001–02; and

During the Committee’s review of the audit of the Commonwealth’s financial statements, the Committee revisited its recommendation in an earlier report that the Final Budget Outcome (FBO) be audited. The Committee notes the two significant impediments to achieving this goal:
the need to determine which audit standards to use; and
• the difficulty in preparing and auditing the FBO within the three months specified by the Charter of Budget Honesty.

The Committee is encouraged by the move to harmonise Australian and international reporting standards, and the move to progressively bring forward the provision of financial information by agencies. While the Government has not agreed to the recommendation that the FBO be audited, the Committee still believes in the merits of its recommendation. The Committee recognises, however, that the goal of producing audited FBOs is achievable only in the medium term.

Finally, Mr President, the review of the audit into the management of the Commonwealth’s contingent liabilities drew attention to the parliamentary accountability procedures for the issuing of indemnities adopted by the United Kingdom Parliament. The Committee notes that the UK model provides the opportunity for the UK Parliament to become involved at an early stage in the creation of contingent liabilities. This contrasts with the system in Australia where contingent liabilities are reported after the event.

The Committee supports the earlier involvement of the Parliament in the creation of the Commonwealth’s contingent liabilities. The Committee has recommended that the Commonwealth adopt procedures for notifying the Parliament of the issuing of indemnities based on the procedures used by the UK Parliament.

In conclusion, Mr President, I would like to express the Committee’s appreciation to those people who contributed to the inquiry by preparing submissions and giving evidence at the public hearings.

I also wish to thank the members of the Sectional Committee involved for their time and dedication in conducting this inquiry. I also thank the secretariat staff—the acting secretary to the Committee, Mr James Catchpole; inquiry secretary, Dr John Carter; research staff, Ms MaryEllen Miller and Ms Mary-Kate Jurevici; and administrative staff, Ms Maria Pappas and Ms Sheridan Johnson.

Mr President, I commend the report to the Senate.
This bill gives effect to most of the Family and Community Services and Veterans’ Affairs 2003 Budget measures that require legislation. The bill also gives effect to a 2001 Budget measure upon which the 2003 measure relating to recovery of overpayments arising from lump sum foreign pension payments depends. Finally, the bill makes a small number of non-Budget minor policy or technical changes.

Compensation payments made by Germany or Austria to victims of National Socialist persecution are currently excluded under the social security and veterans’ entitlements income tests. This bill will exclude any such payment from the income test, regardless of the country making it. Ex-gratia payments are being made now in anticipation of the legislation.

Centrelink continues to target social security fraud, particularly where people use the cash economy and false identities to evade detection. This bill will allow limited access to newly available sources of data on taxation and financial transaction activities to combat this fraud.

In a related non-Budget measure, the bill will restore access by the Child Support Agency (part of the Department of Family and Community Services) to financial transaction information held in the AUSTRAC database. The Agency lost this access when it ceased to be part of the Australian Taxation Office following the 1998 changes in administrative arrangements. The restored access is for the administration of the child support legislation.

From 1 July 2004, responsibility for the operation of the Assurance of Support Scheme will be transferred from the Department of Immigration and Multicultural and Indigenous Affairs to the Department of Family and Community Services. The Assurance of Support Scheme will be established under the social security law and administered by Centrelink.

The new arrangements will improve the administration of the Scheme and minimise assurance of support debts. Under the new arrangements, the Immigration department will continue to decide when an assurance is needed. However, Centrelink will administer the Scheme, including assessing proposed assurances, accepting or rejecting them and, should the need arise, recovering debts. Centrelink will become a single point of contact for assured. Centrelink’s extensive customer network will provide assureds with easy access to comprehensive information about their financial commitments, in their preferred language. No assurance will be accepted without an assured having the nature of the commitment explained in a face-to-face interview. All this will enhance awareness on the part of assureds, resulting in fewer migrants needing to claim income support.

From 1 July 2004, Centrelink will be able to suspend payment where a person leaves Australia without notifying their departure and they are receiving a payment, or part of a payment (e.g., rent assistance), that has limited portability. Depending on the outcome of a review of the person’s case, payment would either be fully restored or cancelled.

The social security debt recovery provisions will now allow for full recovery of overpayments that arise when a foreign pension payment is made as a lump sum in arrears. The new rules will apply if a person receives a foreign pension payment in arrears for a period during which a social security payment was paid to the person. The amount by which the person’s social security payments would have been reduced if the arrears had been paid as periodical payments will be a debt. The effect will be similar for the person’s partner because half of the person’s arrears payment is counted as the partner’s income.

From 1 July 2004, the allowable period of temporary overseas absence for portable social security payments will be reduced from 26 to 13 weeks. The changes will apply to absences from Australia on or after 1 July 2004. The new portability period will not affect age, wife and widow B pensions, which currently have unlimited portability, but the changes will apply to disability support pension. However, it will be possible to grant unlimited portability to a severely disabled disability support pensioner who returns overseas after a short visit to Australia.
A person’s rate of family tax benefit may also be reduced or stopped if the person or an FTB child of the person is absent from Australia for longer than 26 weeks. This allowable period of absence will also be reduced to 13 weeks. The Secretary will still be able to extend a person’s portability period in defined circumstances (e.g., where a person is unable to return to Australia because of serious illness of the person or a family member, or a natural disaster in the country where the person is).

This bill also contains some minor technical amendments.

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

**MIGRATION AGENTS REGISTRATION APPLICATION CHARGE AMENDMENT BILL 2003**

**MIGRATION LEGISLATION AMENDMENT (MIGRATION AGENTS INTEGRITY MEASURES) BILL 2003**

**First Reading**

Bills received from the House of Representatives.

Senator KEMP (Victoria—Minister for the Arts and Sport) (4.56 p.m.)—I move:

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

Question agreed to.

Bills read a first time.

**Second Reading**

Senator KEMP (Victoria—Minister for the Arts and Sport) (4.56 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—*
The bill requires such agents to pay a pro rata amount of the application fee for registration as a commercial migration agent.

I believe this will enable the MARA to regulate the industry in a fairer and more effective manner, as its activities are almost solely funded from initial and re-registration fees levied particularly on commercial migration agents who have the capacity to pay.

This bill will ensure that the proper resourcing of the MARA is not undermined and that agents working solely for not-for-profit community organisations continue to be able to access nominal registration fees.

It is for these reasons that I ask all Parties to support this bill.

I commend the bill to the Chamber.

I now propose to implement the majority of the other review recommendations to ensure the continued improvement of consumer protection and standards within the industry.

In broad terms, this bill amends the migration act to:

- Provide the MARA with new powers to sanction agents engaged in “vexatious activity”—that is, lodging an unacceptably high number of applications which are ultimately refused because they were not competent submissions;
- Provide for agents to be prosecuted if they fail to declare their involvement in visa or review applications;
- Empower people to make complaints about unscrupulous agents by removing any threat that civil proceedings can be taken against them for doing so;
- Tighten registration requirements for those entering the industry;
- Strengthen the provisions against unregistered immigration assistance;
- Strengthen the powers of the MARA and my Department to investigate complaints against registered agents and allegations of unregistered practice;
- Strengthen the MARA’s existing powers to sanction agents by cautioning them, suspending or cancelling their registration, or barring them from returning to the industry for a period of time;
- Clarify and strengthen requirements for migration agents to produce documents and information to the MARA;
- Facilitate the investigation of complaints by allowing relevant information about the conduct of migration agents to be exchanged between the MARA, my Department, the Migration Review Tribunal and the Refugee Review Tribunal;
- Clarify when details about disciplinary action taken against a migration agent or former agent may be published; and
- Allow the MARA Board to delegate its powers and functions and establish committees.
This bill will assist the MARA to more effectively deal with unscrupulous agents who continue to exploit vulnerable clients and undermine the integrity of our immigration processes.

In particular, it will ensure that strong action can be taken against agents who lodge a high number of vexatious, unfounded or incomplete applications.

Members from both sides of Parliament have expressed concern about the activities of these agents.

Importantly, the new sanction scheme will also enable the Government to take quick and effective action against agents who lodge large numbers of vexatious applications as a means to facilitate the organised entry of women into Australia to be employed as sex workers.

Clients seeking to make legitimate applications through professional migration agents will be disadvantaged if the activities of unscrupulous migration agents are allowed to tie up disproportionate agency resources in this way.

The clients of unprofessional agents will also continue to be disadvantaged—particularly, if they have been encouraged to lodge unfounded protection visa applications (which prevent them from applying for any other type of visa, even if they meet the criteria).

The credibility of the migration advice profession will also continue to be questioned by some, due to the blatant disregard with which these few unethical agents continue to abuse the system.

The proposals contained in this bill are important and necessary initiatives. In summary, they ensure that the MARA has strong powers to protect consumers so that migration agents operate ethically, professionally and competently when assisting people to come to or stay in Australia.

I commend the bill to the Chamber.

Ordered that further consideration of these bills be adjourned to the first day of the next period of sittings, in accordance with standing order 111.
ate in a resolution inviting His Excellency Hu Jintao, President of the People’s Republic of China, to address both houses of parliament on 24 October 2003. Copies of the message have been circulated in the chamber.

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

Senator Hill (South Australia—Leader of the Government in the Senate) (4.59 p.m.)—by leave—I give notice that, on the next day of sitting, I shall move:

(1) That the Senate:
   (a) invites His Excellency Hu Jintao, President of the People’s Republic of China, to address the Senate, on Friday, 24 October 2003, at a time to be fixed by the President of the Senate and notified to all senators;
   (b) accepts the invitation of the House of Representatives to meet with the House for that purpose; and
   (c) concurs in the provisions of the resolution of the House relating to the conduct of that meeting.

(2) That this resolution be communicated to the House of Representatives by message.

MINISTERIAL STATEMENTS

Constitutional Reform: Senate Powers

Senator Hill (South Australia—Leader of the Government in the Senate) (4.59 p.m.)—by leave—As senators will be aware, section 57 of the Australian Constitution provides for joint sittings, following a double dissolution, where the Senate has twice rejected or failed to pass a proposed law passed by the House of Representatives, or passed it with amendments to which the House will not agree.

The discussion paper I am tabling today considers two additional options for resolving deadlocks. The first option would allow the Governor-General to convene a joint sitting of both houses without the need for an election. The second option would allow the Governor-General to convene a joint sitting of both houses after an ordinary general election.

The government wishes to encourage community debate on these options, and invites members of the public to make submissions in response to the paper by 31 December 2003. The Prime Minister has announced that if, at the end of that time, there is a reasonable prospect of community support for a change, the government will consider holding a referendum on this issue in conjunction with the next general election. Of course, the Senate would have the normal opportunity for comprehensive debate on any bill for the conduct of such a referendum.

I table a document entitled Resolving deadlocks: a discussion paper on section 57 of the Australian Constitution and a statement by the Prime Minister in relation to the discussion paper. I seek leave to move a motion in relation to the statement and document.

Leave granted.

Senator Hill—I move:

That the Senate take note of the statement and document.

The ACTING DEPUTY PRESIDENT (Senator Kirk)—Senator Faulkner, I understand that informal arrangements have been made for you to be able to speak for an unlimited time.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (5.03 p.m.)—For Mr Howard, constitutional reform is a new-found interest; for Labor, constitutional reform is a long held conviction—reform not solely about the moment or about advantaging the government in power. Unlike Mr Howard and the Liberal Party, Labor has been committed to restricting the powers of the Senate since
Federation. In 1974 and 1984 it put proposals, including for simultaneous elections, to referendum. In 1988 the Labor Party put forward four proposals for constitutional change, including four-year terms for the House of Representatives and the Senate. In 1999 the Labor Party supported the republic referendum. These referenda were opposed either formally by the Liberal and National parties themselves or by sections of those parties. It seems that constitutional reform is desirable only when the Liberals are in government.

Regardless of the Liberals’ double standards and opportunism, I welcome the fact that Mr Howard wants to look anew at constitutional reform. I question, however, why his exclusive focus is Senate powers. The Prime Minister has not always been a critic of the Senate. In fact, during his years in opposition Mr Howard was a fervent supporter of the Senate. He staunchly opposed all Senate reform proposals. As opposition leader in 1987, Mr Howard was responsible for responding on behalf of the Liberal Party to the recommendations of the Constitutional Commission. I note that those recommendations were very similar to Mr Howard’s own recent proposal about the deadlock provisions. This is what he said then:

... we find utterly untenable the proposition that the existing powers of the Australian Senate ought to be destroyed. I say to the Government: get off your 1975 kick. Do not maintain the rage over this proposal.

Even in his early days as Prime Minister, Mr Howard told Alan Jones that the reality of his job was to cooperate with and work with the minor parties in the Senate—to talk and listen to them and inevitably, at times, disagree with them in order to try and get his program through. But just like his predecessor Paul Keating, who once famously described the Senate as ‘unrepresentative swill’, these days Mr Howard has become a trenchant critic of the Senate. In June this year the Prime Minister claimed that the Senate was no longer a states’ house or a house of review but a ‘house of obstruction’. He even made the outrageous claim that Senate obstructionism has occurred only since 1996.

The Senate today is by no means obstructionist. The statistics say it all. During the period of Mr Howard’s prime ministership, 1,269 bills have been passed by the Senate, with or without amendment. Only 25 bills have been negatived in the Senate, and seven negatived twice. Eleven have been laid aside by the government, and four laid aside twice. Since 1996 the management of the Senate has become much easier. The opposition has granted the government extra sitting hours, extra days, extra weeks and exemptions to allow early consideration of urgent legislation. Labor has ensured more time is devoted to government business. One wonders if the present-day Liberals ever ponder on the intransigence of their predecessors with regard to these issues. The bottom line is that 98 per cent of the Howard government agenda has gone through the Senate. The government’s claim that the Labor Party in the Senate is obstructionist is absolute nonsense, and Labor will not tolerate such falsehoods to be used by the government in any debate on Senate reform.

There is only one time, really, when you could argue that the Senate was a house of obstruction, and that was during the years of the Whitlam government. From 1972 to 1975, the then opposition rejected a record 93 government bills—25 more than the total number of rejections in the first 71 years of the Senate’s history. I want to quote Gough Whitlam from his book The Whitlam Government, in which he says:

It is true that, throughout our three years, the Opposition in the Senate used first its inherited and then its accidental majority to obstruct, delay and
reject legislation in a way never experienced before or since.

In April 1974 the then Liberal Party opposition blocked the supply bills in the Senate. Prime Minister Gough Whitlam sought a double dissolution election and was returned to government. The Liberal Party, still in opposition in October 1975, again refused to pass supply in the Senate until the government agreed to submit itself to the judgment of the people. The Liberal controlled Senate plunged Australia into a constitutional crisis. In Gough Whitlam’s time, the Liberals, with their usual born to rule ruthlessness—aided and abetted by the irrelevant members of the National Party, then the Country Party—just manipulated the make-up of the Senate.

Fred Chaney, who was the opposition Liberal whip in 1975 in this chamber, wrote a few years ago that he:

... saw at close quarters the ultimate exercise of Senate authority when it denied the Whitlam government supply. It did this on the basis of a fiddled majority produced by the shenanigans of the state governments in NSW and Queensland. Nevertheless, this did not deter the conservative forces from the view that the Senate had a right not only to amend government legislation but to bring a government down.

They are Liberal Fred Chaney’s words about the approach the Liberal Party took during the period of the Whitlam government. At that time, the newly elected member for Bennelong, Mr Howard, supported the decision of the coalition to block supply in the Senate. More recently, of course, Mr Howard has indicated he now thinks the decision to block supply was a mistake—not because it was an inappropriate use of Senate powers but because Malcolm Fraser would, in Mr Howard’s words, ‘not have got so tentative’ when he came to office. Mr Howard declared in parliament in 1987:

... I will defend to my last breath the action taken by the Liberal and National parties in 1975.

I say to Mr Howard today: if you truly believe that the legislative agenda of an elected government should not be obstructed by the Senate then forthwith renounce the actions of your own party in 1975. That is something that Mr Howard can do today if he wants to show he is fair dinkum about this particular issue.

Back in 1993, many in the chamber would recall, the same Liberal Party, again in opposition but this time with the support of the Greens and Democrats senators, gutted the Dawkins budget by refusing to pass six budget bills. What did shadow finance minister Peter Costello say about this? He defended the Liberals’ actions. He said:

The Australian electorate didn’t vote for any of this. They don’t want it; it’s not going to help them; it’s not going to give them jobs. How do you expect us to vote for it?

The truth is that both sides of politics have taken advantage of the Senate’s power to amend and negative bills. Both sides have done it, but only one side, only the Liberals, have blocked supply. Since the 1970s—

Senator Brandis interjecting—

Senator FAULKNER—I know you are ashamed of it, Senator Brandis, and I know your hypocrisy is exposed on this issue, but only the Liberals have blocked supply. Since the 1970s the minor parties in the Senate—first the DLP, now the Australian Democrats and the Greens—have exerted leverage over legislation. Much of the law that has passed the Australian parliament over the last 30 years has been as a result of tortuous negotiation, debate and compromise until the Senate is satisfied. This is a frustrating process for governments. But by assiduously pursuing its proper role as a house of review, the Senate can ensure that Australians benefit from better and more rigorously tested laws.

I would like in this contribution to quote Alfred Deakin, who, as I know Senator

CHAMBER
Brandis would agree, was Australia’s greatest non-Labor prime minister. In 1897 Deakin made this prescient observation at the Constitutional Convention:

… it is possible that a more conservative party in the House of Representatives would be confronted by a more radical party in the Senate. In both cases the result after a dissolution would be the same. The men returned as radicals would vote as radicals; the men returned as conservatives would vote as conservatives. The contest will not be, never has been, and cannot be, between states and states … it is certain that once this constitution is framed, it will be followed by the creation of two great national parties.

Deakin was right. The Senate never divided along state lines. The notion of the Senate as a states house was stillborn. Nevertheless, the Senate has evolved into an effective and respected house of review.

But it was not always so. Initially the Senate lacked legitimacy. Polls in 1950, 1953 and 1958 found that more Australians wanted to abolish the Senate than keep it. That opinion, of course, gradually waned. One reason was the growing acceptance of senators elected under the proportional representation voting system that was introduced in 1948. By 1979, 62 per cent of Australians supported retaining the Senate as a house of review and a check on executive power. More recently, a survey found that only 34 per cent wanted the Senate to be government controlled, while 44 per cent said it was better if it was not government controlled. Proportional representation has made it more difficult for governments to gain a majority in the Senate. It has thus led to more conflicts between the executive and the Senate. In 1984, when state representation in the Senate was increased from 10 senators to 12 senators, the chance of the government achieving a Senate majority became even more remote because of the even number of Senate seats—six—to be contested in a half Senate election.

As the Senate’s role has evolved since Federation, so has the Labor Party’s attitude towards the Senate. In 1919, Labor introduced abolition of the Senate into its platform. That was after the first Senate election was held using the new method of preferential voting. In that election, the ALP got 42 per cent of the vote but won only one Senate seat. The Nationalists, who got 45 per cent of the vote, won 17 of the 18 Senate seats. Abolition of the Senate remained a plank of Labor’s platform until 1979, but no Labor government from 1919 to 1979 moved to abolish the Senate. Abolition was a bridge too far.

In the early 1970s, Labor Senator Lionel Murphy was the driving force behind extending the Senate’s activities into scrutinising legislation and examining government spending. Murphy worked to increase the relevance of the Senate at a time when his party’s platform still proposed abolition. As a result of his efforts, the Senate now boasts a comprehensive Senate committee system, which I believe provides the most effective accountability mechanism that we have in this parliament. Today the Senate’s key role is scrutiny. Its powers of scrutiny are important tools for enhancing Australian democracy and they deserve to be defended by all those with political interests and by all sides of Australian politics.

I would also like to briefly address some proposals to reform the Senate through the electoral system. This was a bit of courageous work on the part of Senator Coonan, who proposed changes to the ways senators are elected. This is a Liberal Party scam. The idea was to make it harder for the minor parties to pick up seats. Senator Coonan suggested that we impose a formal threshold which a candidate must achieve—that is, a specified percentage of a quota of overall
primary votes—before qualifying for distribution of preferences, arguing that such a change to the electoral system would offer a solution to the rule of minorities that has so characterised the Senate in recent years.

Of course, Labor opposed Senator Coonan’s plan. We do not believe in manipulating the electoral system or in those sorts of rorts that Senator Coonan proposed. We do not believe it is appropriate to rort the electoral system to the advantage of the major parties, be they Labor or non-Labor. We continue to argue that the way to reform the Senate is to address the Senate’s powers. I am very pleased that Mr Howard also has totally debunked that nonsense from Senator Coonan in that humiliating speech about Senator Coonan’s proposals that he made at the Liberal Party National Convention. However late it was for Mr Howard to embrace the same broad approach as the Labor Party—to deal with the Senate’s powers and not to rort the electoral system—and to agree with us, he is right.

Of course, the Prime Minister has been absolutely scathing about Senator Coonan’s proposal. In his address to the Liberal Party National Convention in June this year, Mr Howard indicated that the suggestion of ‘some people’—you know who the some people are—to alter the voting system for senators thereby making it harder for minor parties to win seats in the Senate was ‘unfair’ and ‘undemocratic’. But I would like to be fair to Mr Howard, as I always am, and quote him directly to the Senate. This is what he said about this absolute nonsense that has been peddled around the traps by Senator Coonan. Mr Howard said:

... the innate sense of fair play of most Australians would react to the big boys as they would describe them gangling up on the smaller parties.

The truth is that in the less tribal Australian political state in which we now exist people want the option, whether we like it or not in a major party, of voting for smaller parties in the Senate. And if we look as though we are kicking against that choice instead of going on persuading them as to the unwisdom of that choice then I think deservedly we will suffer.

That is the end of what Mr Howard said in totally debunking that absolute claptrap—those rort proposals—that Senator Coonan had been peddling around for years.

Senator Murray interjecting—

Senator FAULKNER—But at least he had the good sense to start talking about Senate powers, Senator Murray, and at least he had the good sense to leave Senator Coonan high and dry. So congratulations to him on that point, because it is something he has got right. Australians will not wear rorting the electoral system.

Mr Howard’s discussion paper proposes two options for reforming section 57 of the Constitution. The first option would allow the Governor-General to convene a joint sitting of both houses to consider a bill that has been blocked by the Senate twice during the life of parliament with the required three-month interval. The 1959 Joint Parliamentary Committee on Constitutional Review originally recommended this proposal, along with others such as simultaneous elections and breaking the nexus between the House of Representatives and the Senate. This mechanism, if passed at a referendum, would certainly mean a weakening of Senate powers. Even the Prime Minister has admitted as much in the discussion paper tabled today. In it he said:

It might be argued that this option limits the effectiveness of the Senate as a house of review. I have always been concerned that such a mechanism could be abused by an unscrupulous government. For example, how could we guarantee that a conservative government would not reintroduce malapportionment
into our electoral system? Could we guarantee a government would not destroy the powers of the Auditor-General, as Mr Kennett, the Victorian Premier, tried to do in that state? How could we guarantee a joint sitting would not diminish the scrutiny powers of the Senate? I suppose we could be assured that the appallingly drafted and draconian ASIO legislation of last year would have passed in its original, wholly unacceptable form after just a three-month delay! The efforts of Senator Brandis and his ilk in the Liberal Party room would have been no good under those circumstances. The Prime Minister even admits there could be the potential for abuse with this new power. He suggests that additional safeguards could be introduced to ensure amendments to certain legislation, such as legislation that promotes government accountability be excluded from consideration at this type of joint sitting. But although the Prime Minister’s discussion paper canvases excluding legislation from a joint sitting that promotes government accountability, it completely refuses to propose different mechanisms for dealing with deadlocks over money bills.

The second option—the so-called Lavarch model—would allow the Prime Minister to ask the Governor-General to convene a joint sitting following an election to consider a bill that has been blocked by the Senate twice in the previous parliament and is blocked again in the new parliament. Labor will certainly consider this option, which we believe would have more chance of success in a referendum than Mr Howard’s first option. Mr Howard admits in his discussion paper that, if a deadlock were to arise early in the life of a government, the resulting election might therefore need to be for the House of Representatives only, which would put ‘elections for the House and the Senate out of kilter and add to the cost of the proposal’.

Of course, there is a way to ensure that this does not occur, which is fixed four-year terms for the House of Representatives and the Senate. Labor has consistently made it clear that while we are serious about Senate reform, we do not think that the deadlock provisions in section 57 should be addressed in isolation. Other important issues like the removal of the Senate’s power to block supply and fixed four-year terms for both houses also need to be addressed. We believe there is a fundamental problem with the Senate having the power to deny financial sustenance to a government and we remain resolutely committed to constitutional reform to prevent the Senate from rejecting, deferring or blocking appropriation bills. If the Prime Minister is serious about Senate reform, then he must address the power the Senate has to block supply. As I said before, a very good starting point would be to renounce what his party did in 1975. That would be an excellent starting point. Just say he got it absolutely wrong. What a good way to kick off this debate.

It is now time I think for the Prime Minister to consider Labor’s proposal for fixed four-year terms for both the House of Representatives and the Senate. After all, a major argument used against four-year terms was that they gave minorities in the Senate too much power. The lower quota in a full Senate election makes it easier for minor parties or Independent senators to be elected. Surely, if the powers of the Senate are curtailed, four-year terms become more acceptable. Australians will need to consider if wider representation in the Senate should be balanced by the sacrifice of some powers.

Australia has three-year parliamentary terms in name only. According to a Parliamentary Library paper, it is calculated that the Australian parliament in the last 25 years has only lasted on average 28.5 months. The Joint Standing Committee on Electoral Mat-
ters in 2001 recommended four-year terms on the ground that they would facilitate better long-term planning for government and ensure consistency with state jurisdictions and cost savings. The committee also argued four-year terms were a logical topic for examination in any future discussion on constitutional reforms.

Election dates should also be fixed. Such a reform would address some of the uncertainties and limitations of our current political system. Fixed terms would be good for our democracy and would improve the quality of our government. It is encouraging that the Australian Democrats also support fixed four-year terms and will support a proposal to remove the Senate’s power to block supply. Mr Howard has also indicated his preference for four-year terms over three-year terms. With bipartisan support we have the opportunity to address this issue. However, Mr Howard is opposed to fixed terms. Last Sunday the Prime Minister floated a potential compromise to fixed terms, citing the Victorian system whereby there is a fixed three-year term and a maximum term of four years. While this proposal is very far from ideal, it would be I suppose at least a small step in the right direction.

The Prime Minister has made it clear also that he will not go ahead with a referendum without the support of the Labor Party. However, it is clear that a successful referendum on Senate reform will require more than just the backing of the two major parties. Even if the coalition and the Labor Party agree, there is no guarantee of success at the ballot box. I remind the Senate of the important 1967 referendum to break the nexus between the House of Representatives and the Senate. The referendum was supported by the two major parties. It was unsuccessful because of the opposition to the proposal from the DLP, a handful of dissenting senators from the government, and two Independent senators who vocally opposed the referendum and ran the official no campaign. Their slogan ‘no more politicians’ was simple and effective. The referendum failed, with only one state obtaining a majority of votes. This referendum of course was held in tandem with the resoundingly successful referendum to include Aboriginal people in national censuses, which produced the largest yes vote on record and passed in all six states.

Since June the Greens and the Australian Democrats have voiced opposition to Mr Howard’s Senate reform proposals, and Mr Howard will need to work hard to broaden political party and community support on any referendum proposal. The history of referendum success is bleak. We know it is very difficult to carry any referendum, and a referendum to change the deadlock provisions of the Constitution will be no exception. If the only the coalition had supported our efforts in 1974 to change section 128 of the Constitution so that referendums would require a majority of voters in at least half the states, three, rather than the existing requirement of a majority of the states, four. If only they had supported that referendum. If it had been passed the 1977 simultaneous elections referendum would also have been carried. As Scott Bennett from the Parliamentary Library has said, the Australian public ‘need a lot of convincing to tamper with the work of the Constitution founders’. History has shown Australians ‘will not alter aspects of the federal system of government if they perceive its basic structure to be under threat, nor will they seek to weaken the position of the Senate in any way’.

The Senate has evolved into an effective house of review and there is wide community support for its role. Since 1996 Labor has been careful not to abuse the Senate’s powers. We have used the Senate—I believe much more effectively than the government did when it was in opposition—to hold the
government accountable and to scrutinise this government’s actions and behaviour. Our challenge remains the need to balance the capacity of a government to deliver on key aspects of its electoral program with a strengthening of the oversight and scrutiny role of the Senate. As I have said before, if we succeed in that task we certainly will improve our democracy, we will improve our government and we will improve our parliament. I seek leave to table the policy discussion paper on constitutional reform and the resolution of the parliamentary deadlock that stands in the name of the Hon. Simon Crean MP, Leader of the Opposition, and Robert McClelland MP, shadow Attorney-General. I understand the paper has been tabled in the House of Representatives.

Leave granted.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (5.37 p.m.)—This is an incredibly important debate on constitutional reform and it is one that the Democrats welcome. The Democrats have evolved over 26 years into a very Senate focused and Senate specialist party. I believe the fact that the public has continued to re-elect the Democrats in a balance of power role in the Senate ever since 1980 demonstrates that the public is comfortable with having a party in a balance of power role that will use that role responsibly and effectively.

The government’s discussion paper is a narrow one. It specifically talks only about section 57 of the Constitution, which is a very narrow base from which to start what should be a very important debate. It is also, in my view, a failure as a really serious attempt to generate debate. It is filled with inaccuracies; it is filled with partisan rhetoric that is part of the government’s ongoing campaign to create a completely false perception about the role and impact of the Senate and to build on this myth that the Senate is somehow a major obstacle and impediment to good government. The facts simply do not show that up and this paper makes an incredibly poor effort to build any sort of case about the need for change. That is unfortunate in a way because the Democrats have certainly always acknowledged that there are improvements we can make to our Constitution. There are improvements that we can make to our political and parliamentary system, and we welcome the opportunity to have a genuine public debate about ways to do that.

It is unfortunate that the Prime Minister has kicked off that debate with such a poorly written, misleading, shabby and shoddy piece of work. It cannot be looked at in isolation from all the statements by this government that have gone before. It is not unusual for governments to be frustrated with the Senate and to attack the Senate. The previous Labor government was just as robust—probably more robust in some ways—in their repeated attacks on the Senate. But the reality is that the public wants the Senate to do the job that it does; it supports the Senate playing the role it does; it wants there to be a safeguard against absolute power for the government of the day; it wants the Senate to prevent bad legislation from going through.

The Prime Minister is starting from the wrong point. He is starting with the presumption that there is a problem with the way the Senate is behaving when there is not, and he is starting with the presumption that somehow or other the public’s will is being frustrated by the way the Senate behaves, when I would gladly bet significant amounts that the public is far more happy with the way the Senate is behaving in preventing some bad legislation from going through and significantly improving many other pieces of legislation than they would be to simply allow the government to get away with doing whatever it wants. The Prime
Minister is starting from the wrong point. He is trying to deal with a problem that does not exist—and he knows it does not exist. As is the wont of governments, not surprisingly, they like to look for opportunities to get themselves more power.

The Prime Minister, once again, is misleading the Australian people with what is in both this document and the statement he made when tabling it in the other place earlier today. He stated that these proposals are not an attack on the power of the Senate and that they do not extend the powers of the government or the Prime Minister of the day. That is simply wrong. There is absolutely no doubt that these proposals, particularly option 1, dramatically weaken the power of the Senate and massively increase the ability and the power of prime ministers to do whatever they want. That is something the Australian people will never support. It is well worth re-emphasising what other speakers have said, that even if a referendum proposal has support of both major parties there is no guarantee that it would get through, no guarantee that the Australian people would support it. I am very confident that even if there are proposals that have the support of both major parties, if they take away the power of the parliament and of the Senate and give it to the Prime Minister those referendum proposals will not get up.

The Democrats are not scared of this debate; we are not defensive about it. We will certainly strongly defend the effectiveness of the Senate, the importance of the Senate and the role of the Senate but we will also seek to take the Prime Minister at his word—which is always a bit of a dangerous thing to do. If he is genuine about having a public debate to look at ways to improve our political system and our parliamentary system, we will engage in that. Tomorrow the Democrats will release a range of proposals that we believe would significantly improve the effectiveness of our parliamentary system. That is not done by giving more power to the Prime Minister, I can assure people of that. It is done by trying to give more power to the people and by trying to make both the government and the parliament more accountable and able to perform their roles more effectively on behalf of the people. This should not be seen as a debate about political parties defending their turf or exploring what is in their interests. We should remember that all of the political process is about what is best for the people of Australia and what delivers the best outcome for the people of Australia.

As I said, this paper cannot be considered in isolation. It has to and will be seen as part of the broader context of the government’s approach and, indeed, previous governments’ approaches and comments about the Senate. Senator Faulkner mentioned some of the quite bizarre changes to the voting system that Senator Coonan put up a few years ago. She was not alone in that. There has been a consistent stream of coalition members in recent years putting up different proposals, all with the underlying theme that somehow or other the Senate is a problem. That has been continued with the ongoing statements of the Prime Minister and other ministers about the powers of the Senate and about the Senate frustrating the will of the government of the day. But it is simply misleading—a specialty which unfortunately this government is becoming very adept at—to put forward the idea that somehow the Senate is not working or that we have a major problem. The Senate is working; that does not mean we cannot make it work better and it does not mean we cannot make the parliament work better. The Democrats are keen to explore that debate and to explore that opportunity.

If I turn more specifically to the discussion paper that the Prime Minister released,
in the executive summary on the case for change—I have to say that I have never seen a weaker case made on any argument in a long time—there is continual repetition of this furphy that somehow or other having six instead of five senators elected at a time has prevented the government from having control of the Senate. The reason the government of the day do not get control of the Senate is that they do not get enough votes. In a proportional system, you have to get 50 per cent of the primary vote to get 50 per cent of the seats and no government has come within a bull’s roar of 50 per cent of the primary vote for a long period of time.

Not surprisingly, coinciding with the formation and the rise of the Australian Democrats, people saw the opportunity for the Senate to operate more effectively as a house of review and as a house of accountability. It is no accident that the Democrats, of all political parties, consistently get significantly more votes in the Senate than in the House of Representatives. It is because people see the specific role that we play and they support us in having that specific role in the balance of power. The issue of blocking supply that Labor speakers have referred to is a significant component of that. We saw the very damaging controversy of 1975 when the Liberal Party blocked supply in this chamber. From our inception, the Democrats have always pledged that we will not vote to block supply under any circumstances. We have held to that promise consistently and that is why we have not had the problem of Senate obstructionism since 1975. In that year, the Liberal-dominated Senate rejected 27 per cent of the government’s legislation and they prevented supply from getting through as well. That is obstructive. Since then the consistent average has been around two to three per cent of government legislation and that is whether you have had a Labor Party government or a coalition government. That, I suggest, is the Senate doing its job.

On top of that, we have had significant improvements to legislation through amendments. Senator Faulkner pointed to the significant improvements to the ASIO bill—the Democrats still did not support it at the end—but there is no doubt that it was far improved on what it was initially. That is as a direct result of not just the Senate’s voting power but the whole ability of the Senate to provide an avenue for scrutiny and public input. There was a lot of public input into those bills that we drew out through committee inquiries that highlighted so many of its flaws and where it needed to be changed.

We could draw on the recent example of the newly sworn-in health minister’s change in approach on health and Medicare issues. We have still to see what he is changing it to, but we certainly know he is changing it. Everybody knows he would not have changed a thing if there were not the requirement for the government to get that legislation through the Senate. That was not the Senate—and people around the country clearly know this—being obstructive or partisan or just playing politics for the sake of it or for political advantage. It was because we knew it was bad policy and we were being told, through our Senate committee inquiry, that it was policy that was not supported across the community, the political spectrum and all aspects of the medical arena.

We were able to use the Senate processes, including the committee inquiries, to highlight many flaws in that package and we are still doing that. That was through public input. The Senate would have been grossly irresponsible if we had ignored all those criticisms and simply said, ‘The government is elected to govern; we will let them do what they want.’ So even that most recent change—and whether it is a change for the
better we will have to see, but certainly the early signs are positive—only occurred because of that Senate ability. These changes, particularly the first option, would prevent any of that leverage, and the government could just sit on its hands for three months and then do whatever it wanted.

This paper also has this outrageous statement:

In practice, the minority has assumed a permanent and absolute veto over the majority.

The Prime Minister has been around for a long time. I cannot believe that he does not know the basics of democracy and of political parliamentary systems. This idea that somehow there is a minority in the Senate that is preventing this vast majority from being able to do what they want is a farce. I only wish that I had had a bit more power to stop some of the things the government did do in relation to refugees in particular. The Democrats or the crossbenchers more broadly cannot do anything on our own if there is agreement between the two larger parties. We have to get a majority of people to agree with us and that is just the way democracy works: if you want to get support for something, you have to get a majority of people to agree with you. This idea that there is some minority holding this vast majority of people hostage is simply false, but it is repeated time and time again.

We even have a whole chapter of this paper called ‘A Minority-Led Senate’. I like the idea that I might be the leader of the Senate as the largest minority party but, unfortunately from my perspective anyway, I am not the leader of the Senate. I do not lead the Senate and this whole chapter entitled ‘A Minority-Led Senate’ is simply a farce. It continues to perpetrate the falsehood that somehow a small number of people are holding everybody else to ransom and that is simply not the case. That chapter has the bizarre statement:

... parties in the Senate will now with damaging regularity, delay, amend ... important elements of a government’s legislative programme ...

How terrible is that, that we regularly amend things? It is horrendous. And that is the sort of mentality that is percolating through this document from start to finish.

Despite the Prime Minister’s speech today being quite a measured, sort of diplomatic one, he cannot hide the underpinnings that are going all the way through this document, continuing to create that false perception. That so-called ‘damaging regularity’ whether it is delaying or ultimately vetoing important elements of the government program again does not match the figures. Less than three per cent of legislation is held up. If you look at the six latest bills that are in the current double dissolution pile, you will see that most of them would hardly qualify as major elements of the government’s program.

This government kicked and screamed like you would not believe about us destroying their entire budgetary intention when we prevented medicines from becoming more expensive and people from being more likely to be kicked off disability pensions—neither policy, I might add, that the government went to the electorate with. Yet, what do we find? We find at the end of that year a $7½ billion surplus. It would have been an $8 billion surplus if we had let those things through and we would have had more poor people and more poor sick people as well. That is hardly a thing to build the surplus on, yet that was portrayed by the government as outrageous economic vandalism.

Leaving aside the argument, this document continues to repeat the government’s line about the unfair dismissal legislation that will supposedly help create thousands of
new jobs. As that debate has occurred many times in this chamber before, I will not go into it in detail, but suffice to say that, at the least, it is very strongly contested by plenty of people, including the Democrats. There is no evidence to back up that assertion.

The suggestion repeated time and again in here that the Senate has been a pattern of frustration is simply misleading, as is the suggestion—I find it extraordinary—at the end of the executive summary that the will of the electorate remains subject to a veto, as though somehow what the Senate is doing is non-democratic or against the wishes of the people. We are elected to the Senate—and by a fair electoral system, I might add. The solution, according to the Prime Minister’s document, is to develop a model which more faithfully reflects the will of the people. I think the Prime Minister sees himself as the walking embodiment of the will of the people, but I have to say that I do not think the people see it that way. I think that the suggestion that somehow just having an election and being able to hold a sitting afterwards to pass legislation as though that election were a giant referendum on all of those bills is pretty dodgy.

Again in the conclusion we have the statement that what this paper and the government does not accept is that there should be a permanent and absolute veto for minority interests. That is fine, because there is not one. So the problem is solved; we do not have to worry. I should say, as I have said before, that we welcome the debate. It has opened up with a very poor document, but nonetheless it has opened up, and the idea of Australian people contributing their ideas to making our system work better is welcomed by the Democrats, and we will participate constructively in that. That is why we will release ideas ourselves.

**Senator Carr**—Have you got an open mind?

**Senator BARTLETT**—As I said, we will participate constructively in that with an open mind. That does not mean that we are going to just accept any of the flimsy rhetoric the government puts forward, but we do support positive change and, if there is an opportunity to get that, we will certainly develop it. As I said, tomorrow we will be releasing some of the proposals that the Democrats will put forward as ideas.

Let me say, in conclusion, that it is something that both sides, for the larger parties, have repeatedly done when they have been in government. Whilst the Liberal Party have been the only one to block supply—and I certainly condemn that occurrence—I do believe there were quite clear statements on the record by a former Labor senator and minister, Lionel Murphy, when he was in opposition, urging the blocking of supply. He did not have the numbers so he was unable to do it, but it certainly was very strongly threatened. In terms of attacks on the Senate, whilst this government is about it in various ways I do not think that anybody can go past some of the excesses of the previous Prime Minister, Paul Keating. The famous, although grossly incorrect, line about ‘unrepresentative swill’ has gone down in Australian political history, ignoring the fact that the House of Representatives is far less representative than the Senate.

Back in 1994, Mr Keating said to one of my predecessors, Senator Kernot:

>We can get rid of you lot, that little tin-pot show you run over there.

Thankfully the former Prime Minister’s desire to get rid of the Senate, to gut its powers and destroy its electoral system never got up—again because of the role of parties like the Democrats in our balance of power role. So we have form on both sides of politics
with this. I am very confident that at any referendum the Australian people will have the final say on this issue. They will not support anything that gives more power to the Prime Minister of the day or to the larger parties, and I think that has to be a starting point for all of us when we are considering this issue.

I conclude by thoroughly recommending to the Prime Minister and everybody else to read a book that has just been published called *Platypus and Parliament: the Australian Senate in Theory and Practice*, by Stanley Barch, who is from the US and therefore gives as objective an assessment as you could get. I think you will get a much more realistic assessment of the facts in terms of how the Senate operates than you would get from listening to the rhetoric of the Prime Minister and some of the quite outrageous false insinuations in his discussion paper.

It is a discussion we need to have, and I certainly encourage the Australian people to be part of it. It is unfortunate that the Prime Minister's committee consists of two former members of the executive and former members of the House of Representatives—rather than anybody with Senate experience—and an academic who has previously put forward a paper that advocates virtually the same model as the Prime Minister has put forward. *(Time expired).*

**Senator BOSWELL** (Queensland—Leader of the National Party of Australia in the Senate) *(5.57 p.m.)*—This paper is barely three hours old and already we have seen the debate degenerate into a discussion of who obstructed the most when in opposition. We have even gone back 30 years ago to the days when supply was blocked.

**Senator Carr**—It should never be forgotten.

**Senator BOSWELL**—I do not think it should ever be forgotten either. I remember those days only too well. In fact, if you take an overhead view of what happened in those days, you will see that the schism that was driven straight down through the political system in Australia invoked so much passion on either side of politics that it actually renewed the whole political system. I was a political agnostic at that particular time. I went down and ticked the Liberal box.

**Senator Carr**—The Liberal box?

**Senator BOSWELL**—Yes, there was no National Party where I lived, at that stage. The passions were so high at the time that people chose either side. Many people came into politics. I understand that the Labor Party was renewed by people who thought the system was terribly unfair, and people on our side of politics were so opposed to the Prime Minister that they became politically aware and went out and joined respective political parties, whether they were Liberal or National parties. A lot of people came into politics because of that.

I can remember a government being so extraordinarily bad and so reprehensible that, although we can all say that it was a terrible thing to do at the time, when people were trying to flog off Australia to people like Khemlani the people accepted that supply should be blocked and overwhelmingly supported the opposition that then became the government. It was not the Governor-General who formed the Fraser government; overwhelmingly, it was the people—and they could not get there fast enough to do it. Let us look at that: if we get a government from either side of politics that is so reprehensible and so bad then I believe the Senate, the last form of defence, should have the right to block supply, and I do not think we would surrender that right.

I have not discussed this with my party. I do not know what the Liberal Party feel. This is a positional paper that we will all have to
take back to our respective parties and no
doubt debate through the political system of
our branch meetings and the other meetings
that we have throughout the year. We then
come to another proviso that the Labor Party
have put on this bill going through, and that
is four-year terms. I listened to the Leader of
the Opposition, and the Labor Party have
made it quite clear that, to get bipartisan
support on this, we would have to depend on
two provisos, basically. There are probably a
lot more that would have to be discussed into
the future, but the two provisos that the La-
bor Party have put on this are not blocking
supply and introducing a fixed four-year
term.

The Prime Minister is not of a mind to fol-
low that, although in the spirit of compro-
mise he has looked at a four-year term with
the ability to go to an election anywhere be-
tween the third year and the fourth year. So it
seems that, if everyone holds their ground,
this positional paper is not going to have bi-
partisan support. Even if it did have biparti-
san support, it does not guarantee that it will
get up. There are many people in Australia
who just vote no on any referendum. One of
my party members said that if they were of-
fering me free beer I would still vote no, and
I think that is the sort of thinking out there in
the electorate in some places.

When I first came into parliament the
Senate could, and often did, get a majority in
the parliament. I do not want to discuss the
rights or wrongs of this, but it was proposed
that the 20 per cent tolerance that the Na-
tional Party enjoyed be taken away and that
would have extended the seats beyond the
capacity to service those seats. There was
disagreement on that. The parliament then
decided to increase the number of seats in
parliament. The result of that was that it was
almost impossible—I suppose nothing is
impossible in politics, but as near to impos-
sible as you can get—to get a majority. Then
we had a convention in the parliament that if
a bill was part of budget legislation then you
could get up and condemn it and you could
move what we called ‘pious’ amendments—
you could do all sorts of things to it—but
you let that bill go through.

Senator Brandis interjecting—

Senator BOSWELL—My learned friend
Senator Brandis said that that was accepted.
We did accept that and it put us under tre-
mendous difficulties. The Democrats then
had the balance of power, and if we did not
vote against something that was seen to be
harming our electorate because of a budget
bill or because of a convention that we
would support anything that was a budget
bill then our electorate erupted. They could
not understand the ministrations of the Sen-
ate. They thought it if was good for them you
should vote for it; if it was bad for them you
should vote against it. It was very difficult. I
can remember trying to explain to our party
members that one day the wheel would
change and we would be in government and
we would not be able to get our legislation
through. But, in the event, it became impos-
sible to honour this convention, because if
we continued to do it then we would con-
tinue to lose votes.

So that convention went down the chute,
and now we have legislation that goes
through this chamber that is often designed
like a horse and ends up like a camel and
bears no resemblance to the form in which it
should have gone through. Our people can-
not understand it. They say: ‘You’re in gov-
ernment. We elected you, you fix it,’ and it is
very difficult for them to understand that
there is a group in the middle that basically
vote with the Labor Party many more times
than they vote with us. So frustration creeps
in. They say: ‘We elected you, we voted for
you. We want to do our farming. We are not
interested in politics. All we want you to do
when we vote for you and we give you that political responsibility is for you to go in and fix it, and the frustration creeps in when you do not. We have had this debate on unfair dismissals so many times that I do not even have to look it up anymore; I can do it off the top of my head.

There is no doubt in my mind, being a former employer, that you will not put anyone on if it is going to cost you $10,000 to remove them if they do not come up to scratch or do not prove that they are worth their money. As a result you do not put anyone on. You subcontract out—get someone to do your photocopying, someone to do this and someone to do that. You use every method that is within your capacity as an employer to not employ anyone. That seems to me to be the most sensible thing to do when you artificially stop people from dismissing someone they employ when those employees are not doing the right thing or do not supply value for the employer. You can artificially prevent it, as you have done, but once you artificially prevent anything and work against the market the market will find its own level. So the level is: do not employ anyone, or employ the least number of people you can, subcontract out what you can and let the family do as much as they can. I would have thought that was completely obvious to everyone. It is not even hard to understand it. It is very basic.

That has been defeated about 20 times. The small business people say to you, ‘Why don’t you fix it?’ You say, ‘I can’t fix it because the Democrats will not allow it to be fixed.’ You get that frustration creeping through. Is a government elected to govern? If it is not elected to govern then you should have the ability to throw it out. That is the background behind the paper. I listened to the Prime Minister and the Leader of the Opposition very closely on the television when they were making their points in the House and, unfortunately, it seems to me that this has gone down at the first hurdle, so to speak.

In this house we have degenerated to, ‘You did it worse than us,’ and ‘We did it better than you,’ and ‘You were worse because you took the ultimate blocking of supply 30 years ago.’ I say to the Labor Party: you have to get over it; you really do have to get over this. It happened 30 years ago. Probably, if the election had been held a month later you would have lost another 15 or 20 seats, if that was possible. We did you a favour if you really look at what we did do to you. The people spoke; you were dismissed. I was so outraged. I can remember the day, the very place where I was and the time I was there when the news came over that supply had been blocked. I will tell you where it was because you may be interested. It was at Myer’s on the Gold Coast. A cheer erupted right around Myer’s. We were not in Myer’s at Bellevue Hill but everyone cheered.

Let us get back to the debate about what we can do. How do we stop the frustration of the people? How do we have a parliament that works? We have the first proposal, which does not seem to have any support at all from the Labor Party, so we move to the Lavarch proposal. We debate that but there is a proviso—unless someone shifts—that four-year terms are locked in concrete and no blocking of supply is locked in concrete. I think the people out there want a safeguard. They want to know, if we do move to the Lavarch proposal where you go to two knock-backs, two rejections, an election and then another rejection and you are powering up the lower house, that there is a brake. They will want something that provides a brake if a government is so reprehensible, if it is so bad. I am not talking about the Labor government; I am talking about government
of any persuasion. We could get a One Nation government or something like that.

Senator Brandis—Heaven forbid!

Senator BOSWELL—Goodness help us! But say we did get one through various circumstances. You can laugh but there were quite a considerable number—18 or 19—people elected to the state house in Queensland. People want a final say if a government is so bad. They want a brake or some sort of safeguard if a reprehensible government either from the Left or the Right is elected. If you went to the people and said, ‘We’re going to take that safeguard, that insurance policy, away from you,’ I am sure that even if it did have bipartisan support—I am not sure of anything in politics; you cannot be sure of anything—people would reject the proposal.

Unless we are prepared to look at this in a bipartisan way the frustration of the electorate will continue. As I said before, there are reasons the Senate was expanded. Some people say it was the wrong thing to do. I do not want to open this debate again but, with their rejection of the 20 per cent tolerance, one seat of ours was going to run from the cape of Queensland down to Toowoomba. That was just completely unserviceable and the Senate was increased for those reasons. The result of that is that you cannot then get a majority. So, even if you have a large majority in the lower house, you will not get one up here.

The second phase was that, when it was a budget bill, there was an overall position that we would not vote against it. I must say that we supported most of the reforms that the Labor Party wanted to get through. We saw them as being in the best interest of Australia. A lot of them were not endorsed by the people that voted for us but we saw them and we voted for them. That is not now being reciprocated by the Labor Party. I suppose that, if we are not prepared to look at this openly, the frustration will continue. You will get back into government one day and you will be frustrated. We will be frustrated now and the people will be frustrated because they elected a government that cannot govern. That will be the result of not looking at this paper with a bipartisan approach. I commend the paper and I hope that we can give it some very serious thought.

Senator HARRADINE (Tasmania) (6.16 p.m.)—The Australian parliament is in need of reform but the Prime Minister’s recently released discussion paper, which is entitled Resolving deadlocks: a discussion paper on section 57 of the Constitution, does not offer the best options to achieve that reform whilst maintaining the important role of the Senate in Australian governance. The reform debate has focused on claims that the Senate is obstructionist and unrepresentative. Indeed, in releasing the discussion paper, the Prime Minister said today that the Senate was:

... a permanent veto on the legislative agenda of the government of the day.

That claim just does not stand up. Despite the government’s difficulty getting a number of high-profile bills through the Senate, the fact remains that the Senate has passed over 95 per cent of government bills since the last election. The Senate gives a voice to the people of the smaller states, helping to balance their relative lack of representation in the House of Representatives. The system of proportional representation used to elect the Senate also accurately reflects people’s votes, giving those who vote for Independents and minor parties a voice. They have great difficulty getting that voice through the House of Representatives.

I think that there are opportunities to improve the constitutional arrangements of our parliament without damaging the Senate. The aim of any constitutional reform or change—
and sometimes they are not the same—should be to achieve better decision making following a predictable and orderly system. There is a need for us to have a more realistic mechanism to resolve deadlocks between the Senate and the House of Representatives, but that does not mean that the government should get its own way.

The Prime Minister’s discussion paper offers a couple of options for reform of the parliament. They are a joint sitting without an election or a joint sitting following an ordinary election. The first is an option from the recommendations of the 1956-59 Constitutional Review Committee and is clearly unacceptable. This option says that, if a bill is rejected twice by the Senate, the government could then call a joint sitting of parliament without an election. Of course, such a system would effectively end the Senate’s power to reject unacceptable legislation as the government would generally be able to pass controversial legislation through a joint sitting. It would eliminate the need for governments to negotiate with the Senate to pass legislation and it would alter the balance between the parliament and the executive. Under this option, the Senate would join the House of Representatives as a rubber stamp to the legislative agenda of the executive.

The second option in the discussion paper, the joint sitting following an ordinary election, is similar to the option put forward by former Attorney-General, Michael Lavarch. The Lavarch option is better. It proposes a joint sitting after a general election so that people can have their say on deadlocked legislation. It would also introduce a measure of stability by having senators who are not too closely focused on the short-term imperatives of their re-election. It will allow a broader perspective to be brought to issues in the house of review rather than a focus on the more immediate parliamentary cycle.

The system that I propose would have fixed three-year terms for the House of Representatives, with half Senate elections every election. A government could hold a joint sitting of parliament after a fixed term election to vote on legislation which has (1) been rejected twice under the current requirements for the trigger and (4) been put to the people again at the next election. This is an option which provides minimal changes to our parliamentary system but has a number of advantages. It extends the average length of time between elections, giving governments more time to implement their programs. Over my 28 years in the Senate there have been elections approximately every 2 ½ years. This option will also remove some of the uncertainty surrounding one of the most fundamental questions of the political process: when will we have an election?

It is also important to maintain the nexus between the numbers of parliamentarians in the House of Representatives and the Senate, where the Senate always has half the number of the House. Without this safeguard there would be a temptation to increase House of Representatives numbers without reference to Senate numbers. The government’s numbers in the House of Representatives would then be even more likely to overwhelm the Senate in a joint sitting vote. The focus of most comment in the lead-up to the release of the Prime Minister’s discussion paper has been on the Senate as the problem. But the real problem is deadlocks. Deadlocks are not caused by the Senate but by irreconcilable differences between the House of Representatives and the Senate and, more particularly, between the major political parties in parliament.
The Prime Minister’s preferred option and the Lavarch option both involve substantial changes to the way parliament operates, but my option provides minimal changes to our parliamentary system yet offers governments a predictable system by which deadlocks can be resolved. It is generally agreed that bipartisan support is needed to pass a constitutional amendment. But this would need more than just the agreement of the coalition and the Australian Labor Party; it would also need the agreement of the Democrats, the Greens, and the Independents, for example. This is a difficult but not impossible task, and it is essential in achieving constitutional change. Obviously, if the government parties and the Labor Party vote for the constitutional referendum legislation, it will pass both houses of parliament. But the question is: will it pass a referendum?

I have served as an independent senator during the terms of four prime ministers. With each government I have found myself, at one time or another, in the position of holding the deciding vote on particular legislation. For example, in the last term of the Fraser government, my vote was sometimes the decider. In the first term of the Hawke government I had the deciding vote on the occasions when the Democrats split their votes three to two. And of course in the term of the Howard government I have held the deciding vote on issues like the GST and native title. The debate on the question of native title was the longest debate over a measure in the Senate since Federation—a grand total of 56 hours and eight minutes—and the number of amendments finally agreed to was 164. That outcome prevented a damaging race based election in this country.

There are obvious benefits to me, and to my constituents in Tasmania, in my holding the balance of power and having such an influence over the outcome of legislation. But I have to admit it is not the best way to decide on national issues. One senator, with limited but excellent staff, can give adequate consideration to a limited number of bills, but one senator cannot possibly give proper consideration to the full legislative agenda. Of course, I rely substantially on opinions and contacts—and I suppose if you have been here for 28 years you have got a few—and I also rely on the committees and so on. Clearly, having a balance of power position is not something that I determined. It was the outcome of a combination of events, including the votes of the Australian people and the decisions of the various parties in the Senate to oppose each other outright on particular legislation and not to negotiate. That position is likely to occur again.

Unfortunately, I cannot see an easier way around the problem inherent in any voting system that relies on majority votes. The solution may remain with the major parties and their willingness to engage in consensus rather than adversarial politics. There is an opportunity to reform the Australian parliament, but the reform needs to be balanced. The aim of reform should be to improve the decision making process and the accountability of parliament, not to force the passage of all government legislation.

I rarely invoke this, but I stand here after having been 28 years in this place and as the longest serving independent member of the Senate since Federation. I have given this matter thorough consideration. I believe—and I do hope—that the proposals that I have put forward in summary in this address are given due consideration. I believe that they will uphold the Senate’s right but overcome, in an orderly, understandable fashion, the deadlocks between the Senate and the House of Representatives.

**Senator CONROY** (Victoria)  (6.31 p.m.)—Senate and constitutional reform is a very important issue. It is an issue that has
been a key concern of the Labor Party over a long period. Since Federation, Labor has been a constant advocate of change to renew our Constitution so as to ensure that it delivers to the Australian people. Despite the fact that we have occupied the government benches for only one-third of the period since Federation, we have proposed 60 per cent of the referenda to amend the Constitution. More often than not, our efforts have been frustrated by our conservative opponents, who have cynically and opportunistically run scare campaigns preying upon the fear of change. Who can forget that Peter Reith made his name as a politician by opposing one vote, one value? Who can forget what a pathetic and disgraceful campaign he ran? To be fair to him, it made him as a politician. He carried that mantle to the end.

Labor welcomes the fact that the Prime Minister has today released a discussion paper canvassing constitutional reform. We have constructively participated in this debate, and will continue to do so. Unlike John Howard’s opposition in 1988, we will not take the easy option of opposing change in pursuit of cheap political points. It must be said, however, that John Howard’s vision for constitutional change is far too narrow. The changes required to the Australian Constitution go well beyond the provisions governing double dissolutions in section 57.

Just as John Howard’s opposition to constitutional change in the past was driven by political expediency, so too is his embrace of reform today. The Senate should be in no doubt that we are having this debate today because the government is frustrated that the Senate refuses to act as a rubber stamp for John Howard’s legislative agenda. The Senate has refused to accept unfair amendments that would drive up the cost of pharmaceuticals. It has rejected cruel measures that would send people with significant disabilities onto the nation’s dole queues. It has opposed changes to our media laws which would have led to the sector being dominated by two or three players, an environment in which media diversity would disappear. The Senate has also stood against measures that would make it easier for business to sack employees without having to be concerned with the unfair dismissal provisions. These are the sorts of measures that the government would like to ram through the parliament.

The government argues that in some way the actions of the Senate are illegitimate, that popular will is being frustrated. We heard Senator Boswell on this matter just a short time ago. But an analysis of the voting results at the last election does not support this contention. At the last election the coalition received a primary vote of 43 per cent—that is, 57 per cent of voters supported non-government candidates. It is impossible to view this division of votes as an expression of popular will that the government should have its agenda implemented without the scrutiny of the Senate. If the people of Australia had wanted that outcome, they would have given the coalition a majority in the Senate. They clearly did not do so. The Senate is intended to be a house of review, and that is how it is functioning. It may be frustrating for governments to have to negotiate legislation through the parliament, but that is no reason to water down the capacity of the Senate to do its job of reviewing and improving legislation.

It must also be remembered that the coalition parties come to the debate on Senate power dripping with hypocrisy. Since the coalition was elected, 1,269 government bills have been passed. The Senate has negatived less than two per cent of the government’s legislation. That is right—a mere 25 bills have been negatived. Only seven of those have been negatived twice, fulfilling the requirements of section 57 for a double dissolution. In contrast, in the three years of the
Whitlam government, the opposition parties rejected an astounding 93 bills. In 1975, supported by the young John Howard, the coalition committed the greatest act of Senate obstructionism in Australian history. Unable to accept the fact that the Australian people had relegated them to the opposition benches, the born-to-rules, the coalition parties, blocked supply to the twice democratically elected Labor government.

Senator Brandis—Get over it, Stephen.

Senator CONROY—I am willing to bet, Senator Brandis, that back then you were probably on our side of that debate. I am willing to bet that you had a conscience when you were younger. I am willing to bet that you would have been a sympathiser and aghast, because I know you are a decent man, Senator Brandis, and I know that you care about constitutionality and what is fair and decent. So I am willing to bet that if we could go back in time to 1975, to that young firebrand Mr Brandis, his views would be a little different to the ones he is going to be expressing today. But time does move on. As Senator Cherry has proved, you can be in the Labor Party and be a supporter and still end up on the other side of the benches here. So I do not think that you want to dig too deeply, Senator Brandis, into your past on this one.

In Labor’s view any Senate reform will be incomplete if it does not include the removal of the Senate capacity to block supply. If John Howard is really concerned about the ability of the Senate to undermine an elected government’s agenda, he will repudiate the actions of his party in 1975 and commit the government to supporting a constitutional amendment to ensure that the events of 1975 can never happen again. There should be no crocodile tears from Senator Brandis, no crocodile tears from the Prime Minister and no crocodile tears from the other side of the chamber. They should just stand up and say, ‘It’s time to move on. We were wrong. Now we want to do the right thing and support some constitutional change.’

Recently Senator Coonan, another one who back in 1975—these Liberal-Labor lawyers, I love them!—was barracking for the Labor Party, remarked:

... Australians are asking is ‘who is running the country?’—

back in 1975 that is not what she was saying—

Is it the coalition, which won a majority in the last election, or is it those who lost the last election but control the Senate?
I would be interested, as I said, to hear her views from 1975. You may well blush, Senator Brandis, but Senator Coonan will be blushing more. The events of 1975 demonstrate that section 57 is not designed to deal with the most potent form of Senate obstructionism: the power to block supply.

Professor of constitutional law Colin Howard has described the problem in the following terms:

Section 57 does not deal with the most important potential conflict between the Houses, which is a refusal on the part of the Senate to pass supply or appropriation Bills.

The section does not in terms exclude deadlocks of this kind.

It is general in its wording and gives no indication that any form of deadlock is outside its scope.

The argument that the section nevertheless does not cover such a deadlock is practical rather than legal.

The speed and urgency with which the money supply needs to be renewed when it is running out leaves no time for the prolonged procedures of section 57 to be complied with.

The effective result is that in such a case there is no alternative to bringing on a general election for the House of Representatives.

Amending section 57 without changing the ability of the Senate to block supply would leave the cause of our greatest constitutional crisis unresolved. That is your challenge today, Senator Brandis; deal with that one. A proposal for amending section 57 which does not address this issue could not be regarded as a genuinely serious proposal. Unlike our conservative opponents, who only advocate change when they perceive it to be in their narrow self-interest, the changes that Labor will support will be those that improve the operation of the Australian Constitution in the interests of the Australian people—not simply those that will advantage the executive government.

A major reform that has been championed by Labor for some time is fixed four-year terms for both the House of Representatives and the Senate. Australia is a rarity in the international community in having a maximum parliamentary term of three years. Of the 148 member countries in the International Parliamentary Union, only 13 have three-year terms. The vast majority of countries have decided that terms of at least four years are required to give government the time to implement and be judged on their policies. In 2000 the Queensland Constitutional Review Commission described the problem of three-year terms in the following way:

It has been said that under a three-year term, the first budget is devoted to paying off the promises made at the previous election and the third budget in anticipating the promises to be made at the forthcoming election. Consequently, only one budget out of three, the second, is likely to address important, long term policies without the contamination of short-term political considerations.

That is a compelling argument. The analysis is probably too optimistic for this government, though, which has seemed to be constantly talking up the prospects of an early election.

A four-year term would enable a government to implement a reform agenda in the knowledge that the success of its program will be assessed at the end of a reasonable period of time. Necessary reform may often involve short-term pain but over the long period be seen to be to the benefit of the community. A four-year term will encourage government to undertake such reforms. With the exception of Queensland and the ACT, Australian states and territories have opted for four-year terms. Given the additional national responsibilities of the Commonwealth, it is anomalous that the federal parliament has only a three-year term. The Prime Minis-
ter is on the record as supporting four-year terms. In April 2002 he stated:

There’s no doubt in government, if you knew you had four years, there are some additional things you would do which you know would be unpopular in the short term but will produce a long term dividend. There’s no doubt about that.

Labor will use the debate on constitutional reform to ask the Prime Minister to have the courage of his convictions and put this issue to the Australian people. Labor also supports the notion of a fixed term. In the last 25 years, the average term of a parliament has been 27.5 months. The frequency of elections imposes unnecessary imposts on the Australian community. According to the Australian Electoral Commission, the cost of an election is around $95 million. There are also other costs imposed which may be more difficult to quantify. Frequent elections create a climate of uncertainty for business which may hamper investment. They can also contribute to a lack of focus by government on key policy issues, as ministers are almost constantly in campaign mode. New South Wales, Victoria, South Australia and the ACT have adopted a form of fixed term parliament. Labor believes that it is now time for this option to be promoted in the federal arena.

Another area where Labor believes that constitutional reform is required is that of Commonwealth and state cooperation. We have recently had—and I know Senator Brandis has studied this—the Hughes case, which threw doubt on our capacity to properly deal with a whole range of critical Commonwealth powers, such as the ACCC’s ability to enforce. They have all been thrown into question. These are issues which we need to address; they are very important and critical issues. They should not be subject to political point scoring in this debate.

In conclusion, Labor is willing to work with the government on the reform process, but we will only support a package of measures that improves the operation of Australia’s democracy. We will not be party to reform which simply strengthens the ability of the Prime Minister to ram through measures that are not supported by the Australian people. It is not easy to achieve constitutional change in Australia. Of the 46 referenda put to the people, only eight have passed. History demonstrates that bipartisan support is essential if a referendum is to have any chance of success. So let us be fair dinkum. Let us not make this a grab for power. Let us sit down and try and work something out that will improve Australian democracy. It is a brave challenge thrown up by the Prime Minister. Does he have the courage to match his words with actions? That is the challenge and we look forward to the debate.

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (6.47 p.m.)—I only have about three minutes to make my contribution. I have been in the unfortunate situation of not being able to listen to the debate because of ministerial duties, but I did want to indicate my support for a wide-ranging debate on reform, particularly of the Senate. For a number of reasons which the Prime Minister mentioned in his address earlier on, and which I assume other senators and other speakers in the debate so far have mentioned, it is now virtually impossible for a government to obtain a majority in the upper house, no matter how large its majority may be in the lower house.

People elect a lower house to elect a government and to elect a Prime Minister. We have seen many examples, even in the time I have been in the parliament, of the elected majority government not being able to get through the program upon which it was elected to govern. People have mentioned the GST and said, ‘You Liberals got the GST
through,’ but we got it through in a form which we really did not want. We had to make compromises, and I think history has shown that those compromises have meant that it has not worked as effectively as perhaps it could have. I do not have time to go into that.

I am disappointed that, from Mr Crean down, the Labor Party seems to have used our Prime Minister’s initiative in opening the debate as an opportunity for personal political attacks on him and on the Liberal Party. The Prime Minister and those of us on this side of the parliament want to open this up for debate to make sure that the public understand over a period of time all of the issues and how important reform of our parliamentary system could be. If that involves—as Senator Conroy has suggested—looking at four-year terms then I am certainly, on a personal basis, very happy to do so.

I am very happy to have a look at the issue of blocking supply. I know there are a lot of arguments on that. I simply point out for the record that, when supply was blocked at the following election, in 1975, the government of Mr Malcolm Fraser was returned with an all-time record majority. That clearly indicated what the people thought of that action at that time. Nevertheless, it is an appropriate time to talk about and debate those issues. I am very pleased that the issue has been raised by the Prime Minister and that the parliament, and indeed the wider public, has the opportunity of fully debating these important reforms.

The ACTING DEPUTY PRESIDENT (Senator Cherry)—It being 6.50 p.m., the debate is interrupted and we now proceed to the consideration of government documents.

DOCUMENTS

Australian Bureau of Statistics

Senator CROSSIN (Northern Territory) (6.50 p.m.)—I move:

That the Senate take note of the document.

I rise to take note of the Australian Bureau of Statistics’ annual report for 2002-03. I do so mainly to keep it on the Notice Paper, but also to make a comment that, in the short time that I have had an opportunity today to look through this annual report, I have been disappointed that there is nothing in it that suggests that the Australian Bureau of Statistics is in any way actively pursuing a review of its collection of data—particularly census data and particularly as it relates to Indigenous Australians.

I say at the outset that the Australian Bureau of Statistics do some great work. Many of us rely on their figures. I note that in the last 12 months they have conducted a survey of social status and a national health survey in relation to Indigenous people. But those of us who have been following the debate as to whether the Northern Territory should or should not retain two seats in the House of Representatives will, of course, be across the debate we have had about the adequacy or otherwise of the collection of census material of Indigenous Australians. I am still baffled as to why it is in this day and age we cannot accurately keep statistics on Indigenous people. For example, why is it that we cannot be satisfied that for each and every Indigenous person in remote Australia, if they did not get to complete a census form because of either literacy problems or oral comprehension problems, there was not an effort made on a one-to-one basis to ensure that each and every Indigenous person in this country was counted?

We know that the Australian Bureau of Statistics sent a team of people into rural and remote Australia. I am yet to get answers
from the Australian Bureau of Statistics about which outstations in the Northern Territory were visited and on what days, and those answers have been outstanding now for many months. I am also yet to understand why it is we have quite a number of statutory declarations from people who live in the Barkly region who have sworn that they completed a census form that was never collected by the Australian Bureau of Statistics. There is a serious problem in the way in which they collect data in remote Australia, and I am talking about very remote Australia here—outstations of only 20 or 30 Indigenous people right in the heart, for example, of Kakadu in north-east Arnhem Land or in the Central and Western deserts. As I said, I fail to grasp why it is in this day and age we cannot as accurately as possible say how many Indigenous people we have living in those parts of this country.

The same goes for the Department of Health and Ageing, who still fail to tell me how many Indigenous people there are in this country who suffer with trachoma. Trachoma is an eye disease that has been totally eradicated in the Third World countries, but Indigenous people in this country still suffer from that eye disease and we do not know how many sufferers are out there. It is quite unbelievable, given the technology we have these days and given the ability we have to transmit and record that data, that the Australian Bureau of Statistics, as far as I can see in their annual report, have not recognised that there is a problem and have not given anybody an undertaking in this annual report that they are doing something about it. One would hope that by next year’s annual report, and certainly by the next census collection date, we have a revised and improved method of collecting statistics for Indigenous people in this country. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Senator CROSSIN (Northern Territory) (6.55 p.m.)—I move:

That the Senate take note of the document.

People will think I am on my hobbyhorse tonight, but sometimes when these annual reports come your way it is a good opportunity to remind people—especially some people who may well be listening to this broadcast—that there are some of us who look for and read these annual reports to the best our ability and look for certain signposts.

The comment I want to make about the Australian Electoral Commission is to do with their education program. I see that in this 2002-03 annual report they actually have quite a large section on electoral education. In fact, it is one of the outcomes of the Australian Electoral Commission. I know from personal experience that they run a terrific electoral education program, particularly when it comes to schoolchildren. They teach children the value of voting and how they can use voting and democracy in electing student representative councils.

But I want to draw the Senate’s attention to the lack of education about your rights as a citizen in terms of voting and how voting operates, what your rights are in getting on the electoral roll and how you can use that to your advantage when it comes to Indigenous people in this country. There is a section in this annual report that relates to Indigenous activities, and it states:

During the year, the Australian Electoral Commission undertook a limited range of education activities with an indigenous focus.

That would be right. That is because in 1996, when this government came into office, it severely cut the budget of the Australian Electoral Commission for education activities for Indigenous people. Prior to 1996 teams of people would go to remote places of this country—again, I am talking about
the Northern Territory in particular—and actually teach these people what voting was about: what to expect on election day, how to cast your vote and how to fill out a ballot paper. This does not happen anymore. What happens now is that a team of people from the Electoral Commission go to remote communities and update the electoral rolls, but it is almost like a fly in, fly out operation. They are there for a few days, they try to see as many hundreds of people as they possibly can—cross-checking the rolls, taking people off, putting people on—but they have no time and no money to undertake any education activities for Indigenous people. This report goes on to state that, of the limited activities that were undertaken by the AEC:

... the very extensive information and enrolment program carried out for the 2002 ATSIC Regional Council elections was by far the most significant. They do that. From time to time I see quite a number of posters that are bright, colourful and informative, advising Indigenous people of their rights when it comes to ATSIC regional council elections—reminding Indigenous people to get on the roll and encouraging people to vote in ATSIC regional council elections. But that is just one small part of your rights as a citizen in this country. We know that at the end of the day ATSIC is a very important body. It makes important decisions and has a very important role to play in this country. But it is not the same as electing a state or territory government or electing the federal government.

In highlighting the annual report from the Australian Electoral Commission I want to draw to the Senate’s attention once again, and to the general public’s attention once again, that when it comes to Indigenous people and our efforts to educate and inform Indigenous people of their rights as citizens, to teach them about democracy, to show them how to vote, to help them to understand how to vote and to cast their opinion come election day, this government has pulled the rug out from under them. There are limited funds—in fact, probably no funds—when it comes to helping Indigenous people undertake education activities to show them the meaning and power of the vote. It is unfortunate that this has occurred. It has been recognised by the Australian Electoral Commission, and they do the best job they can given the limited funding provided to them by this government. (Time expired)

Question agreed to.

Constitution on the Rights of the Child: Reports

Senator LUDWIG (Queensland)  (7.01 p.m.)—I move:

That the Senate take note of the document.

Australia’s combined second and third reports under the Convention on the Rights of the Child require serious consideration. It is not my intention to deal with the document today and therefore I will seek leave to continue my remarks. That will give me a better opportunity to fully digest the reports and provide some brief comments when the matter next appears on the Senate Notice Paper.

The document also goes to some of the issues that Senator Crossin has referred to, and I recommend that Senator Crossin also undertake to read it. It does provide a stark contrast of the different conditions that most Australians and the Indigenous members of our community face. Even some of the matters that go to the tables at the back outline an extraordinary position. Table 7 in one instance provides data about the cause of death for Indigenous and other Australian infants between 1998 and 2000. For ‘Perennial conditions’ the rate for Indigenous Australians was 608.4 and for other Australians it was 217.8, a ratio of 2.8. For ‘Congenital malformations’ the rate for Indigenous Australians was 265.6 and for other Australians it was 138.3, a ratio of 1.9. Again, for ‘Other
symptoms, signs and abnormal findings’ we find the same sort of ratio except that it has been increased to 4.6. It does demonstrate some of the issues that Senator Crossin has been referring to today where the Indigenous population has suffered and continues to suffer under this government. There is a dire need for improvements across many areas, not only those areas that Senator Crossin spoke of.

When you look at the Australian combined second and third reports under the Convention of the Rights of the Child, you see there is a need for this government not only to address the rights of the child, per se, but also to address them across Indigenous and non-Indigenous groups equally and to ensure that the resources are directed to best assist people. But, as I have said, I do intend to have a better, closer read and then provide some comments later on, so I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Australia Post: Report

Senator MACKAY (Tasmania) (7.04 p.m.)—I move:

That the Senate take note of the document.

The tabling of this Australia Post report today is highly significant. I will take the Senate and the people who are listening back to Senate budget estimates this year. I asked Australia Post a direct question: what was Australia Post’s profit for the last financial year? Note that we were dealing in these budget estimates with this financial year. The government at that point, headed by the chair, Senator Eggleston, and in collusion with Minister Alston, shut the estimates down so that the Australian Labor Party was not able to find out what Australia Post’s profit was for the last financial year. The government at that point, headed by the chair, Senator Eggleston, and in collusion with Minister Alston, shut the estimates down so that the Australian Labor Party was not able to find out what Australia Post’s profit was for the last financial year. This is Australia Post, that is fully owned by the Australian people and fully accountable to the people of Australia.

The reason we were pretty keen to know what the profit was is that in the previous financial year the government by stealth basically stole the entire profit of Australia Post for that financial year, and in that financial year it was $300 million. They just took that.

Senator Crossin—No wonder they have got a budget surplus!

Senator MACKAY—They got some negative publicity about that, because in the same period we were talking about stamp increases and increases in parcel post. Here we have today, finally, the tabling of the Australia Post annual report, which is something that cannot be stopped because it is a legislative provision. Lo and behold, here we have on page 10 of the Australia Post annual report the statement that a special dividend of $104 million was also paid on 30 June 2003 to the Commonwealth. That is why the government shut down the Australia Post estimates. That is why the government would not allow the Australian Labor Party to find out what Australia Post’s profits were. They wanted to steal yet again fully one-third of the profit of this corporation owned by the people of Australia—not by the government—and, as Senator Crossin says, no wonder the budget bottom line is so good.

This is in the same period that stamps went up from 45c to 50c. It is the same period that the cost of parcels increased by 50c. This is in the same period that Australia Post has said with respect to the previous $300 million cash grab by the government, ‘It does not affect our bottom line at all.’ But they still proceeded to increase stamps and they still proceeded to increase the cost of parcels. What kind of an outfit is this? At the moment we are considering the full sale of Telstra. One of the things this government is saying to the people of Australia is, ‘Don’t worry about parliamentary scrutiny; it does not matter. It does not matter who owns this
corporation. Whether it is owned by the government or the people of Australia as a majority or whether it is in fact owned by the private sector, the scrutiny is still there.

Here is an example of government scrutiny at work. I remind the people who are listening and the Senate chamber that the government shut down the estimates to prevent Australia Post from providing basic information about what its profit is—that is, the profit that is owned by the people of Australia—in order to hide the fact that they have stolen $100 million of profit. That is outrageous.

Senator Tierney interjecting—

Senator MACKAY—Senator Tierney laughs his head off at the same time as his constituents are paying more for their stamps and more for their parcels. What kind of government is this? I think this says it all. In relation to the current matter that the government is attempting to get through—the sale of Telstra—this sort of activity just blows the whole argument out of the water. There will be no accountability in a fully privatised Telstra; there is no accountability in a fully publicly owned Australia Post, so what possible recourse do the people of Australia have? This is an absolute disgrace. I want to emphasise that.

This is an abrogation of the parliamentary process. This is a cover-up by the Treasurer, Peter Costello, and the government should be condemned for the sneaky, treacherous and outrageous act and the con that it has perpetrated on the Australian people by hiding this profit and stealing $100 million of Australia Post profit that should go back into infrastructure for the people of Australia instead of going to bolster up the government’s bottom line. It is an absolute disgrace and people on the other side of this chamber should be hanging their heads in shame.

Senator TIERNEY (New South Wales) (7.08 p.m.)—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Department of Transport and Regional Services: Annual Report 2002-03

Senator CROSSIN (Northern Territory) (7.09 p.m.)—I move:

That the Senate take note of the document.

This is an extremely disappointing annual report from the Department of Transport and Regional Services. If people in the department think that this satisfies the requirements of this parliament then they should think again. I am referring particularly to the section on the Indian Ocean territories. While I have got less than five minutes to provide my comments on this report, I put the department on notice for the coming estimates process not about what is in this report but about what is not in it and about the way in which activities over the last year in the Indian Ocean territories are so cutely referred to in the report.

Some of the project summaries in this report are too cute by half. Let me give you an example. In relation to the Indian Ocean territories, they say they are improving employment levels and that the economic activity in the non-self-governing territories is an ongoing project. Let me tell you what an ongoing project in the Indian Ocean territories is in relation to employment levels. Let me tell you what an ongoing project in the Indian Ocean territories is in relation to employment levels when it comes to Christmas Island. This is a department that has sought to privatisate the activities of the Christmas Island administration, which has employed cleaners and gardeners who have worked in Commonwealth public offices, in schools and in the hospital on the island for the best part of more than 10 years, and probably close to 20 years for some of them. This is a department that has sought to put those activities out to private tender. This is a department that has given

CHAMBER
Those people no guarantee of ongoing long-term employment with the Christmas Island administration. This is a department that has suggested that if a private operator, probably from Perth, on the mainland, takes over the contract of those services, they may be lucky enough to pick up a job with the new private contractor.

This is not a department that is improving employment levels on Christmas Island and the Cocos Islands; this is a department that has spent the last 12 months destroying employment levels on those islands and doing very little to ensure that people have ongoing employment security on those islands, that they are able to benefit from permanent, full-time and safe employment with a Commonwealth agency. This is a department that has also failed to give five laundry workers, who were employed at the casino six years ago, the $20,000 that was owed to them when the casino went into liquidation. This is a government that sold the assets of that laundry and pocketed the money—over $100,000—and yet failed to pay the five laundry workers the money they were due as a redundancy payment because of the liquidation of the casino. It is a lousy $20,000 that this federal government has held onto for more than five years. So much for improving the economic activity in the non-self-governing territories.

This annual report does not tell us how the businesses on Christmas Island are hurting. It does not tell us the true information about the Chamber of Commerce on Christmas Island, about the businesses that have bought commercial washing machines and the businesses that have bought cars to build up the private car hire business in anticipation of increased activity from the staff at the detention centre and the 160 people who were expected on the island to build that detention centre. That is not improving the economic activity of Christmas Island, and I have not even begun to start on what is happening on the Cocos Islands. This annual report is an appalling document, and I want people in the department to hear, loud and clear, that it is less than satisfactory. It does not accurately reflect what is happening on the island at all and it seeks to mislead this parliament severely in relation to what is happening in the Indian Ocean territories. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

The following order of the day relating to a government document was considered:


ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Kirk)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Hunter Region: After-Hours Medical Services

Senator TIERNEY (New South Wales) (7.16 p.m.)—I rise tonight to report on the Australian government’s commitment to after-hours primary medical care in my local area of the Hunter. Seven years ago, when
we came to government, general practitioners in the Hunter region identified what they termed ‘a rapid disintegration’ in the services available to help people who required urgent medical attention out of hours. There was mounting pressure on hospital emergency rooms, by cases that could have been attended to by a GP. To tackle the issue, the Hunter Urban Division of General Practice began to work towards achieving an improved system of after-hours care for patients who lived in the Hunter region.

The Hunter Urban Division of General Practice is an organisation that was set up to assist in ensuring that the quality of care provided by general practitioners meets the needs of their patients and the community at large. Over the last seven years, it has developed a model for after-hours care for patients, comprising an after-hours telephone service, where people can call for advice on medical complaints; GP clinics situated throughout the Hunter, including John Hunter Hospital, Maitland Hospital, Toronto Polyclinic, Newcastle Community Health Centre and Belmont Hospital; a local taxi provider to help patients with transport difficulties access the clinics; and a home visit service for medical care to anyone who is deemed necessary.

Most of all, the service is provided free of charge to patients who are in need of emergency care. In particular, I want to cover the achievements of this after-hours service and the way in which it was piloted, first of all in the Maitland district, with funding provided by the Australian government. What is exciting about the success of such an approach after seven years is that in other regions it could be used as a template for after-hours services that integrate care from GPs into the public hospital system.

As part of Australian government funding, a package was developed in 1998 for the Hunter Urban Division of General Practice to begin a pilot program in Maitland for an after-hours service to address the needs of that district. The aim of the service was to increase quality and accessibility of after-hours care while reducing pressure on emergency rooms. The trial was a great success and extension of the program has seen after-hours GP services extended to other areas of the Hunter.

The Hunter after-hours GP service pools all funds from federal and state governments and uses them from within existing infrastructure to ensure a sustainable, high-quality medical service. The Maitland after-hours GP service has secured region-wide funding which allows the service to grow across the Hunter Valley well into 2005. This is an excellent development for the people of the region, who will be able to access high quality, comprehensive after-hours medical services.

In the time between 1 March and 30 June 2003, 4,045 patients were attended to by the clinic. These are cases that would likely have placed pressure on emergency resources if they had not been attended to by the after-hours GP service. Demand for the after-hours service is building, with the number of triage categories 4 and 5 patients being seen at the Maitland after-hours GP service, for example, increasing steadily in each four-month reporting period. Patient waiting times are also being addressed by this service. A benchmark waiting time of 30 minutes was met for 87 per cent of patients on weekdays and 89 per cent of patients on Saturdays. There is less pressure on the GP and the patient due to stringent monitoring of waiting times and ensuring that cases are dealt with in an efficient manner.

Between March and June this year, there was a 1.4 per cent increase in the number of calls made to the telephone triage service on
the previous four-month period. The telephone triage service is a call centre operation stationed by nurses between the hours of 6 p.m. and 8 a.m. to dispense medical advice over the phone. This allows access to medical advice for people who require assistance but are in a remote location or for people who are able to treat themselves at home. The advice line took 3,199 calls, and five home visits were required between March and June this year.

Training of GPs in the new MedTech system has commenced and other staff have been trained in child protection and medical emergencies. Particular attention has been placed on GP work force support in the after-hours service, and nurses are employed extensively. For every GP stationed at an after-hours clinic, there is a nurse on site, as well as a nurse on the advice line.

Dr Arn Sprogis, Chief Executive Officer of the Hunter Urban Division of General Practice, has commended the GPs who are involved in the after-hours scheme in the Hunter. He said:

It is not going too far to say that history is being made by those GPs who are going to work in the ... clinics across our region.

I have yet to find anyone who can give me a similar example of a regional mobilisation of a GP workforce, for the benefit of an entire community on this scale, since WW2.

This view is clearly shared by the wider community, as the feedback cards received by the after-hours service from patients indicate a very positive response. The community advisory group that works in conjunction with the Hunter Urban Division of General Practice to ensure quality is also reported to be pleased with the progress of the Maitland After-Hours GP Service. News of the expansion of the after-hours service right across the region, with funding from the federal government, has been met with excitement from the local community. The Great Lakes area has also recently opened an after-hours GP facility with a grant from the Australian government.

More people are becoming aware that the after-hours service exists, and this is now leading to a need to upgrade the telephone system to increase the number of lines and technical features. After an upgrade, more data on call activity, details of call content and outcome of each call will be recorded. All of these developments show what a community can achieve by pooling resources and using existing infrastructure to its best potential. Dr Sprogis stated:

I am acutely aware of the stresses and pressures in daytime general practice in our region and yet, despite this, almost 200 GPs have said they will work at the most difficult time of the day.

This commitment will earn all GPs in our region the gratitude and support of our entire community ...

Already Dr Sprogis has reported talks between the NSW Minister for Health and the new federal Minister for Health and Ageing in initiating a similar program in the Sydney metropolitan area. Dr Sprogis says that the key is to utilise funds in the best and most economic way, within the existing infrastructure, to deliver the best outcomes for the communities and the medical staff that serve them. The after-hours GP service is a clear example of how the medical community can work together for the higher good, to provide services for the whole community and work with governments to deliver a better medical service.

High Court of Australia: Centenary

Senator KIRK (South Australia) (7.24 p.m.)—I am pleased to rise this evening to talk about an anniversary of significant historical importance for the legal system in this nation: the centenary of the High Court of Australia. The High Court celebrates its centenary this week, making it one of the
world’s oldest constitutional courts. Among comparable institutions, only the United States and Canadian supreme courts are older.

The centenary of Federation two years ago was a time when we Australians could reflect on our federal institutions and on the process that went into creating them a century ago. We looked back over the constitutional conventions of the late 19th century and recalled the acrimony, hope and commitment that went into the framing of our Constitution. We also revisited the beginnings of our federal institutions, including the federal parliament, and celebrations were held in towns and cities all around the country. The organisers of the centenary of Federation did a fabulous job of informing and engaging Australians with their history.

However, the story of the development of Australia’s system of federal government did not end in 1901. The vision inspired by the Australian Constitution could not be realised in the course of just one year. For this reason, we will continue, as time goes on, to celebrate the centenary of many developments in our democracy and our federation. This year is one such example, as it is 100 years since Sir Samuel Griffith, Sir Edmund Barton and Richard Edward O’Connor were first appointed to Australia’s premier court—the High Court of Australia. The centenary of our highest court gives this place and all Australians the opportunity to look back over 100 years of its existence and consider where the court stands now in relation to our modern-day expectations and those of over a century ago. Unfortunately, the centenary of the High Court appears to have been celebrated largely unnoticed. Other than the ceremonial sitting of the High Court in Melbourne on Monday, there has been little in the way of organised public events to celebrate this important anniversary.

The High Court has proved itself as a significant body and a pivotal part of our federal structure over the last 100 years. Not without controversy, it has ironed out many potential difficulties in our federal structure and allowed our Constitution to grow and develop to reflect changing times. This is so even though, due to our referendum reluctance in this country, the words have not changed a great deal.

Many have criticised the High Court for what has been perceived as judicial activism—in particular, the latest appointment to the High Court bench, Justice Dyson Heydon. However, when viewed in perspective, the history of the High Court has been about providing certainty and clarity to the law while being consistent with the proper standards of constitutional interpretation. It is difficult to objectively measure the success of any court over any length of time. While acknowledging that the task is complex and the priorities contradictory, in a recent speech Professor Michael Coper attempted to establish the following criteria for a successful bench:

... efficiency, integrity, including independence and impartiality; enjoyment of public confidence; and calibre or capacity, temperament and other desirable personal qualities.

There certainly are some criticisms that could be made of the High Court on many of these counts. However, it is always difficult, for example, to balance the objectives of ensuring efficiency and ensuring that every Australian is entitled to a fair hearing. On balance, the High Court has excelled. On balance, the High Court has not impeded the work of the legislature and has effectively used case law only as a way to clarify and modernise the common law.

We have seen 100 years of an evolving court: from three justices to seven and from a system where an appeal to the Privy Council
existed to one where the High Court’s rulings are final and supreme in the Australian legal system. I am sure most in this chamber would agree that the court should continue to grow and evolve over the next century. However, when one looks back over the make-up of the court over the last century, one develops a picture that the benches over that time do not resemble the diversity of the population they are expected to work for. No-one has ever expected nor wanted the High Court—or, indeed, any Australian court—to represent the population at large. Such an expectation is not only unrealistic but also problematic. It is essentially important, however, that our judiciary be diverse and reflective of the Australian community so as to retain the crucial element of public confidence in its judgments. In January of this year, I wrote in the *Advertiser*:

... other countries have adopted methods for the selection of judges that seek to both widen the pool and provide greater transparency in the appointment process.

Currently, the High Court has no female justices. The first and, unfortunately, the only female to ever serve on the High Court bench, Justice Mary Gaudron, retired just a few months ago. This follows the disturbing path of history in this country with regard to the appointment of women to senior judicial office. In fact, it was not until 1962 that a woman, South Australian Roma Mitchell, was appointed as a Queen’s Counsel and not until 1965 that the same woman was appointed to a senior Australian state bench—the Supreme Court of South Australia, my home state. As High Court judge Justice Michael Kirby has said recently:

The career of Dame Roma Mitchell remains a beacon of hope and encouragement.

It was not, then, until 1987 that a woman was appointed to the High Court, when the Hawke government appointed the brilliant Justice Gaudron to the bench. This appointment came six years after the United States appointed its first female superior court judge, Justice Sandra Day O’Connor, in 1981. The appointment of Justice Gaudron also came five years after the Canadian Supreme Court appointed Justice Bertha Wilson. Since then, the US Supreme Court has gained its second female justice and the Canadian Supreme Court now has three women justices, including the Chief Justice. Disappointingly, Australia now has seven men and no women on its premier bench following the retirement of Justice Gaudron.

Of course, much of the problem epitomised by High Court appointments flows from the imbalance of female representation in the wider legal community. At the higher levels of the legal system—judges, Queen’s Counsels, senior partners in law firms and senior academics—women are consistently underrepresented and have been for some time. Another disturbing statistic is that, of the current High Court, five of its members are from New South Wales. From the viewpoint of a South Australian senator, it is of great concern that no South Australian—and, I believe, no Tasmanian—has ever been deemed worthy to sit on the High Court since Federation in 1901. This is despite the high calibre of South Australia’s judiciary and the respect for many of the justices who have served in the superior jurisdictions in our state.

One may well wonder whether these facts matter at all, since the common wisdom is that we should choose our justices on the standard of ‘merit’ and choose the best man or woman for the job. However, the High Court is a body of unrivalled importance in the Australian judicial system, a body that needs to be engaging and evolving for constitutional progression and national harmony. It is called upon to determine matters that affect the powers of the Commonwealth and the states, and the relationship between these
government entities. Such a body must draw upon people from all parts of Australia and from a range of life’s experiences for its relevancy to be maintained. To draw upon the abilities of seven men, five of whom are from New South Wales, and no women displays, in my view, the diversity of a time long past. The foreshadowed adoption of a judicial appointments commission in England may prove to be a catalyst for community debate and the adoption of a similar body here in Australia. I would like to take this opportunity declare my warm congratulations to our highest court tonight and give thanks to all of the past and present justices. Long may it reign as a court of distinction and justice, and may it continue to be held in the highest regard by the Australian people.

Environment: Currumbin Wildlife Sanctuary

Senator CHERRY (Queensland) (7.34 p.m.)—The Currumbin Wildlife Sanctuary has long been a Gold Coast icon. Hundreds of thousands of Australian and overseas visitors have enjoyed the swoop of thousands of lorikeets who come to feed at the sanctuary every day, something they have been doing every day since Alex Griffith first put out his mix of honey and water in 1946 to protect his gladioli farm. The sanctuary is also home to around 1,400 other native animals, and its animal hospital treats around 3,000 injured natives each year. The sanctuary is the result of the vision of that one man, Alex Griffith, who first started feeding the birds in 1946. Over the next 30 years, Mr Griffith built up the sanctuary, acquiring more land and pouring his financial reserves back into preserving natural habitat in the area, including the Coolamon property backing onto an important national park in the Gold Coast hinterland.

In 1976, Griffith gifted the sanctuary ‘for the benefit, welfare and education of Queenslanders and other persons generally’ to the National Trust of Queensland as guardians. This was to ensure that his vision of a sanctuary for native animals would continue past his lifetime. This gift was validated and protected by a state act of parliament in 1976. Under the deed of gift and section 12 of the act, it is made clear that any surpluses generated by the sanctuary will be spent on improving and developing the sanctuary and to advance and promote the general objects and purposes of the sanctuary and nature conservation generally. For 28 years, the National Trust has run the sanctuary. Many friends of the sanctuary would argue that, at times, the trust has failed to run the sanctuary in accordance with the vision of Alex Griffith. He was certainly of that view and had a major falling out with the trust. The termination of many education programs in recent years concerned many people, as has the growing tendency by the sanctuary’s commercial managers to develop the ‘theme park’ basis of the sanctuary to bolster flagging admissions.

The fit of the bird sanctuary into the property suite of the National Trust has never been entirely smooth. The 2002 annual report of the National Trust shows that admissions to Currumbin grossed $4.7 million, while admissions to all other National Trust properties grossed just $178,000. In that year, the trust made a net loss of $193,000, nearly three times the loss of the year before. By contrast, the sanctuary made a net surplus despite difficult economic times, albeit down on the half a million dollar surplus it made the year before. The state president, Pat Comben, warns in that 2002 annual report: The reality is that if the National Trust does not take action to actively review its operations, it is in danger of not being able to continue. Earlier this year, the National Trust produced a new strategic plan to start turning things around. A key plank of that plan is incorpo-
rating the Currumbin sanctuary into the trust’s normal investments, allowing the surplus from the sanctuary to flow into National Trust coffers and allowing the disposal of properties purchased with sanctuary moneys. For a cash-strapped trust with a tourist attraction with a large cash flow in its portfolio, this would seem a logical solution. The problem is that this is contrary to the express wishes of the original benefactor of the sanctuary, the late Alex Griffith, his deed of gift and the Currumbin Bird Sanctuary Act.

The trust now proposes to amend the act to allow this to happen. It has also signalled that it will seek government approval to sell some of the land assets purchased by the sanctuary, including the ‘appropriate disposal’ of Coolamon, Griffith’s wildlife refuge in the Gold Coast hinterland. This has fired up local residents like few issues have before. Last Saturday, over 300 local residents met at the Tugun Village Hall to protest the National Trust’s moves. Even the president of the local branch of the National Trust attended, pointing out that the Gold Coast branch had not been consulted on the proposed changes.

Residents were angry with the cavalier approach that the National Trust appears to be taking to the objectives of the Currumbin Wildlife Sanctuary. As the Gold Coast chokes under the haze of poorly planned urban development, its few green belts are becoming more and more important. The Gold Coast and Hinterland Environment Council, Gecko, which convened the meeting, has urged the community to be vigilant against the campaign by the National Trust. As Gecko’s Lois Levy said in convening the meeting:

The Sanctuary is a vital part of the visual beauty of the southern Gold Coast and is an icon of world renown. Its future should be of great concern to everyone and as inheritors of a priceless gift the community should be part of any discussion about its future.

This was a sentiment strongly supported in the resolutions of the meeting. Significantly, the meeting heard from several former employees of the sanctuary and members of the Friends of Currumbin, who argued that the vision of the sanctuary was being lost to commercial objectives.

Very worrying is the concern that the trust has found various ways to obtain funding from the sanctuary without breaching the deed of gift. It was suggested that the trust obtains benefits in terms of management expenses and fees through the sanctuary. I should note that the trust’s annual report, while noting that some administrative and accounting costs are shared, claims to have made a contribution to the sanctuary of $6,900 in 2001-02. It is also noteworthy, while on the issue of management fees, that the same annual report reported a 25 per cent increase in the sanctuary’s administrative and professional costs in the year 2001-02 despite a fall in admissions. The National Trust’s annual report also reports a loan owing from the trust to the sanctuary of around $203,000. Trust members also receive free admission to Currumbin, an important recruiting tool for the trust.

While the issue of the relationship between the National Trust and the sanctuary has been raised and investigated before, I think it is time that the Queensland government looked at this issue again. I was heartened to hear that the Queensland environment minister, Dean Wells, sent a message to the Tugun meeting ruling out amendments to the Currumbin Bird Sanctuary Act, pointing out that he has received no submission from the trust on this matter. The state opposition gave a similar commitment to the meeting. But that is not the end of it. Given the financial problems of the National Trust, the pressure to find a way to transfer some part of
the revenues from the sanctuary into its core operations will continue. It has been a source of tension for most of the 28 years the trust has held the sanctuary. As one resident at the meeting pointed out, the problem is that the Currumbin Bird Sanctuary Act, an act of the Bjelke-Petersen government, is so loosely worded you can drive a truck through it.

I think the time has come to ask whether the National Trust and the Currumbin Wildlife Sanctuary would both be better off separated one from the other. The National Trust would then focus on its core business of built heritage while the Currumbin Bird Sanctuary would be entirely independent and free to plough its surpluses back into its own activities.

I note that the National Trust has convened a community meeting at Currumbin on 30 October to discuss its plans, and I hope this idea gets on the agenda. The working group set up by Gecko following the weekend meeting will, I understand, also be investigating this option among others. The sanctuary faces major challenges of its own—including a declining lorikeet population at feeding time due to unchecked urban development on the coast and the changing expectations of tourists, 65 per cent of whom come from overseas. It should be free to pursue these issues and its original objectives in closer consultation with the local community through an independent foundation.

The Currumbin Bird Sanctuary Act does need an overhaul. I think it is time that the Queensland government and the Gold Coast community investigated thoroughly taking the National Trust out of the Currumbin Bird Sanctuary and replacing it with a community based foundation that holds truer to the vision of its original gentle founder, Alex Griffith.

Sydney Harbour

Senator PAYNE (New South Wales) (7.42 p.m.)—I am sure that many members of the Senate would agree that Sydney Harbour is regarded as one of the most beautiful harbours in the world. It is widely recognised by its popular icons like the Harbour Bridge and the Opera House and for many it is synonymous with Sydney and Australia. It is a popular spot for sailing, for motor cruising and for annual events like the Sydney to Hobart yacht race and the great ferry race. New Year’s Eve and Australia Day activities, where you cannot move around the Sydney Harbour foreshores, attract many people to the harbour area both on the water and on the land.

Its full area extends over 5,504 hectares and there are few natural harbours which can rival it in size, depth, ease of access, lack of navigational hazards and the degree of protection it affords to shipping in all weathers. For that reason it has served Sydney but also this nation extremely well as a working harbour. According to the Sydney Ports Authority, 50,000 container ships navigate the harbour each year, bound for stevedoring facilities at Millers Point, Glebe Island and White Bay. Around 100,000 mass tonnes of cargo overall, which includes imports of steel, iron, aluminium and paper, find their way into Australian industry through Sydney Harbour and 200,000 units of motor vehicles find their way to Sydney dealerships through the main three facilities.

By the ever present container shipping in the harbour, Sydneysiders are reminded that our wealth as a nation depends on our trade with other nations. The range of water craft that you see in that space is as varied as the historically and aesthetically diverse architecture that surrounds the harbour itself, and both contribute to the city’s charm.
It has been a working harbour since 1788—not a bad record—and that has not prevented it from becoming recognised as one of the world’s most liveable and beautiful cities. Despite that, the New South Wales Premier, Bob Carr, has decided without public consultation to basically close the harbour down as a container port. As my state colleague the New South Wales opposition leader, John Brogden, said today to a meeting of shipping industry representatives, the government’s so-called overhaul of Sydney Harbour is light on detail and has no proper substance. It just confirms that the New South Wales Premier’s decision making is more and more arrogant and more and more imperial. If you want a reference for that, you could ask the MUA and you could ask the stevedores who actually work on Sydney Harbour and whose views on this matter are widely reported.

It was announced over the weekend that stevedoring leases at Millers Point, Glebe Island and White Bay will not be renewed between now and 2012. Instead, 33 hectares of foreshore land will be available for development for offices, housing, open space or more low-key maritime uses. This is an interesting proposition, made more so by the fact that it represents a significant policy reversal on the part of the Premier, who, just after a major oil spill in August 1999 at Shell’s Gore Cove terminal, stated:

...the Harbour is a living environment of the people of this state...this is a working harbour...it generates income. Essential economic activity is carried out around the Harbour...

I agreed with him. He went on to say:

We announced last week that our new ferries would be built at Garden Island. I want the Navy to stay at Sydney Harbour. I want containers to come into Sydney Harbour.

Not only was there no explanation for his reversal on the issue over the weekend; he has also given no evidence that he has a coherent plan for managing such a huge change. Today he hedged himself further towards some detail but, even after that, the stevedores—the workers of Sydney Harbour—still oppose the plan and oppose the fact that it is being imposed on Sydney without public consultation.

Senator Abetz—And without consultation with the Prime Minister.

Senator PAYNE—Indeed, Senator Abetz. The New South Wales opposition leader, Mr Brogden, said:

Where was the economic analysis on what extra costs businesses and consumers will have to pay for effectively shutting down Sydney Harbour as a working port?

Where was the consultation with business?—and I mean open consultation, not “done deals” made away from any public consultation...And where was the open debate—about the most magnificent part of this city—Sydney Harbour?

Where is the detail? It is not there because it hasn’t been done. This was hobbled together to give the appearance of ideas from a Government that has run out of ideas.

What we should be contrasting here is the Carr government’s approach to that of the coalition government, which has in fact acted responsibly and in the Australian people’s interests to dispose of surplus Defence lands around Sydney Harbour through the introduction of the Sydney Harbour Foreshore Trust. In September 1998 the Prime Minister announced the formation of the Sydney Harbour Foreshore Trust to ensure that lands and heritage assets on the Harbour are protected. The Minister for Defence, Senator Robert Hill, who was then the Minister for the Environment and Heritage, was instrumental in establishing a trust which manages several sites, including those at Chowder Bay, North Head, Cockatoo Island and Woolwich, which are to be disposed of by 2005. The overriding consideration of the trust is that the land...
should be sold for responsible development that, most importantly, takes account of environmental concerns. The Minister for the Environment and Heritage, Dr David Kemp, has recently reinforced these positions.

It is important to note here that the Commonwealth Defence land sales do not in fact raise concerns about the loss of jobs in the same way because they are largely disused and defence personnel are occupied elsewhere, unlike the stevedores of Sydney Harbour, who live locally and whose children go to local schools and so on. These are the people whose lives would be affected by Premier Bob Carr’s seeming need to build an iconic structure—apparently in his own memory. I should think that this point would not be lost on the senators in this chamber who come from, I am sure they would say, proud and much vaunted backgrounds as union officials, because it is their workers who are most opposed to this plan.

Media speculation over the past few days has apparently put the Premier’s decision to disable Port Jackson as a working harbour down to either the Premier seeking a site for the sort of great architectural legacy by which New South Wales taxpayers can remember him or as further evidence of jockeying between other New South Wales ministers, like Minister Costa and Minister Scully. I note the commentary in today’s media to the effect that it could be put down to incoming transport minister Michael Costa pushing this issue through the cabinet sub-committee that approved the decision with a view to further dismantling the previous transport portfolio of the outgoing minister, Carl Scully. Minister Scully had realised the importance of jobs in this part of Sydney and the importance of Sydney Harbour and had recognised that it was not holding Sydney back as a tourist destination. In fact, he was a strong advocate of the working harbour vision.

If it is more about the Premier’s thoughts on his legacy, and if the Premier and the cabinet subcommittee insist on proceeding with this idea, it is absolutely imperative that the community of Sydney—namely, the people who work on the Harbour, who use the Harbour, who live around the Harbour and who not unreasonably see it as a vital part of Australia’s environment—be consulted so that whatever iconic edifice is constructed as a monument to the Premier has real cultural significance and will at least have some popular use. In fact, as Lord Mayor Lucy Turnbull has pointed out this week, it does have the potential to provide open green space for residents; but to discuss that you would need to consult.

It has been greatly in Sydney’s favour that a number of areas around the harbour have been previously preserved as natural reserves to form the Sydney Harbour National Park. If you think about the foreshores and the ridges near South, North and Middle Heads and you look at paintings of the time, they present a landscape in many areas which has little changed since the First Fleet arrived on 26 January 1788, with native bushland continuing to grow thickly to the water’s edge in many places. I maintain, however, that Sydney Harbour should remain an active, working commercial port. That is its character; that is its beauty; that is its inherent nature and that is how it should continue.

I remember recently that the New South Wales government attempted to appease or please, depending on your perspective, developers who are regarded as being supporters of the Australian Labor Party in New South Wales when they released their policy on the redevelopment of the Callan Park site. That proved to be a huge error of judgment on the New South Wales government’s part. I remind the Premier and the team about the unpopularity of that policy, which was fi-
nally addressed in the context of a state election.

What is really important—not to play with this in a political context—is that these are decisions which will impact greatly on the face of Sydney Harbour. Port Jackson is not one person’s to remake without consulting the people of Sydney. The concept of fiefdoms is long dead—everywhere, it would seem, except in the New South Wales Labor government. Sydney Harbour is not Premier Carr’s personal fiefdom. If through the carrying out of proper studies it is found that the proposed change would deliver significant benefit to the people of Sydney and to the local economy, it would be appropriate for the government to take a properly thought out policy to the electorate. At that time I suspect, though, that the people of New South Wales will send a blunt message that we like our harbour the way it is—that is, part of an active, vibrant, living city.

Aboriginal and Torres Strait Islander Commission: Army Community Assistance Project

Senator JOHNSTON (Western Australia) (7.52 p.m.)—I rise to draw the Senate’s attention to a very successful and positive development with respect to Indigenous affairs. As a member of the Defence Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, under the chairmanship of Bruce Scott MP, the member for Maranoa—and being Chair of the Joint Statutory Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund—I have recently had the rare opportunity of participating in a matter relevant to Aboriginal people and the operational capability of the Army.

Last Thursday members of the Defence Subcommittee were given an extensive briefing and tour of significant infrastructure work currently being carried out on Palm Island in Queensland’s north by the Australian Army’s Royal Australian Engineers Corps. The 17th Construction Squadron, normally based at Holsworthy Barracks, has been performing a modern miracle of construction and infrastructure development far and away beyond the financial capacity of the Palm Island community and beyond the logistical capability of all but the largest of corporations in the private construction industry.

Located in the Coral Sea some 65 kilometres north-east of Townsville, Palm Island is home to 2,300 or more predominantly Aboriginal people. The Palm group of islands is the traditional country of the Malanbarra and Bwgcolman peoples. The settlement itself was established in 1918 to replace the Hull River mission near Tully, in North Queensland. There are currently over 40 distinct tribal groups living on Palm Island, having regrettably been removed from their traditional lands on the mainland over the course of the last two centuries. The community currently displays a good deal of progress and good governance in the very difficult social circumstances of alcohol and drug abuse and the chronic levels of unemployment of the island population. Times have previously been very difficult for the people on Palm Island, with significant domestic and general violence issues, health issues and financial hardship, together with all of the social problems which accompany such circumstances. The roads and houses on the island were run-down and in need of repair. Good housing is in short supply, particularly quality housing fit for large families and extended families and housing able to withstand the severity of cyclonic weather extremes.

The work on Palm Island was undertaken by the 17th Construction Squadron and pursuant to the terms of the ATSIC Army Community Assistance Project, AACAP. This
program is a most successful joint venture between the Army, ATSIC and the Commonwealth Department of Health and Ageing. The relationship is founded upon a memorandum of understanding between each of the participants. The AACAP scheme is a working example of ATSIC’s National Aboriginal Health Strategy, targeting environment and health capital works programs in Aboriginal communities predominantly in Western Australia, Northern Territory, Queensland and South Australia. The Army undertakes the task of project management and the lion’s share of actual construction and logistical work. AACAP schemes generally involve large capital sums—by which I mean between $5 million and $10 million. The budget for the work on Palm Island is just under $9 million, with Army making a substantial in kind contribution.

I am pleased to say that previous AACAP schemes have been focused in my home state of Western Australia at Beagle Bay and Lombardina in 2002, and Ombulgurri in 1997, and have been most successful. At Beagle Bay and Lombardina, 21st Construction Squadron built new access roads between the Beagle Bay community and the main road to Cape Leveque, and also new airport access roads. Many new houses were built and many of the existing houses were upgraded and repaired. A number of other projects were carried out in the Kimberley at Derby and Willarie Bridge. At Oombulgurri, in 1997, flood relief works were carried out by the Army.

The Army has carried out AACAP projects since 1997 in remote communities in the Northern Territory, South Australia and Queensland. At Bulla, near Katherine in the Northern Territory, nine houses were constructed with a major upgrade of the community sewerage system. At the Marthakal outstation at East Arnhem, 10 houses with outdoor kitchens and ablution and sanitation facilities were constructed; a water supply was established; eye health screening took place; there was a skin infections program; a men’s health survey was carried out; dental health screening took place; and there was a dog health treatment program.

In the Northern Territory, at Milyakburra on Bickerton Island in the Gulf, a sewerage system including primary and secondary treatment ponds was installed. Other works included access roads, the rubbish tip and a barge landing site. At Oak Valley in South Australia, due north of Yalata on the eastern end of the Nullabor Plain, three houses and one nursing post was constructed. There was an upgrade of the water and power supplies, the airstrip and the community’s roads and rubbish tip. Medical and dental treatments were carried out.

At Docker River in the Northern Territory—just over the Western Australian border in the Gibson Desert—they upgraded the sewerage system and carried out dental treatments, TB screening, veterinarian training and truck driving instructions. At Jumbun in Queensland near Tully, there were extensive repairs and upgrade to the community water and sewerage systems, renovation of several houses and individual septic systems and pre-vocational training for 10 members of the community. (Time expired)

Senator JOHNSTON—I seek leave to incorporate the remainder of my speech in Hansard.

Leave granted.

The speech read as follows—

The Palm Island task involves more than 200 army personnel with the vast bulk of the work being carried out by the 17th Construction Squadron with assistance from the 3rd Combat Engineers Regiment, the 10th Force Support Battalion, 21 Construction Regiment and Land and Health Services.
The specific work carried out at Palm Island involved:

- the construction of more than 20 purpose designed three-bedroom cyclone-proof houses, on rock requiring blasting to establish some footings;
- the upgrade and repair of the island’s water treatment plant;
- the upgrade, repair and installation of adequate drainage to the road to Wallaby Point and Butler Bay—this task required some extensive blasting;
- the provision of ablution facilities to the youth centre and to the sports field;
- the repair and upgrade of the concrete airport access road; and
- the beautification and installation of pathways and children’s playground equipment on the townsitewaterfront;
- the refurbishment of the island’s aged care facility;
- health training and support, with a Royal Australian Navy dental team from HMAS Penguin treating over 140 patients.

This list is not the full extent of the ADF contribution with a number of other outstanding health and capacity training programs being undertaken.

The Committee members observed the tremendous effort of the Army personnel in discharging a broad range of training obligations to more than 30 Palm Islanders who were so proficient in their training as to attain various TAFE certificates with respect to aluminium and steel welding, plant and earthmoving equipment operation, small engine maintenance, boating and computer training et cetera. The trainees are required to complete practical work with respect to scaffolding, demolition, nail gun operation, and safety and trench shoring so as to complete the theory training to attain Certificate 2 in General Construction.

I personally interviewed a number of these successful participants and found that during the course of the previous four months they had achieved almost 100 per cent attendance records in completing their training courses. Many of these young men expressed a keen desire to find work and are now feeling confident of obtaining employment off the island and of supporting their families after many years of unemployment. One of the great difficulties on Palm Island is the virtual total lack of employment opportunities. The positive and up-beat attitude of the participants had to be seen to be believed—all thanks to the Army.

And so how were the various objectives of project achieved? The Army delivered more than 20 Mack and Unimog heavy lift trucks onto the island by barge, a logistical nightmare given the rudimentary port facilities. In addition to this I observed at least four track-mounted excavators, two large water tankers, two bulldozers, one track-mounted air drilling machine and compressor, one mobile concrete batching truck, a road base crushing plant, a scraper, a grader, several front-end loaders, several generators and dozens of other work vehicles. I believe that there was probably double this amount of equipment out working on other parts of the island that time prevented us from seeing. In addition to this there was a 135,000 litre capacity bulk fuel installation and a camp and mess facility for all Army personnel.

One of the most impressive aspects of the work carried out by the Army on Palm Island was the way in which the community embraced the intentions and objectives of the project. The community council chairperson, Ms Delena Foster, and the community’s project liaison officer, Ms Deneice Geia, disclosed an impressive level of commitment to the project and an understanding of the benefits to their community beyond just the buildings, roads and infrastructure. The outstanding work and leadership of these two community leaders gives cause for great optimism for the future of the Palm Island community. Indeed Palm Islanders owe a lot to the calm wisdom which these ladies impart in the good governance of their island.

On the army side, the committee members were genuinely impressed with the enthusiasm and professionalism of officers and men working in the field to bring the objectives of the project to reality. The Committee met Colonel Bill Sowry, Army Project Director Lieutenant Colonel Mark
Sheppard, 17 Squadron OC Major Paul Hobbs, through to Captain Nick Marcovich in charge of Plant Troop, Captain Nicki Bradley in charge of the workshop, Lieutenant Mick Koen supervising foreshore construction and beautification, and Lieutenant Ian Maas in charge of construction of Reservoir Ridge houses. The Australian parliament can be very proud of the level of professional poise and leadership these men and women impart. These officers made countless references to the performance of the men and women under their commands. It was a delight for the committee to actually observe first hand the morale and dedication of the very hard working and outstanding enlisted men and women in these various troops and teams. My only disappointment was that I did not have more time to meet more of the army personnel who are making such a tremendous effort and tangible difference to the lives of the people on Palm Island.

It is very difficult to measure the impact and effect of the benefit and improvement that these privates, sappers, corporals, sergeants and warrant officers are making to the lives of so many people on Palm Island but from my observation the Army’s activities have the potential to be the most positive catalyst for a generational improvement in the outlook of Palm Islanders. I want to thank these men and women of the ADF for the work they do and for the diligent and professional way that they do it. I had travelled some eight hours on the Wednesday to get from Perth to Palm Island and arrived back into Perth a little after midnight on that Thursday night. I must say that during my relatively short parliamentary career, this brief visit has been one of the most uplifting and satisfying that I have participated in.

The AACAP scheme is a fantastic example of ‘practical reconciliation’, a concept inaugurated and championed by the Prime Minister. Projects like this promote reconciliation by providing Aboriginal people with concrete assistance in their communities and by encouraging Aboriginal communities and government agencies to work together to achieve actual, realistic and lasting outcomes. These tasks give our armed forces an opportunity to practice and demonstrate their capabilities, as well as ensuring better opportunities for Indigenous Australians. Mr Deputy President, I commend the AACAP scheme, particularly the Palm Island project, to the Senate and hope to see many more such valuable projects in the future.

**Senate adjourned at 7.58 p.m.**

**DOCUMENTS**

**Tabling**

The following government documents were tabled:

- Aboriginals Benefit Account—Report for 2002-03.
- Australian Postal Corporation (Australia Post)—Report for 2002-03.
- Department of Transport and Regional Services—Report for 2002-03.
- Final budget outcome 2002-03—Report by the Treasurer (Mr Costello) and the Minister for Finance and Administration (Senator Minchin), September 2003.
- International Air Services Commission—Report for 2002-03.
- National Office for the Information Economy—Report for 2002-03.
- Royal Australian Air Force Veterans’ Residences Trust Fund—Report for 2002-03.
- Services Trust Funds—Reports for 2002-03 of the Australian Military Forces Relief Trust Fund, the Royal Australian Navy Relief Trust Fund and the Royal Australian Air Force Welfare Trust Fund.
- Treaties—
  - *Bilateral*—Text, together with national interest analysis and annexures—Agreement between the Government of


Tabling

The following documents were tabled by the Clerk:

Albury-Wodonga Development Act—Determination under section 5A, dated 1 October 2003—Approved form of winding-up agreement.


Lands Acquisition Act—Statements describing property acquired by agreement under sections 40 and 125 of the Act for specified public purposes [2].

Radiocommunications Act—Radiocommunications Licence Conditions (Broadcasting Licence) Amendment Determination 2003 (No. 1).