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SITTING DAYS—2003

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

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- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 729 AM
- **DARWIN**: 102.5 FM
CONTENTS

WEDNESDAY, 29 OCTOBER

Parliament House: Bogong Moths ................................................................. 17067

Business—
Consideration of Legislation .............................................................................. 17074

Telstra (Transition to Full Private Ownership) Bill 2003—
Second Reading .................................................................................................. 17074

Matters Of Public Interest—
Environment, Communications, Information Technology and the Arts References
  Committee Report .............................................................................................. 17108
Aviation: National Airspace System ................................................................. 17111
Immigration: Asylum Seekers .......................................................................... 17113
Middle East: Israeli-Palestinian Conflict .......................................................... 17114
Taxation: Mass Marketed Schemes ................................................................... 17117
General Employee Entitlements and Redundancy Scheme ............................... 17120
Trade: Live Animal Exports ............................................................................ 17123

Questions Without Notice—
Trade: Asia-Pacific ............................................................................................ 17124
Howard Government: Economic Policy .............................................................. 17125
Trade: Free Trade Agreement ............................................................................ 17126
Superannuation: Public Sector ........................................................................... 17127
Health Insurance .................................................................................................. 17128
Trade: Live Animal Exports ............................................................................ 17129
Medicare: Reform ............................................................................................... 17131
Ansett Australia: Employee Entitlements .......................................................... 17133
Medicare: Reform ............................................................................................... 17134
Roads: Scoresby Freeway .................................................................................. 17135
Family Services: Child Care ............................................................................. 17137
Education and Training: Funding ...................................................................... 17138

Questions Without Notice: Additional Answers—
Iraq ......................................................................................................................... 17139

Questions Without Notice: Take Note of Answers—
Trade: Free Trade Agreement ............................................................................ 17139
Trade: Live Animal Exports ............................................................................ 17145

Petitions—
Workplace Relations: Paid Maternity Leave ................................................... 17147
Education: Higher Education ........................................................................... 17147

Notices—
Withdrawal ........................................................................................................... 17148
Presentation .......................................................................................................... 17148
Withdrawal ........................................................................................................... 17149
Presentation .......................................................................................................... 17149

Committees—
Selection of Bills Committee—Report ............................................................... 17150
Economics References Committee—Meeting .................................................. 17150

Notices—
Postponement ...................................................................................................... 17151

Committees—
Ministerial Discretion in Migration Matters Committee—Extension of Time .... 17151
CONTENTS—continued

Environment, Communications, Information Technology and the Arts Legislation Committee—Extension of Time .......................................................... 17151
Government Advertising .................................................................... 17151
Business—
Days and Hours of Meeting ............................................................... 17152
Committees—
House Committee—Reference ................................................................. 17152
Privileges Committee—Reference ............................................................. 17152
Science: Assisted Reproductive Technology—
Return to Order ...................................................................................... 17153
Education: Regional Impact Statement—
Return to Order ...................................................................................... 17155
Committees—
Scrutiny of Bills Committee—Alert Digest ................................................... 17158
Rural and Regional Affairs and Transport Legislation Committee—Report ........................................................................ 17158
Late Payment of Commercial Debts (Interest) Bill 2003—
Report of Economics Legislation Committee ............................................. 17158
Spam Bill 2003 ......................................................................................... 17158
Spam (Consequential Amendments) Bill 2003—
Report of Environment, Communications, Information Technology and the Arts Legislation Committee ........................................... 17158
Documents—
Responses to Senate Resolutions.............................................................. 17158
Committees—
Membership ......................................................................................... 17158
Notices—
Withdrawal .............................................................................................. 17159
Housing Assistance (Form Of Agreement) Determination 2003—
Motion for Disallowance ........................................................................ 17159
Assent ........................................................................................................ 17169
Committees—
Privileges Committee—Reference ............................................................. 17169
Telstra (Transition to Full Private Ownership) Bill 2003—
Second Reading ....................................................................................... 17191
Documents—
Australian Radiation Protection and Nuclear Safety Agency ..................... 17193
Military Superannuation and Benefits Scheme ........................................... 17194
Adjournment—
Hong Kong-China: Closer Economic Partnership Agreement .................... 17195
Trade: Free Trade Agreement ................................................................ 17197
Fuel: Ethanol ......................................................................................... 17199
Australian Constitution: Education .......................................................... 17201
Health: Obesity ...................................................................................... 17204
Documents—
Tabling ................................................................................................... 17205
Tabling ................................................................................................... 17206
Questions on Notice—
Attorney-General’s: Community Legal Centres and Regional Law Hotline—
(Question No. 1754) .................................................................................. 17207
Health and Ageing: Aged Care Assessment Teams—(Question No. 1808) ...... 17207
CONTENTS—continued

Health: Autism—(Question No. 1992)................................................................. 17207
Health: Community Midwifery Program—(Question No. 1996)......................... 17209
Health and Ageing: Institute of Public Affairs—(Question Nos 2049 and 2062) .... 17210
Veterans’ Affairs: Institute of Public Affairs—(Question No. 2060)...................... 17210
National Radioactive Waste Repository—(Question No. 2139)......................... 17211
Education: Notre Dame University—(Question Nos 2142 and 2143) ............... 17211
Customs: Bay Class Vessels—(Question No. 2199) ........................................... 17212
Wednesday, 29 October 2003

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

PARLIAMENT HOUSE: BOGONG MOTHS

The PRESIDENT (9.31 a.m.)—On Monday Senator Lees raised with me her concerns about apparent reduction in the bird life in the parliamentary precincts. I subsequently sought advice from the Joint House Department and was advised that a slightly higher number of dead birds have been found during the past week. Over the past week, 10 currawongs or so have been found dead around Parliament House. This was following an external spraying program to control a bogong moth infestation. This spraying regime has been conducted in previous years without any adverse effects on birds of which the department is aware. The spraying contractor advises he uses the same product, cislin, watered down to a very low toxicity, at other major buildings, such as the High Court, National Museum and National Gallery, and has had no reported concerns over bird deaths.

I have asked for professional advice to ensure that actions being taken to deal with the current prevalence of bogong moths are not having an unintended and harmful effect on the bird life around Parliament House. The New South Wales National Parks and Wildlife Service has recently reported that arsenic has been found in bogong moths in the Australian Alps, and they are actively seeking to discover the source of the arsenic. I have directed that if any more dead birds are found, they will be sent to a laboratory for pathology tests to determine what killed them. In addition, bogong moths at Parliament House will be collected and tested to see if they contain arsenic. Our native birds are such an important part of the garden environment which surrounds Parliament House, and the Senate can be sure that I take this matter very seriously.

Senator LEES (South Australia) (9.32 a.m.)—By leave—I move:

That the Senate take note of the statement.

Firstly, may I thank you, Mr President, for taking this matter seriously since I raised it with you on Monday. But I point out that this is at least double the number of bird deaths that are ever found in any particular week and that the birds still have not returned. However, as of last night there were a few currawongs in and out and I think it is only a matter of a short time before others move into the space. Therefore, can I ask whether you have any information as to how long the residual poison that has been sprayed to kill the moths on the surfaces outside around the doors and windows will last? For example, has it been diluted in any way by the rain we have just had? It does seem that, as the birds that are missing or dead are those that were likely to feed on the moths—as we know, the currawongs feed very heavily on the moths—and that other birds such as honey-eaters that do not touch the moths are still out there, I think we have to presume, until proven otherwise, that it is the moths that are toxic.

Is it possible to have all of the dead moths cleaned up—in patches there are literally hundreds of them in piles—so that, if other currawongs move into the spaces that have been created by the death or otherwise of the currawongs and magpies that were here previously, they too will not be poisoned? Also, can there be no more poison laid until such time as we can ascertain whether it is the moths coming in with poison in them that is causing the problem—although it seems, as you have said, that there are no birds dying anywhere else in Canberra or this area—or
whether it is in fact the poison? Perhaps it was mixed to the wrong consistency and it was an incorrect dilution that was placed around Parliament House. If we could have the moths cleaned up and no more poison laid until we get to the bottom of this, it may prevent any birds that move in facing the same fate.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (9.35 a.m.)—Mr President, I would like to congratulate you on the action you have taken. Senator Lees did raise these issues with me on Monday and I must say, having been around the environs of Parliament House over the last couple of weeks and having witnessed the normal cacophony of the songs of the various species of birds that make Parliament House their home from time to time, it was a fairly deafening silence we were met with earlier this week. So it is very—

Senator Ferris—Reassuring.

Senator IAN CAMPBELL—It is reassuring, Madam Whip, that there has been such prompt action in relation to Senator Lees’s investigations. When we were in the building about three weeks ago, outside my old Senate corridor office I was able with my children to witness the building of a nest in one of the trees in the courtyard immediately adjacent to my former Senate office. My children marvelled at the wonder of these birds. I am not an expert on species the way Senator Lees is; perhaps we could wander up there and have a look at the bird and hope it is still there. The point I make, particularly with the children in the gallery, is that around this building we do have some wonderful native flora which those of us who have been here for a little while have watched grow to mature height over the past 13 years, at least for me.

Senator Santoro interjecting—

Senator IAN CAMPBELL—A lot of these trees were planted prior to 1988, Senator Santoro. The building did look like a bit of a stark edifice when I first came here, but the great foresight of the planners and horticulturists who built the wonderful gardens around this place has created a wonderful habitat for so much fauna and particularly bird life, which we are focusing on this morning as a result of your excellent intervention here, Mr President.

Can I say, therefore, for the benefit of the children in the gallery today—and the benefit of all the children around Australia who will hopefully one day get to visit Parliament House and our national capital—that for a number of species, from my own personal experience of those outside my office window, this is obviously a nesting time for many of them. Of course, the tragedy of losing the 10 currawongs that we have been able to find is sad enough, but of course it would be sad if those birds that have died have left younger birds. I am not sure what the proper title is for young birds. What are they called?

Senator Brown—Nestling will do.

Senator IAN CAMPBELL—It would be sad if those nestlings were left to starve in their nests. That would of course be horrific. Clearly, Mr President, the research that you are undertaking is important not only to get to the bottom of what has caused the problems with the bird life around the buildings this week but also to see whether there are external factors that have led to these deaths and to put in place measures to make sure this does not happen again. I give you, on behalf of the government, our very best wishes in your activities in this regard.

Senator BROWN (Tasmania) (9.38 a.m.)—Mr President, I am very concerned that this is not the first time this has happened. You will be aware that in 1991 there
was a debate in this place about the deaths of a number of magpies following spraying of the parliamentary lawns, which was done at the time of the bogong moth migration. On that occasion malathion was used. On this occasion it was deltamethrin, a Bayer Chemicals product that is used as an insecticide to particularly kill the moths, if indeed that was the lethal agent.

What I question here is the authority being given to use a poison to kill the bogong moths. What has gone wrong with us that, with this great migration of moths, which is one of the great natural phenomena in Australia, we have to intervene with poison on these native creatures because some people find their presence discomforting. I absolutely delight in it. Here is one of the great natural phenomena of this country. The moths migrate in their millions each year. They are attracted to light. We set this great parliament building on top of a hill and light it up at night and the moths, as part of the natural system, come into Parliament House. They see it as a beacon, and the reaction from us human beings is to poison them. Of course, the Indigenous people had a much more constructive reaction to this; they lit their fires, the bogong moths flew in and they feasted on them, the same as the birds do.

It is part of the natural rhythm of our region, and it is totally wrong to intervene in that with poisons. We have one antidote to the bogong moths and that is in nature itself—the birds. When you intervene on the web of life in one place you affect others; it has a knock-on action. What is happening here is that the birds have died. I have heard the argument about arsenic—and, if that is the case, why not in other years? It will be interesting to see, Mr President. When the autopsies are done, there must be much more than a look for arsenic in the birds. There has to be a look for a whole range of chemicals, not just the chemical that has been sprayed for the bogong moths but other chemicals that may have been used in the precinct as well.

I appeal to the presiding officers of this place not to descend again to poisoning bogong moths. For those who do not like bogong moths, the birds are your friends. We have all seen them gorging on the bogong moths in the past. They keep the numbers down. I have never seen so many bogong moths squashed on the footpaths around this place as I have this year with the birds gone. So we have intervened in the system. The single idea that if we can poison the moths we will all be okay is crazy in such a massive migration. Of course, it appears that the knock-on effect is to get rid of the very thing that cleans up the moths—that is, the birds. So this idea of intervening with poison on a natural migration, a natural web of life, ought to be ruled out. I appeal to you, Mr President, to do that and to make sure that this intervention on the moths themselves is not done in the future. If we want a real remedy, the simple thing would be to switch off those external lights at night which attract the moths and create some of the problem.

It did not pass our notice that we had prominent visitors to the parliament last week in the form of President Bush and President Hu, and I will be interested to know from you, Mr President, whether that was part of the consideration that we had to get rid of the moths by poisoning them. I am not sure whether that was an indication of yes or no, but it is more than coincidence that the poison was brought out after 10 years to coincide with the visits of the presidents. That was very cockeyed thinking. An explanation of this natural phenomenon in Australia would have fascinated them. It is one that we should be protecting, not inhibiting.
Senator BARTLETT (Queensland—Leader of the Australian Democrats) (9.43 a.m.)—I would also like to support the motion to take note of your statement, Mr President, as part of this historic Senate parliamentary moth debate, which will no doubt go down in history.

Senator Ian Campbell—Do moths get attracted to your tie, Andrew?

Senator BARTLETT—Everybody is attracted to my tie I should tell you; it is not just the moths. There are a number of points that speakers have raised and, indeed, there are a couple of points that I want to re-emphasise. Senator Brown also had a motion on this, but I do not know if he is still proceeding with it today.

Senator Brown—Yes.

Senator BARTLETT—Hopefully we can cover all these points now so that we do not repeat them this afternoon, much as I like talking about moths, when debating the reference of this to the House Committee for inquiry. As I understand it, the presiding officers are already inquiring and examining this issue.

My understanding from the President’s statement is that—I know the moth invasion is an annual occurrence—the poisoning is an annual occurrence. Naturally, I share Senator Brown’s sentiments that it is unfortunate, to put it mildly, to react to natural phenomena by bringing out the poison. It would be nice to explore other opportunities rather than that. I am not sure that I support his suggestion that we should revert to mass consumption of native wildlife and consume all the moths ourselves, as Indigenous people used to do, but certainly poisoning is not a desirable option. As somebody who speaks often in this place about the need for more concern for the suffering of other beings that we share this planet with and the lack of desirability—or necessity for that matter—to eat them, it is nice to hear Senator Ian Campbell expressing such concern for the welfare of the birds and the potential suffering of the birds and nestlings. I hope that concern extends to the suffering of sheep and cattle in the live export trade and that Senator Campbell can get onto the government and get them to cease that trade so that suffering ends as well.

It does indicate the dangers, if you are a bird, of eating moths in this vicinity if there is poison in the vicinity as well. A serious point that has not been made by any person in this place is that if the bird deaths are a consequence of consuming poisoned moths—and that is still to be determined—it is a reasonable point to make that if something is toxic enough to kill a bird then there is an issue with the potential health impacts on humans. Sometimes I am accused of being more concerned about the welfare of animals than I am of humans, but I am also concerned about the welfare of humans in this regard. If there is that much poison around the place that, for whatever reason, has got out of whack from previous years and has led to some unusual and unanticipated deaths of wildlife, then that also raises the question of whether there are risks to humans in the Parliament House environment. Obviously, there are thousands of people—not just the staff and the parliamentarians but visitors—who come to this place all the time, and that also is a matter that should be acknowledged as a potential concern.

The arsenic issue that has been raised is also a concern not just for the bird life around Parliament House. If that is a new phenomenon in terms of an environmental toxin, then again we need as much information as possible about that. As I said at the start, this sort of action towards the moths, according to the President’s statement, occurs annually or when it is felt necessary. I note from Senator Brown’s contribution, and
indeed from his motion today, that he has suggested the deaths may have had something to do with the visits of President Bush and President Hu. President Bush has, quite rightly, been blamed for lots of atrocities around the world, but I do not know if we would want to blame him for the mass slaughter of moths around Parliament House as well.

I am getting a bit tired of blaming everything on foreign visitors in this place. It is getting a little xenophobic and a little bit ultranationalistic. I am as proud an Australian as anybody else, but I do not think we should start implying it may have been secret agents with their weapons sneaking about the place and assassinating birds that they feared might be disguised as al-Qaeda operatives that have smuggled into the country on the latest boat arrival or something. Perhaps you could check that as well when the autopsies are being done, Mr President. I was actually a bit disappointed, because I heard on the news that it was you yourself, Mr President, who was going to be doing the autopsies. I thought that would be a wonderful example of multiskilling and that perhaps we could all come along and watch your extra talents. Unfortunately, I hear it is being conducted by somebody else, so a previously unanticipated hidden talent that I thought you, Mr President, had is sadly not there.

But there are serious issues here. The use of poison in any context is something that anyone with concerns for the environment, health of wildlife or health of humans needs to pay consideration to. The potential use of products such as arsenic needs to be examined and, of course, the important if slightly less fundamental issue of the aesthetics of the surrounds of Parliament House which, despite occasional assumptions to the contrary, is not just here for politicians but also here for the Australian people. It is worth pointing out that Parliament House is one of the most, if not the most, widely visited places in Canberra. There is one moth that has escaped over here, Mr President. If you would like to get the Chinese onto it, I am sure they would be able to dispose of it shortly. Parliament House and its areas is one of the most visited places in Australia, and that is a sign of what a wonderful environment it is for the people of Australia. I do not want that environment reduced by dead birds, the absence of birds or toxic poisons. It is a serious issue and I am pleased that the President is looking into it.

Senator MURPHY (Tasmania) (9.50 a.m.)—Mr President—

The PRESIDENT—Is this on the same issue?

Senator MURPHY—Yes, the same issue.

The PRESIDENT—Not foxes?

Senator MURPHY—No, not foxes directly. Mr President, your statement says at the top of it ‘Apparent bird deaths’. Can I suggest to you that it is rather obvious bird deaths, not apparent—because I think the ones that have been collected are dead. So I suggest that they are not apparent but obvious bird deaths. If it is the case that a poison has been used—and I suspect it is the case that it is Cislin—it has probably been used in greater concentrations than were supposed to be used. Nevertheless, it is unfortunate that the deaths of the birds have occurred, and I congratulate you, Mr President, for conducting an investigation.

I do note a slight hypocrisy in the approach of some people with respect to this matter. I listened to Senator Brown in his condemnation—and, indeed, I read his own motion—of why this poisoning was conducted and whether there are special contributing circumstances, such as the visits by foreign dignitaries. The Greens in Tasmania support the use of 1080 poison for the eradi-
carnation of ‘apparent foxes’. We have not poisioned any foxes yet, but this is for the ‘apparent foxes’ that are supposed to exist in Tasmania. But the use of 1080 poison has a significant effect on other wildlife, particularly wedge-tailed eagles, which are an endangered species in Tasmania, the giant freshwater crayfish and, might I say, currawongs, which also exist in Tasmania and which could pick up 1080 bait poison or be secondarily poisoned as a result of other animals eating 1080 baits.

I note Senator Brown’s concern in the chamber about the poisoning of the currawongs, and I share that concern. But we should not be too sanctimonious about this—or, indeed, hypocritical—because they are supporting a process of poisoning in Tasmania that should not be allowed. My view is that, if people want to act in a concerned way, they ought to be at least consistent about that. I have copped a lot of criticism from the Greens and Green members in Tasmania for my approach to the strategy being used to try to find and eradicate ‘apparent foxes’ in Tasmania. But I have taken that approach because I am concerned about the use of a poison that is unnecessary in the pursuit of ‘apparent foxes’. Indeed, there are many other strategies that could be employed to find them—if in fact they do exist—and eradicate them.

Mr President, I support the approach that you have taken in this matter. It is an important matter. The wildlife around this sometimes otherwise boring place is important and it adds to the life and wellbeing of the people who both work here and come here to do their parliamentary work.

Senator McGauran—This is not a boring place.

Senator MURPHY—Senator McGauran interjects—not from his seat either. You may not consider yourself to be one who contributes too much, and most people would probably agree with that. Let me say, Mr President, that I think the proposals that you have put up are worth while pursuing. I do hope that we find out exactly what has caused the death of the currawongs and, indeed, the disappearance of some of the other birds from the Parliament House precinct.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (9.55 a.m.)—Thank you, Mr President, for your statement on this matter. I no longer refer to bogong moths; thanks to the Joint House Department, I always talk about *Agrotis infusa*.

Opposition senators interjecting—

Senator FAULKNER—I am glad that impresses my colleagues, because I do read the Joint House Department circulars that come around. There is a one-page outline that gives a lot of detail on the life cycle of the bogong moth. I would commend it to senators. Of course, if you are particularly interested, any senator who would like more information than is provided by the Joint House Department on *Agrotis infusa* could do what many have done and go to www.ento.csiro.au/Ecowatch/Primary/butterflies/pages/agrotis_infusa.htm. There is a great deal more detail there on the life cycle of and other details about *Agrotis infusa*. I thank the Joint House Department for that information. I know that that my own colleagues have studied that in considerable detail, as I have.

Senator Ian Campbell—Did you save that as a favourite on your Internet browser?

Senator FAULKNER—I cannot go into that sort of personal detail with you, Senator Campbell! That is none of your business.

Senator Ian Campbell—you should put a link to that site on your APH web site.
Senator FAULKNER—Look, I just cannot talk about that in the chamber! The issue of the death of the currawongs has caused concern around the parliament. I do note that the Joint House Department circular, which is a regular occurrence at this time of year, explains to those building occupants of Parliament House how we might deal with the annual migration of the bogong moths. It explains the sorts of behaviour that will assist in ensuring that the problem is contained, such as turning off lights, closing doors that open onto courtyards and so forth and, as one senator suggested, ensuring blinds are closed and the like. That is all helpful information.

What was not contained, of course, in the joint house circular was any detail about the other activities that the Joint House Department might be involved in, which include, apparently, the use of this particular product, Cislin. I note in your statement to the Senate, Mr President, that that is used in a diluted form and in a form with low toxicity. I think that is helpful information for us to understand, as well as the fact that it is used not just here at Parliament House but also at other major buildings. I think you mentioned the High Court, the National Museum and the National Gallery. Again, I think that is useful background information for senators to have.

I think that the approach that is being taken is a sensible one in trying to establish, if it is possible, the reasons for this phenomenon. I think it is important from the point of view of any other consequences there might be of this pattern of the increased number of bird deaths around Parliament House. Hopefully, your seeking professional advice will assist you and the parliament in ensuring that any measures are taken that need to be taken to deal with the problem and ensure we do not see a repeat of it next year.

I am one of those people, however, who do not rush to judgment on these things. I do not know if the cause of this is the low-toxicity poison that you mentioned. I suspect you do not know that either, Mr President. We are dependent here on professional advice. The sensible thing is to seek that professional advice and, with the benefit of that advice, take any steps that are required. If that is the course of action you propose—and I understand that it is—you would obviously have the support of the opposition in that course of action.

There is a proposal that this matter be referred to the House committee. I am not sure how sensible that is. I think at the end of the day, if we are going to do something about this and it needs further investigation, it seems sensible to me to await the outcome of any investigation that you have initiated, Mr President. It might be more sensible for the Joint House Committee to have a look at this, given that it is the Joint House Department that have been involved in coordinating the activities in relation to external spraying and the like.

I do not rush to judgment on this. Obviously, I hope—as all senators would hope—that this is not as a result of excessive amounts of poison being used around this building. I stress that my comments are not specific to Parliament House. Of course, we always have a concern for those people who work in the building. The vast majority of people in this building spend a great deal more time here than do members and senators—as you would appreciate, Mr President—so we do have a duty of care to those who work in the building. Obviously, we also have concerns about ensuring that wildlife in the precincts of Parliament House are properly protected. No-one would want to see any adverse effect on the birds or any other wildlife around Parliament House.
I think this is a sensible course of action, and I hope that you can report back to the parliament on the outcome of these professional assessments in relation to levels of poison, toxicity and the like. As I understand it, the challenge at the moment is to find another dead bird. No doubt you will have your staff hunting the precincts of Parliament House; is that right?

The PRESIDENT—Yes.

Senator Ian Campbell—I think all senators should go out there and have a bird search.

Senator Faulkner—Senator Campbell, if you did that, things might move on a bit more quickly. If I went and did it, they probably would too—on that basis, I will sit down. I cannot guarantee to you that any search that I undertake will necessarily be absolutely exhaustive, but we look forward to hearing back from you at the conclusion of those inquiries, Mr President. I think then it would be appropriate for the Senate—and the parliament more broadly—to look at if it wants to address these matters further.

Question agreed to.

BUSINESS

Consideration of Legislation

Senator Ian Campbell (Western Australia—Manager of Government Business in the Senate) (10.04 a.m.)—I move:

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

- Energy Grants (Cleaner Fuels) Scheme Bill 2003 and the Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) Bill 2003
- Farm Household Support Amendment Bill 2003
- Spam Bill 2003 and the Spam (Consequential Amendments) Bill 2003
- Telecommunications Interception and Other Legislation Amendment Bill 2003

Question agreed to.

TELSTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) BILL 2003

Second Reading

Debate resumed from 28 October, on motion by Senator Troeth:

That this bill be now read a second time.

Senator Bartlett (Queensland—Leader of the Australian Democrats) (10.04 a.m.)—I resume my comments speaking for the Australian Democrats on the government’s latest piece of legislation aimed at enabling the sale of the rest of Telstra. As a previous speaker pointed out, this is one of the rare occasions where the name of this legislation actually reflects its purpose, as its title is Telstra (Transition to Full Private Ownership) Bill 2003. Whilst its title might be accurate—and that is a plus for it—there is not much else that I can say that is a plus for it. As I said in the opening half of my speech, I and indeed all of my Democrat colleagues will be voting against this bill at the second reading stage.

When I was interrupted by the break yesterday, I was in the middle of pointing out the disgraceful, destructive and obstructive approach of the Liberal Party when they had control of the Senate in 1975, blocking over 25 per cent of legislation—more than one in four bills—including preventing the passage of supply. That contrasts with the very responsible and constructive Senate since the days when the Democrats got a share of the balance of power in 1981. The percentage has never gone above five per cent and it is currently around two to three per cent. That two to three per cent represents the Senate doing in its job. It might represent the Senate irritating the government as well, but it is
doing its job. The Senate’s job is not to make life easy for the government; it is to be a house of review, a check on what the government puts forward in the way of legislation and a mechanism to enable public consideration and public input.

I pay tribute once again to the Senate committee system and the committee report into this legislation. Sure, some people may say that the outcome was predetermined; everybody already knew how they were going to react to the bill. That is probably a fair comment. But you cannot say that the significant input from a wide range of people throughout the community was not valuable. It was immensely valuable in making this debate an informed one, not just in relation to this bill but in relation to the broader issues involved in telecommunications in this country. It was valuable in terms of being able to get a clearer picture from people in the community about the adequacy of telecommunication services, particularly in rural and regional areas.

We did not have to just rely on the government giving us a report saying that everything is okay. We could go directly to the people affected and ask them, ‘What do you think? You have to live with it. Where do you want it to go? How is it now? What are the prospects for the future? How important is it to you?’ We could hear from economists who could say, ‘The government might say it is good value, but the dollars do not add up to anything other than a massive loss of a valuable asset to the Australian people, a net economic loss for all of us.’

The evidence that was presented to the committee certainly reinforced the Democrats’ opposition to this legislation and to the government’s policy at this time. It also provided not just a more informed decision by the Democrats but a more informed debate, more importantly. Hopefully, there has been a more informed range of coverage throughout the media as well.

In the interval between the first part of my speech and the second half of my speech there has been some media coverage about the Democrats’ approach to this legislation. I reiterate categorically, for those who may wish to have it stated beyond doubt, that all Democrat senators will be voting against this bill. I suppose that spoils the suspense a little. Sometimes I miss the days when Senator Harradine had the balance of power and we would all sit here waiting to see how he would vote. He would wander around in circles and think about which chair to sit in. It was much more fun, in a way. It made the votes much more interesting. I hate to be a spoilsport and say we are all going to vote against this one, but that is just the way it is. For people who wanted a bit of suspense, I am sorry to spoil it for you.

The key thing that has to be stated again in the face of speculation is that all Democrat senators signed a clear-cut pledge before the last election that we would not support any legislation to further privatise Telstra—or Australia Post, I might add—in the term of this government. All Democrat senators are honouring that pledge. But it is not just a mindless approach, where we all signed a bit of paper so we have to do what we said we would do; it is an approach that continues to be fully informed and enhanced by the evidence provided by people in the community, with varying ranges of expertise, through the Senate committee process. No legislation that this government puts up in this term of parliament seeking to enable the future sale of Telstra will be supported by any Democrat senator. I cannot say it any more clearly than that.

The Democrats are always prepared to explore opportunities to improve legislation.
We work hard, using the Senate committee system, to give different groups of Australians the opportunity to have input into policy. This bill, as with other bills, we did not just reject out of hand and say, ‘Forget about it and go home.’ We supported and participated in the Senate inquiry, including the public hearings, to examine what the impact would be and to look for real solutions. Sure we are opposing this legislation, but that is not all we are doing. We are also, through the committee report, through our speeches here and through ongoing public debate, putting forward our views about what needs to be done, and not just what needs to be done for the case to be made to sell Telstra—that is for the government to do and they have failed on that—but what needs to be done to improve the level of telecommunication services to the people of Australia, particularly the people in regional and rural areas.

It is clear that the level of services to the people in regional and rural areas is still not up to scratch. That is the view of the vast majority of people in those areas. It is also clear that the regulatory regime is not sufficient to enforce some of the service obligations that are required or to enforce adequate services. Whether or not you support the sale of Telstra now or in the future, those are things that should be done. The Democrats will continue to push for that. People who take the approach of equating policy with bumper stickers and sloganeering can continue to do that. We will take the approach of trying to get constructive gains for the Australian people through other mechanisms. This legislation in no way can provide gains for the Australian people through the mechanism put forward. But we are not just being negative in opposing it. We have a responsibility to do so, and we will. We are also looking to do what we can to get some gains through other mechanisms. We will continue to pressure the government to do that.

The current Senate inquiry found that competition has not developed as extensively as generally expected after full competition was introduced in 1997 and that various telecommunications markets are not yet effectively competitive. There is market failure and an imbalance in market power. In that circumstance, the last thing you want to do is fully privatise the major—near monopoly—player in that market. Australian household consumers are still paying too much for some services. There has been some improvement in that, but there is still is room to go.

Services are not equal between urban Australia and regional and rural Australia. Some would say—quite rightly—that you are never going to get total equality; you are never going to have exactly the same service in the multistorey building next to the GPO as you are going to have halfway between Birdsville and Quilpie. Rather than saying that services have to be identical, you have to bridge that gap much more. There is movement in that direction—I will acknowledge that—but the evidence from the Senate committee, and more importantly from the community, is that the gap is still too big.

Equally importantly, there is no guarantee, particularly if Telstra were to be sold, of that gap continuing to shrink. Let’s face it—the pressure to reduce those gaps has been part of this government’s push to try to justify selling Telstra. Once they have sold it, they do not need to justify it any more and the political imperative to reduce the gap, which is declining, will be much diminished. For that reason alone, there is a lot to be said for the political value of keeping Telstra in majority public ownership—to keep the political and public pressure on the government of the day to pressure Telstra, in particular, and telcos in general, to reduce that gap. The level of services will never be identical—

(Time expired)
Senator KIRK (South Australia) (10.14 a.m.)—I rise to speak on the Telstra (Transition to Full Private Ownership) Bill 2003. The Australian Constitution gives the Commonwealth parliament the power to make laws on telecommunications. Communications have always been vital to Australia, a nation whose very identity has been shaped by the tyranny of distance. For so long we saw ourselves as a colony far-flung from our cultural and colonial roots, with our own population separated by interminable distance. Of all nations it is perhaps here in Australia that telecommunications came into their own right because of their ability to bring people together from one side of the country to the other, from the remotest town in outback Australia to our biggest city and from Australia itself to the world.

I believe that it is crucial for us to keep this background in mind as we debate the Telstra (Transition to Full Private Ownership) Bill. What we are debating here today is not pure economic equation—not simply surplus minus deficit, not only profit and loss, and not only risk versus benefit. The possibilities of telecommunications to bring people together, to unite us as a nation, are increasingly threatened today in an age of fast progressing technology. When Australia was federated, it was the postal service that was crucial to keeping Australia together. Later it became the telephone, and today it is the new technologies of mobile and satellite telephones and broadband Internet connections. Telstra is a crucial part of delivering that technology to Australians to ensure that we all keep in touch, up to date and part of the public debate. It is a key element to keeping people in the loop that is the information economy.

Labor believes in public ownership of Telstra because telecommunications services are essential services. They are essential tools for people to function in today’s society. Equitable access to telecommunications helps governments to ensure that no one group is left behind, that rural Australians and low-income earners alike are kept in the loop. Unlike the coalition government, Labor’s philosophy is that the government should be able to intervene in the economy at times to ensure affordable access to such services, whether through the regulation of competition or through government ownership of utilities.

Labor are absolutely opposed to the full sale of Telstra. We believe that such an important asset should be kept in government majority ownership and control. We simply cannot risk selling off control of our telecommunications system to the highest bidder. It is not in our national interest. It seems that Liberal and Nationals party members of parliament have rolled over and voted for the full sale of Telstra against the wishes of most Australians. It seems that they have sold out their rural constituencies, in whose best interests they purport to act. It is precisely because a fully privatised Telstra and a free market would not find enough profit in the bush to provide basic telecommunications services that we must ensure that it remains in public hands. If Telstra were fully privatised, it would effectively hold a monopoly too powerful for any government to regulate. In the search for returns for its shareholders, such a corporation would have no social responsibility for providing accessible levels of service to low-income earners and regional Australians. Australians out there understand this.

In its current make-up, Telstra is already beginning to act as a fully privatised company. It exploits its competitive advantages yet ignores its responsibility to deliver services, and new and improved services, to all Australians. Australians are generally very keen to take up new technologies, yet years of cutbacks to Telstra’s staff and to invest-
ment have severely impaired Telstra’s ability to deliver these core services. The poor roll-out and take-up of broadband in comparison with other countries is one pertinent example of this. Broadband is an incredibly important advance in Internet delivery and will be an important contributor to the delivery of health, education and government services in the future. Given this, it is crucial that work is done now to ensure that this technology can be taken up by Australians. While Telstra advertises that this service is available to 70 per cent of Australians, it seems clear that the actual numbers are far lower. Things will only get worse if the sale of Telstra goes ahead.

One of my constituents wrote to me about their experiences of Telstra’s significant levels of ineffectiveness. At the time, they lived in rural South Australia, 25 kilometres from the regional centre of Port Pirie. In response to Telstra’s advertisement for broadband services on the regional television station, they attempted to have broadband connected. After much debate they were advised that it was not possible. With the Internet service provider in Port Pirie their ordinary Internet connection was not usable when more than 35 people were online. They decided to connect to another option, ISDN, which at least provides reasonable speed. To have ISDN connected, my constituents had to pay about $200 in addition to the new equipment that was required. This arrangement was the best Telstra could do, even though at the time they were advertising broadband as being available to all Australians. Later, the Telstra advertisements were changed to include provisions. While this may keep Telstra out of trouble for false advertising, Labor’s position is that this is simply not good enough. All Australians should be able to access broadband services at an affordable cost.

These same constituents later moved to the city. They purchased a home in Happy Valley, a suburb around 17 kilometres from Adelaide’s GPO. Incredibly, these same constituents found that Telstra still could not provide them with broadband. Once again they had to pay around $100 to have ISDN connected, which was a special price they were able to negotiate. Monthly costs are $42.50 for the line rental, $34.95 to connect to BigPond Internet plus 30c per hour while online. This adds up to $100 a month just for the line and Internet access and does not include the cost of telephone calls. They are unable to take advantage of better Internet deals because with ISDN lines you must use Telstra BigPond.

Telstra has simply not provided the basic infrastructure so that every Australian can have broadband. Apparently only people living within about a three-kilometre radius of each local exchange can have broadband access. Those who fall outside this area must pay the financial penalty of alternative options for fast Internet access. My constituents wrote to me. I will quote their letter at length because it is an important contribution to the debate. They said:

We tried to accept the situation in rural SA as were told by Telstra that our region would never have Broadband. But our move to the city, we thought, should have automatically allowed us to connect Broadband to our home in Happy Valley. We were told by Telstra that we are too far from the local exchange. Apparently our exchange is at Reynella, which is 6.5kms from our home. It seems Telstra have made no provision in their exchanges to allow all Adelaide people to access the new technologies as they develop. I believe Australians are going to be left behind due to Telstra’s greedy nature, the Government’s cover-ups regarding the inefficiencies (still), and Telstra knowing full well that many Australians will not speak out because they still have never used the Internet or understand anything about it. I have lived in rural SA for a total of about 20 years in three different regions which all have their own problems regarding Internet access but I never envisaged the same problems would happen when
living in suburban Adelaide. What hope have rural people got when Telstra can not even look after people in the cities? Please do not allow the Government to privatise Telstra to the point where they are completely unaccountable.

I consider the situation being faced by my constituent and in fact by the majority of Australians—by anybody who lives more than 3.5 kilometres from an ADSL equipped telephone exchange—to be completely unacceptable. This constituent’s story is just one example of how Telstra is already failing in its responsibilities to deliver key services to the majority of Australians. The government has simply failed to place any pressure on Telstra to ensure that it is acting in the public’s best interest. The story I have told today is also evidence of Telstra’s propensity for exploiting its competitive advantage by blocking improvements in services that could be provided by other market actors. A fully privatised Telstra would not extend broadband services. It would simply not be in its commercial interests to spend disproportionate amounts on certain groups of Australians in the interests of equity. This is why Labor opposes the full sale of Telstra.

The regional telecommunications inquiry—the RTI report—recommended the establishment of ‘an incentive scheme for the provision of higher bandwidth services to regional, rural and remote areas’. It also recommended that the government provide further support to communities to undertake demand aggregation strategies and other activities that would support the take-up of higher bandwidth services. The Howard government’s response has been to develop a $142.8 million national broadband strategy. I can tell senators here today that it will cost a lot more than that to ensure equitable access to broadband Internet services, and a fully privatised Telstra will certainly not ensure this.

The latest definition of ‘broadband’ from the Department of Communications, Information Technology and the Arts is one that could see people in the bush with a ‘broadband’ service that is up to 90 per cent slower than the one their city counterparts receive—and up to 35 per cent of Australians would still be unable to access it. The government’s response has been ludicrously half-hearted and appallingly negligent of the needs of Australians. Access to new technologies is crucial to Australia’s future. Broadband is crucial for Australians to be able to access one such current technology: the Internet. Perhaps it is the case that some Liberal and National Party members and senators—perhaps like the new minister for communications, Mr Williams—do not use the Internet or email at all. Their experience of the Internet could well be shaped by the fast Parliament House connection that we have the benefit of, by the research they ask their staff to do or perhaps by their children’s reporting of spam. If this is the case, they clearly do not know what the Internet is like on an average home connection, without broadband. I can tell you it is completely unacceptable.

Labor believe in a publicly owned Telstra as a core part of delivering key services to Australians. Under a Labor government, Telstra would be required to refocus on its core responsibilities of service provision and end its emphasis on foreign investment ventures and media investments—which, I might add, have been largely unsuccessful to date. In addition, under a Labor government Telstra will be asked to focus its efforts on providing affordable and accessible broadband services for all Australians, not only those who live in the inner city suburbs of our capital cities. Labor will strengthen competition in the telecommunications market and will require a strict internal separation of Telstra’s wholesale and retail activities. To ensure the ACCC’s independent and rigorous regulation
of Telstra, the minister for communications will be removed from the process. Further, Labor will ensure that consumers are protected from sharp practices by telecommunications companies and will make the price control regime fairer. Labor’s position on this bill is non-negotiable: we will not support the full sale of Telstra. I encourage my fellow senators here today, in particular the Independent senators, to not sell out equitable access to telecommunications for all Australians and to oppose this bill outright.

Senator MOORE (Queensland) (10.29 a.m.)—I rise today to have my go in the debate on the Telstra (Transition to Full Private Ownership) Bill 2003, the most recent bill in the saga of the government’s ongoing attempt to sell Telstra. The debate on this issue has been going on for many years. The original bill was introduced by the government in 1996 and had the particularly interesting title of the Telstra (Dilution of Public Ownership) Bill. That was followed by the 1998 attempt, the Telstra (Transition to Full Private Ownership) Bill 1998, and now the 2003 version represents another attempt to make a transition to full private ownership. The bills have all asked the same questions. The question in this legislation has not been, ‘Should we sell Telstra?’ but, ‘How and when should we sell Telstra?’ The bill before us today sets out in quite some detail the process for the sale and, in not actually specifying a time, provides for the timing of the sale to remain open. The government:

... will be seeking to maximise the returns from the sale—

and—

... to develop detailed arrangements for the sale... through a number of tranches, or the use of other market instruments, such as hybrid securities ...

However, as is clear in this legislation and according to the government, the minister will decide how and when Telstra will be sold.

In the process of the review of the latest legislation, members of the most recent Senate committee heard detailed evidence from the Department of Finance and Administration and a couple of merchant banks with extensive experience in overseas sales about the implementation of the sale, how that wonderful instrument called hybrid securities operates and what benefits will come as a result of full privatisation, particularly with respect to the reduction of debt. What we do not have before us is a full cost-benefit analysis. We have been promised that there will be a full scope study which will tell us the full cost-benefit details, including what will be saved, what will not be saved and so on, but that will be done only after the legislation is passed. The how and the when are based on the fact of the sale, and details of the financial impacts and of exactly who will benefit in all the openness and flexibility will be known some time soon after we do what the government wants, which is agree to the full sale of Telstra.

This process is way too familiar in the ongoing debate about this issue. In acts 1 and 2 of 1996 and the second act of 1998, the government pursued their commitment to sell Telstra and did deals with various people—and we all know the public details of the deals that were made. The legislation passed through the parliament despite the full opposition of the ALP at every stage, and everybody on this side of the house who has spoken in this debate has made that very clear. After the deals were made and after the legislation was passed, the government were in this process somehow forced to acknowledge—and I think to an extent it was to their surprise—that the decision was just not popular, as Senator Boswell said earlier in this debate. The Australian community, despite the explanations about how and when it
would be done, had not been convinced. I put it to everybody today that they remain unconvinced of why Telstra should be sold.

The government over the last seven years have been confronted by a community that want to know why. The response from the government was a core promise. It has been worded in a number of ways, but the promise made by the government to the people of Australia was, ‘We will not sell until the services to regional Australia are adequate.’ That was the core promise made before all of us. That should not be such an overchallenging or expansive goal. ‘Adequate’ is a fairly basic description and its meaning should be fairly clear to everyone. We still do not have an explanation of why, but we have a promise—a commitment—that should underpin the whole debate and provide an assurance that all of us can examine.

The government has examined the adequacy of service through at least two reviews and has allocated many millions of dollars to programs to address the service delivery problems in telecommunications. We have seen the benefit of that expenditure. There have been positive results in regional Australia: improved access to phone and mobile services and computer technology. The real value of this whole process has come through the active engagement of the community in the debate. Every time the issue of telecommunications is raised, there is a response. As a member of the Senate committee that recently conducted an inquiry on this, I was deeply impressed by the degree of knowledge and the quite detailed awareness of the system shown by so many people across the country. Telecommunications is an essential service. The real life experiences of people who rely on phones, faxes and the Internet for their livelihood, their education and, in many cases, their safety give us an opportunity to see analysis of the commitment to the adequacy of the service.

In its 2003 inquiry, the committee visited only one centre in my home state of Queensland—Nambour in the Sunshine Coast region—but we heard evidence from across the state. The final assessment of that evidence was that Telstra’s services were not at this time adequate. While acknowledging that Queensland is a large and decentralised state—and I note that Senator Harris will be speaking in the debate soon—with particular geographic challenges, and noting that there have been improvements in services, the overwhelming response from Queenslanders, when asked about this matter, was that they had not been convinced of the reasons for the sale, had significant and documented issues with current levels of service, did not assess the current performance as adequate, had concerns about the future services and did not support the full sale, regardless of the description of the process in the current legislation as open and flexible.

Local surveys sponsored by some parliamentarians and political parties reflect strong opposition to the sale. While the figures do not reflect the reasons for the rejection—and no survey figures do—they do send a clear message to all of us. In terms of personal assessments of the adequacy of service, I have been contacted by local businesspeople—not people who necessarily live a long way out in the bush but people who live within 50 kilometres of the centre of Brisbane—who cannot run their businesses because they cannot get access to effective broadband services. They do not understand why. They have tried to communicate with Telstra. They have spoken with them and they have found out that they cannot get the service. Indeed, one of the most ironic things about this whole debate is that these people have found out that they are yet another group of victims of the now quite notorious pair gains system.
Senator Lundy has made this situation quite public. As a result of the Senate estimates process, the issue of pair gains and RIM technologies—things that some of us did not know much about until we went through the estimates process—is now quite public. The members of the community who are victims of these inadequacies of service can now understand why. They may not immediately be able to get the fast Internet services that they need to run their businesses and that they have been promised in quite extensive advertising campaigns, but they know the debate. When they are engaging with the various people—and one of the issues is that it is always 'various people' within Telstra—they are able to debate and understand the reasons. In some ways that is a result of the whole process of the sale: again, the engagement of the community.

However, in the current debate about the full privatisation of Telstra, one of the specific issues is that a new private company would not be subject to the Senate estimates process. I fully believe that attending estimates is exciting for all of us and that people look forward to the opportunity to come to Senate estimates and exchange detailed information about how the process is working and how the business is developing. We have seen quite extensive debates about the performance of Telstra at a number of Senate inquiries. However, should the full sale go forward with the passage of this bill, that stimulation and that public exchange will no longer be part of the record, so we will not be able to find out through that process exactly how adequate services are.

In the process of looking into the circumstances of people living in regional Queensland—once again, through the process of the Senate inquiry dealing with how people were assessing the services themselves in relation to the core promise of the government—we heard of a family living 28 kilometres outside Mount Isa. Now we are moving into regional and far west Queensland. This family, like many of us, require access to the Internet and phone services to maintain their business; to allow their kids to study, because their kids use the distance education process of the Queensland government; and also to link to the wider networks that we have talked about. There have been many stories in this debate about how various e-services of the world are now accepted by most people. This family cannot access those things.

They only live 28 kilometres outside the quite significant centre of Mount Isa. However, where they live is not in the special area. They live in the 'standard zone'—another definition that was made clear through the Senate estimates process. Because they live in the standard zone they are not able to access the special subsidies that allow people to have, at considerably reduced cost, the available satellite services. The satellite services do work for people who live in particular areas, but if you do not live in a particular area you do not get the subsidy and, flatly, the families to whom I was speaking cannot afford the technology without the subsidy. They have communicated with Telstra as well. They also communicated with Alan Jones. Unfortunately, this time a direct communication with Alan Jones did not result in a direct response from the government. It is a shame that that did not happen this time, but at least someone living in the centre of Sydney could hear about the problems people who live in the bush have in accessing basic Internet services.

One of the Queensland state members, Paul Lucas, gave evidence at the Nambour hearing. He relayed stories of people from across Queensland who engaged with him when he was talking with them specifically about telecommunications. Amongst the
range of issues—Internet access, lack of mobile coverage, and real worry not just about services now but about what will happen in the future, because, like most people, people who live in regional Queensland worry about the future—there was a common claim that people across Queensland wanted services just like everyone else. It was nothing too great and it was nothing extraordinary; they wanted services just like everyone else.

We heard from the coordinator of St Luke’s Nursing Service, who was concerned about their coverage area outside Roma. They have nurses on the road covering quite a large area—an area as big as Victoria—who cannot get mobile service on the highway, so they do not know if their nurses are able to get to and from locations quickly or if they have had a breakdown. That is something that we take for granted, but still in significant areas of regional Queensland you cannot get effective mobile coverage for the whole trip. Sometimes it is even more frustrating: you can get it for some of the trip and then it drops out. So there is an even greater concern. We are not just talking about the Flinders Highway now, which is in the far west; we are talking about key elements of the Pacific Highway between Brisbane and Maryborough, where you would think that you would be able to rely on your mobile phone. You cannot. Whilst the government say—and we acknowledge—that there have been considerable improvements, the service is as yet not adequate for the people who are using it.

We could go on for days with stories about the service delivery aspects of Telstra. It is something that we have heard about from a number of speakers. What I am interested in is how many stories must be heard before the assessment is made that services are not adequate. It is interesting to hear how many stories government speakers are telling us about where services are adequate. It would seem to me that, in an assessment of adequacy—if that is what the core promise is about with the sale of Telstra—we should be able to come up with an agreement. As long as there are community members who are not receiving their entitlement to telecommunications services, the services are not adequate.

Through two partial sales of Telstra the same issues have been raised. The government has responded with targeted assistance and in many cases it has worked. We acknowledge that. It came out through the Senate inquiries that people were very pleased with the responses that have been received so far but they are afraid. In fact, that came out a lot: absolute fear about the future, fear about whether there would continue to be the interest in people’s adequacy of service should the stimulant of an intent to sell be taken away. The much-vaunted future proofing in this bill did not allay those fears. When we talked with people across the country the promises of future proofing were made clear to them by members of the committee. It did not wash. The people who were raising concerns were not convinced by the future proofing in this legislation.

Another group of people who have consistently raised concerns about any sale of Telstra have been the workers in the organisation and, even more particularly over the last seven years, the workers who used to work in the organisation. When we moved around the country and were introduced to a number of people from the new Telstra Country Wide, and we saw the large billboards proclaiming the better service and ‘your local people working for you from Telstra’, it crossed my mind that perhaps we could have matching billboards about ‘these are the people who used to work for you in this community for Telstra’ and list the names. In some cases the giant billboards would not have enough room on them for all the names.
We have heard a great amount about the people who work in the organisation and about the large number of job losses. The committee report seemed to dismiss those concerns about the network as exaggerated or coming from some form of self-interest. In terms of the process, the people who work in the area know how the system operates, and there have been thousands of jobs lost all across Queensland. In every community where Telstra has some form of base there are a large number of ex-workers.

When we talked particularly about the provisions of this legislation, we found that key aspects of coverage of entitlements had been removed specifically from the workers—particularly entitlements to do with maternity leave, which was raised by the CPSU in their evidence to the committee. We asked Telstra about that. We asked for some guarantee. We were verbally assured that the workers’ rights would be maintained. Once again, I put it to the Senate that this is not adequate. It is not an adequate response to the concerns raised about what would happen within this process.

The debate will continue and we know that there will be attempts to make deals. It does not matter how much rhetoric is put up. It does not matter how many stories are put up. If there is a deal to be made to push the legislation through, it will happen. We say that surely this is an opportunity to stop such deals. Surely the evidence from the community, which has pointed out that they do not want Telstra sold, should be enough for any representatives to say, ‘Hey, this may not be such a good idea.’ In terms of the process, we do not think the core promise has been met. I would like to quote from a person who did not really want to come and give evidence to the committee—it was the first time she had done so—a lady from Noosaville who came to see us at the Nambour inquiry. When she gave her evidence to the committee we asked her how she felt about the sale. She said, ‘I’m a shareholder, but first I am a concerned Aussie. Please keep for our future generations the remaining 51 per cent of Telstra.’ Her evidence, along with the rest of the evidence we heard, indicates that this sale should not be on.

Senator HARRIS (Queensland)  (10.49 a.m.)—I rise to speak on the Telstra (Transition to Full Private Ownership) Bill 2003. The Liberal and National parties are critically out of touch with voters over the sale of Telstra. As the government, they are the custodians of the people’s asset, yet all we get from them is plundering of the public purse. I have just returned from a comprehensive tour of rural Queensland, and voters are saying that they do not want Telstra completely privatised. The number of people who are opposing the full privatisation has grown in the last 12 months. The resounding ‘No’ has increased from 75 per cent to 92 per cent in some areas. The majority of voters cite national security as one of the main reasons for opposing the full privatisation of Telstra. I would like the Prime Minister to listen to what people are saying.

At a meeting we held in Charters Towers last Thursday people were asked, as part of a survey: ‘Would you support the government selling its remaining stake in Telstra if the sale were accompanied by strictly enforceable laws to prevent overseas ownership, legal arrangements to ensure that Telstra Country Wide’s role in regional Australia is maintained, strict regulations to ensure service levels in Australia were either maintained or improved and regulations to ensure equity is maintained between regional and metropolitan areas?’ These were the answers: ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘Yes.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘Yes.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ ‘No.’ How much clearer to
the government can the message be? This is
the people from Charters Towers clearly
conveying their views to the government.

Constituents believe that it is not in Aus-
tralia’s best interests to have private compa-
nies totally controlling our telecommunica-
tions network. My decision to oppose this
bill is based 100 per cent on the response of
the Queensland people. One Nation’s posi-
tion on all legislation is to represent the will
of the people. The voters do not want Telstra
privatised, so I will vote against the bill.
Once the Commonwealth’s holding falls be-
low 15 per cent, then the government can no
longer impose reporting and other special
regulatory measures on Telstra.

Chief Executive Officer Ziggy Swit-
kowski has predicted that Telstra will be
fully privatised within five years. The full
privatisation of Telstra carries many risks for
Australia, including the scaling back of ser-
vices in rural and regional areas, the removal
of price caps for rural services, timed local
calls, ordinary customers subsidising Tel-
stra’s corporate clients, inadequate funding
of public telephone facilities, profits and as-
sets sent offshore to tax havens such as Ber-
muda, further job shedding and rising prices,
which will affect us all and, most specifi-
cally, people on low incomes who might
have to pay more for what is essentially a
public service. The department of communi-
cations, DCITA, its general council, its law
team, its legal consultants and the Australian
Government Solicitor will no longer be able
to compete and enforce regulations because
Telstra is reported to have 250 in-house law-
yers and it has also retained 45 of the top 50
law firms in Australia on retainers. Telstra’s
ability and its legal advice to get around any
regulations that the government puts forward
are profound.

Furthermore, Telstra’s performance and
any corporate misconduct will be automati-
cally precluded from scrutiny by the parlia-
ment, including scrutiny by the Senate com-
mittee process. The proceeds from the sale
will go into consolidated revenue in the year
in which they are received. The govern-
ment’s intention is to sell Telstra in three
equal tranches, beginning in 2005-06. This
will bring around $11 billion in each fiscal
year. The government has stated that it is
committed to using the proceeds of the Tel-
stra sale to retire debt. There will be no so-
cial bonuses and there will be no huge fund-
ing bags for the environment. The next time
that the government needs to retire debt or
needs to call on an emergency reserve for
funds, there will be fewer assets available to
sell, certainly none worth as much as Telstra.

The tools for managing public debt have
therefore diminished. The one tool that re-
 mains—running a balanced budget—will
have to be constantly monitored. The sale of
Telstra will not create wealth. The benefici-
aries of the sale will not be the public but the
big end of town—the likes of ABN AMRO,
Rothschild, Credit Suisse First Boston and
JB Were and Son. The various brokers who
received hundreds of millions of dollars in
commissions and fees over the sale of T1 and
T2 are the ones who will benefit from full
privatisation of Telstra.

I raise another important issue about the
sale of Telstra and its possible relationship
with superannuation. The government needs
to answer some questions about superannua-
tion. Will any of the money from the sale of
Telstra be used to offset the $89 billion li-
bility that exists with respect to superannua-
tion for government employees? At present,
the liabilities are paid each year out of con-
solidated revenue, but how that will impact
upon the budgets over the coming decades is
great concern. What expenses will have to
be reduced or eliminated, or what taxes will
have to be increased or introduced to ensure
that those superannuation liabilities are met?
There certainly will not be any assets left to draw upon.

During my recent tour of rural Queensland, voters indicated that their satisfaction with Telstra customer services had increased from 52 per cent to 82 per cent. But despite that rise in satisfaction of service, voters still do not want the carrier sold. I would point out that partial privatisation has not necessarily resulted in better services for customers. According to the Australian Communications Authority’s quarterly Telecommunication performance monitoring bulletin released in June this year, Telstra’s fault repair performance declined significantly in the March 2003 quarter, particularly in urban areas:

In urban areas, fault repair performance by Telstra fell by seven percentage points to 82 per cent compared to December 2002 and two percentage points compared to the same time last year. Performance in all states and territories declined with the biggest falls recorded in Queensland and Tasmania.

There is also concern over the fact that there are outstanding issues to be resolved regarding the casualties of Telstra. There is a cloud over Telstra’s sale because, once privatised, it would be exempt from the Freedom of Information Act. Telstra has provided certain information under the Freedom of Information Act which clearly shows that businesses have suffered financial losses as a result of technical failures of Telstra’s equipment. Rather than selling off a profitable public asset, the Liberal-National coalition should be pushing Telstra to resolve the hardships that some businesses have suffered as a result of past equipment failures. Without access to documentation, how will the average Australian be able to support future claims against Telstra if it is privatised?

I turn to the international push to privatise telecommunication networks. Let me be very clear about the origin of the government’s telecommunication privatisation policies. They are coming directly from the WTO agreement on basic telecommunication services. Australia became party to this agreement, which promotes liberalisation, in February 1997. Furthermore, the WTO’s GATS treaty contains sectoral annexes that set out rules for particular sectors such as telecommunications and financial services. If these liberalisation proposals are achieved, we could reach a point where there are only four or five telco giants left in the world.

As well, we have problems regarding cheap labour being imported to work in our telco sector. We recently witnessed reports that Telstra imported Indian IT contractors to work in Australia. This process is facilitated by the natural persons clauses of the GATS agreement. Let me quote from Emma Connors’s article in yesterday’s Financial Review:

About 1500 jobs will move to India under a radical Telstra plan to scale down key technology operations in Australia in favour of sending more work to overseas outsourcers.

This is what happens when you start the privatisation process. Workers—both contractors and full-time employees—are literally waiting for the axe to fall. This is the horrible future of a completely privatised Telstra: more jobs offshore and foreign workers brought in to undercut Australian wages. Furthermore, there is evidence that outsourcing is not working. In yesterday’s Australian, there is a report by Selina Mitchell which reveals security breaches in key federal government departments, including Prime Minister and Cabinet. In one incident, email back-up tapes for departments, stored in a wheelie bin by Telstra, were accidentally thrown in the rubbish. The tapes contained information with a protected classification and they have not been recovered.

Let me be very specific about job losses and privatisation. Telstra’s privatisation has
occurred in two stages to date, in November 1997 and in September 1999. Just before privatisation, Telstra had 76,522 domestic full-time staff. Today, Telstra’s annual report indicates that the domestic full-time staff number is 37,169. This is a net job loss of nearly 40,000 since Telstra was first put on the market. Telstra now uses a greater proportion of outside contractors to do its work. The job shedding gets staff numbers off its books and that pleases the financial markets. As a result, more and more of the work is being done on a casual or contract basis. That adds up to increased insecurity for those employed in the industry. Increasingly, job security is not a simple entitlement but a condition wholly dependent on company performance and productivity.

While the cost cutting is being undertaken in the name of greater efficiency, there is little sign that any gains from these measures are being passed on to consumers in the form of lower service charges; rather they are being used to underpin returns to shareholders. Under the economic value added (EVA) approach to decision making, now adopted by Telstra, all investments are to be weighed in terms of their ability to produce gains in shareholder value. Consider this quote by Telstra spokesperson Maria Simpson:

Our obligation under law is to provide the best service we can so we deliver the best value to our shareholders.

Such criteria may not produce socially optimum outcomes. A telecommunications company operating in a mature market typically derives some 80 per cent of profits from the top 20 per cent of its customers. Where shareholder value dictates investment choice, this top 20 per cent is likely to be the chief beneficiary of infrastructure modernisation and service innovation.

I want to take note of Labor’s policy on Telstra and remind the Australian public that the ALP’s opposition to the Telstra sale is nothing more than a vote-buying ploy. Labor governments opened the door for its sale by ending Telstra’s telecommunications monopoly and restructuring the corporation. Let us not forget Labor had a secret plan to privatise Telstra. The Macquarie Bank publication Telco Weekly of 8 September 2002 reported that Labor were actively considering moves to break up and sell off the company. The Macquarie report states:

The ALP is considering such a break-up for Telstra. Our discussions with senior members of the Opposition has indicated that a split between Telstra’s network and its retail businesses is an option being considered by the ALP. It has been mooted that the Government could 100% own the network business. The retail business could then be either fully or partially privatised.

The report also notes:

... such an idea was discussed by the previous ALP Government when Paul Keating was Prime Minister.

I have no doubt that Labor want the Telstra money for their own purposes and will vote no to the sale until they win government, then direct the funds in support of their party’s policies. The people are not fools.

The attraction to sell Telstra might be a reduction in public sector debt, but ultimately the public pays higher prices for privatised services and the country loses huge amounts of long-term revenue. If Telstra is fully privatised, we will witness more jobs being squeezed out so that profits can be increased. The bottom line of this government is economic efficiency. Although some publicly owned entities may operate below optimum efficiency, Telstra is not one of them. A government stake in Telstra offers job security on a wide scale, particularly in times of crisis. If thousands of people have to fear for their jobs and their future, then privatisation has become a mad political race.
The government is the custodian of the people’s assets. Before any of Telstra was sold, all of Australia’s 20 million people had shares in the company. Every year Telstra paid a dividend to the Australian government, and that money could be spent on hospitals, schools and the environment. If all of Telstra is sold off, that money will go into the pockets of private investors, the dividends will be transferred from the many to the few and the wealth will be shifted from all Australians to some Australians. A lot of that wealth will never be reinvested or spent in Australia, because it will go overseas to foreign shareholders and offshore tax havens.

I said at the outset that people do not want Telstra to be sold. I have outlined a number of significant reasons why One Nation opposes this bill. None of the reasons provided to us to date by the government justify the sale of Telstra; they do not justify selling the people’s property against their will.

Senator SANDY MACDONALD (New South Wales) (11.08 a.m.)—I normally try not to be distracted by Senate contributors who are just plain wrong, but Senator Harris’s monologue baits me. Pauline Hanson’s last remaining representative in the Australian parliament exhibits the most bizarre collection of weird conspiracy theories now applied to Telstra. Senator Harris appears, as I am sure most senators would agree, to have one speech, and he just fills in the gaps with the appropriate topic of the debate—in this case, it is Telstra. So I suggest, Senator Harris, that you look for a new speechwriter.

I speak today to support the passage of the Telstra (Transition to Full Private Ownership) Bill 2003 and, for the record, I declare that I am a Telstra shareholder. There has been an enormous debate, much of it dishonest, vexatious and politically opportunistic, about the further sale of Telstra, but I believe that selling the remainder of Telstra is the right thing for the government to do, the right thing for communities in regional and metropolitan Australia, good public policy and good for Australia. Telecommunications, in which Telstra still is the major player, is no longer a natural monopoly. Natural monopolies need to be protected by governments for obvious public benefits. When we came to office there were fewer than five telecommunications carriers; there are now more than 80, most of them operating in regional Australia. The marketplace is driven now by competition, which brings its own disciplines of service, and by a very concerned and informed government commitment to regulation.

When I was a child we had a party line, and when it broke down it took the old PMG probably three weeks to fix it. Those who argue that public ownership means that there is full service, good service or proper service are completely dishonest. It never meant that; it never will. One of the greatest shibboleths about public ownership is that it provides good service. It did not, it does not and it never will. I recall a story by my late uncle who lived in the western part of New South Wales. He had a party line that ran about 20 kilometres down the river. He got the PMG out to fix it. They attached the party line to the electric fence and, when he was trying to ring a person, this man refused to answer the phone. Finally he got on to him and said, ‘Why aren’t you answering the phone?’ This man said, ‘No bloody way. Every time I pick up the phone I get an electric shock.’ So service was something that the old PMG, for all its goodwill, was not able to provide, and that was fully owned by the government.

Telstra employees themselves on the technical and service levels acknowledge that the workplace arrangements in the past were a joke. They have improved markedly over the past few years, but they have improved through the pressure of competition and our
government imposing and insisting on high standards of service. The most important issue with regard to Telstra is not about ownership. It is about regulation, which is required by our government. At the moment, Telstra is regulated to within an inch of its life. Under a coalition government it will continue to be regulated to within an inch of its life, regardless of ownership. I do not think there is a telco in the world that has such a strict and high level of service regulation imposed on it. Services will have to continue at an appropriate standard in rural and regional areas because the coalition government will ensure that it happens. Further technological advances will also continue to be rolled out by Telstra in rural and regional areas, again because the coalition government will ensure that it happens.

Because of the coalition’s undertaking, which is the beefed up universal service obligation and the customer service guarantee, Telstra cannot abandon services in rural and regional Australia. If it did, it would lose its licence to operate. Future-proofing regulations will ensure that guarantees are put in place for years to come and will make sure that Telstra Country Wide, something of which Telstra can be justifiably proud, is retained and that there will be regular independent reviews of telecommunications standards, with an obligation on the government of the day to respond.

Nobody can reasonably argue that telecommunications have not been improved vastly since the coalition came to government in 1996. Mobile phone coverage has increased greatly. Internet access has improved, with more and more rural residents going online, call costs have been decreased for rural communities and a decreasing number of faults are now being repaired faster than ever. A report by the Australian Competition and Consumer Commission which was tabled in the parliament this year found that, in general, phone call costs dropped by 21 per cent between 1997-98 and 2001-02. Specifically, fixed phone to mobile call costs have fallen on average by 21 per cent, mobile calls have decreased by 23 per cent, long-distance calls have dropped by 28 per cent and local call costs have fallen by 35 per cent. These figures have come since competition was introduced to the telecommunications market by the coalition in 1997, indicating that it is competition, not government ownership, that drives improvements in telecommunications prices for consumers.

In my region of New England and north-western New South Wales, there have been tremendous improvements to telecommunications infrastructure and services, particularly since the creation of Telstra Country Wide. The Networking the Nation program was established in 1997 after the coalition came to government, and it has provided $250 million in improvements to telecommunications. These improvements have included the establishment of rural transaction centres, bringing Internet access, access to Medicare Easyclaim facilities and greater contact with larger centres for smaller and remote communities in New South Wales.

The Networking the Nation program has also allowed a massive roll-out of mobile telephone towers across the regions of Australia. Australia’s National Highway, which includes the New England Highway, has almost continuous mobile coverage between Albury and Brisbane. An additional 28 new CDMA towers have been constructed throughout New England and the north-west of New South Wales in the past 18 months because of a doubling in mobile phone use in the past year. An extra 11 towers are also on the drawing board for the next 12 months. Internet access has improved greatly. More and more people are connecting to the Internet at the cost of a local call. Telstra Country Wide has ensured that ADSL and broadband
capabilities are rolled out right across the region, with more to be done. Telstra has now set up the ADSL demand register, where those customers interested in accessing ADSL are able to register their interest. When there is sufficient interest from each local exchange not currently providing ADSL, those exchanges will be confirmed as priority areas to have ADSL installed. This is one example of how Telstra Country Wide is continuing to expand and roll out telecommunications services to rural and remote Australia.

The New England area has also benefited from the funding of a number of smaller projects throughout the region through the Networking the Nation program. The Northern Inland Online project, which was set up so that communities would have access to local call Internet access, was awarded $726,000 through the Networking the Nation program. Another $200,000 was granted to establish Internet public access points in communities across the region. The coalition government has also made a commitment to provide $5.5 million to connect a number of major health and tertiary education facilities by broadband, allowing access to a greater range of specialist medical and teaching services through videoconferencing. All these things are very important to people who live in regional areas. They are not initiatives that were provided by previous Labor governments, nor would they be. But they are provided by a company that is intensely regulated by this federal coalition government.

These initiatives will bring great benefits to the communities of northern New South Wales. They have been mirrored right across Australia and have been funded through the proceeds of Telstra 1 and Telstra 2, as have the changes like the local call rates for people who live in extended pastoral zones. The introduction of the CDMA network, subsidies for satellite phone handsets and a whole range of things have been provided by a government committed to providing good services to people who live in regional areas—the list goes on—not to mention the big picture items like the Natural Heritage Trust funding and the benefits of lower interest rates as government debt has been reduced.

Earlier this year, the coalition government announced its response to the Estens Regional Telecommunications Inquiry. There were 39 recommendations of this inquiry, all of which the government has accepted. An initial investment will be made of $181 million to address these recommendations to ensure all Australians have access to adequate telecommunications services and to enhance existing services. More than $140 million will be spent on developing a national broadband strategy with the aim of providing affordable broadband services to regional Australia. The satellite handset subsidy will be extended with an additional $4 million and another $10 million over four years provided for information technology training and support services. A special task force has been set up chaired by The Nationals’ member for Hinkler, Paul Neville.

**Senator McGauran**—A good man.

**Senator SANDY MACDONALD**—As Senator McGauran said, a good man. He is somebody with probably more telecommunications knowledge than almost anybody else in the parliament. He will monitor the implementations of the Estens recommendations and report back to the government periodically. The coalition government has also set up future-proofing provisions, which ensure that people in rural and regional areas continue to share equitably in the benefits of advances in technology. Under this future-proofing measure, the government will impose a licence condition on Telstra where the telco will be required to maintain a local and regional presence.
There will also be a further review of regional telecommunications services and, whilst The Nationals remain a part of a coalition government, rural and regional telecommunications access will be a priority for us—everybody on this side. If you look at the telecommunications changes since 1996, I do not think that there is any way people can say our services have not improved, our access has not improved and our costs have not been reduced. Let us not be fooled: Labor would sell Telstra at the first opportunity. They have done so with the Commonwealth Bank and Qantas, but they did not provide any future guarantees for our country communities. The Nationals in government, however, have ensured that such guarantees are in place. Selling off the remainder of Telstra will also allow the coalition government to pay off additional debt left by Labor, which will help keep interest rates low for all Australians—home buyers, small business, farmers and the rest of the community. The government also sees the need to sell Telstra to remove the conflict of interest that currently exists with the government as the regulatory authority and the remaining 90-odd telecommunications companies regulated by a part owner of the major player.

There is nothing more important to rural and regional Australia than up-to-date, reliable and affordable telecommunications. The Nationals are committed to providing this. It is about the only thing on which we agree with our political opponents. They may agree with affordable and up-to-date telecommunications, but they did absolutely nothing about it when they were in government—absolutely nothing. Why? Because they did not come from regional Australia. I have never heard such a collection of fabricated and staid speeches that came out of central casting as we have heard from our Labor opponents over the last couple of days. One person has written the speeches. I have never heard speeches with less heart in them. Why? Because their confidential polling tells them this is a dead-ender. They can argue it, but their hearts are not in it.

I would like to point out that it has been The Nationals’ policy all along, and continues to be, that we will not approve any further sale of Telstra until telecommunications standards in rural and regional Australia are up to scratch. This has not changed. I would like to quote the minister’s second reading speech where he said:

While the Government is moving to establish the legislation immediately, it has undertaken not to proceed with any further sale of Telstra until it is fully satisfied that arrangements are in place to deliver adequate telecommunications services to all Australians, including maintaining the improvements to existing services.

In fact, at the federal conference of The Nationals early this month, the party reaffirmed its position that there would be no further sell-off of Telstra until these conditions were met. The Nationals will also continue to fight for a fair whack of the proceeds of any sale of Telstra to be spent on improving infrastructure in rural and regional Australia.

What we have already done is respond to both the Besley and Estens inquiries with the biggest telecommunication packages in Australian history, from which rural and regional areas will benefit. We will wait to see the benefits flow and then decide when the remainder of Telstra should be sold. The Telstra (Transition to Full Private Ownership) Bill 2003 will put the government in the position to sell at a time when the Estens requirements have been met and the price is judged to be proper for our government, which remains determined to reduce debt that we inherited from the profligate people on the other side.

We have heard a lot of Labor senators speak against this legislation but, as I said, I have never heard a progression of speakers
who had less heart in the task that they were asked to argue. The electorate knew in the 1996 election, the 1998 election and the 2001 election what our plans for Telstra are. They are to improve services and to provide better service and coverage. That can never be provided and never has been provided by government ownership in the past.

Senator HARRADINE (Tasmania) (11.24 a.m.)—I will not take my full speaking time—we have been off with the birds and the bees and the bogong moths earlier this morning—but I do want to contribute to the debate on the Telstra (Transition to Full Private Ownership) Bill 2003. Earlier in this second reading debate—which has been very interesting, I might say—Senator Mackay said that the agreement I reached with the government on the partial sale of Telstra had somehow been a failure. That, of course, is patently not the case. I am particularly surprised—and, in fact, somewhat disappointed—that a Tasmanian senator should make such comments, but it does give me the opportunity to state on the record some of the benefits to Tasmania of the partial sales of Telstra.

On the question of employment, I should remind the Senate that the biggest impact on employment in Telstra was the move for deregulation of the telecommunications industry which was brought about by the previous Labor government. It was not the partial privatisation of Telstra. Deregulation led to a fall in the actual number of Telstra jobs, more so on the mainland than in Tasmania. As a result of the negotiations with me, additional amounts of over $350 million were allocated to the benefit of Tasmania. This was titled the ‘Telstra social bonus’. I think that this is a significant counter to claims that the Senate is no longer a states house. This funding has been allocated to a variety of projects and programs, such as the Intelligent Island Board projects, the Natural Heritage Trust, Connecting Tasmanian Schools, Building Additional Rural Networks, Trials of Innovative Government Electronic Regional Services and online access centres.

I think it is useful to consider some examples of how these funds have translated into benefits for all Tasmanians. Online access centres in Tasmania, funded and kick-started through the Networking the Nation program, have been an extraordinary success. They have provided Internet access and other services to all Tasmanians—not just those who can afford a computer or to pay for monthly access charges. These centres have become focal points for the communities concerned.

I will list some of them. There are over 60 online access centres throughout Tasmania now, and you will find them in Bagdad, Beaconsfield, Bicheno, Bothwell, Bracknell, Bridgewater-Brighton, Bridport,Bruny Island, Burnie, Campbell Town, Colebrook, Deloraine, Derby, Derwent Valley, Devonport—I went to their party a couple of months ago—Dover, Edith Creek, Exeter, Fingal, Flinders Island, Forth Valley, Geeveston, George Town, Glenora, Huonville, King Island, Kingston, Latrobe, Launceston, Lilydale, Longford, Margate, Maydena, Meander, Mole Creek, New Norfolk, Oatlands, Ouse, Penguin, Poatina, Queenstown, Ravenswood, Redpa-Marrawah, Richmond, Ridgley, Ringarooma, Rosebery, Scottsdale, Sheffield, Smithton, Sorell, Spring Bay, St Helens, St Marys, Strahan, Swansea, Tasman, Triabunna, Tullah, Ulverstone, Wilmot, Winnaleah, Woodbridge, Wynyard, Yolla and Zeehan.

People who live in these areas are making good use of these centres. In fact, I challenge Senator Mackay to get any member of the Tasmanian Labor cabinet to say that the deal that I did has not benefited Tasmania. For example, the Tasmanian Minister for Education, Ms Paula Wriedt, launched a report ear-
lier this year on the success of the first five years of online access centres. Ms Wriedt says that the centres play an important part in local communities and that:

... the network has made significant progress in addressing the digital divide. Over 51,000 Tasmanians have registered to use an Online Access Centre representing over 13 per cent of the population living in rural and regional Tasmania. Of these, 31,500 are regular patrons.

The Casting the net: five years of Tasmanian communities online report goes into detail on the success of the program, which, as I said, was kick-started by the Networking the Nation funds.

Natural Heritage Trust funds have also been greatly beneficial to Tasmanians, with $150 million allocated to Tasmania. In 1997 the Australian government agreed with me during negotiations that Tasmania had played a disproportionate role in protecting and repairing some of Australia’s most outstanding natural heritage. In recognition of this important role, it granted Tasmania 10 per cent—or $150 million—of the first phase of the Natural Heritage Trust. There are some substantial statewide projects funded by the NHT such as the Galaxias Recovery Plan to improve the numbers of five threatened species of native fish. These fish are found only in Tasmania. They are the Pedder, Clarence, Swan, saddled and swamp galaxias. The Inland Fisheries Service has worked to help the recovery of the numbers of the galaxias fish, which are competing with trout, redfin and other introduced species.

Other large projects include building the numbers of the endangered orange-bellied parrot, which breeds in the area between Macquarie Harbour and Louisa Bay in the south-west and migrates through the west coast area twice a year. But there are also many small projects which have had a real impact on the lives of everyday Tasmanians. They address recreational needs as well as environmental needs. For example, on the west coast of Tasmania, one community project has received over $40,000 to improve recreational access to the Trial Harbour foreshore. The popularity of the area meant that access tracks had become rutted while dunes, Aboriginal heritage sites and the flora were damaged. The project has established proper graded tracks, improved camping facilities and repaired the damage of previous years.

Through the Coasts and Clean Seas Program of the Natural Heritage Trust, a wastewater management project has been funded at the Taylor Brothers slipyard at Battery Point in Hobart. This is estimated to prevent 100 tonnes of contaminated wastewater from entering the Derwent River each year, improving the environmental, recreational and other benefits of the Derwent River. Such projects mean that not only is Tasmania’s natural environment benefiting but also Tasmanians are benefitting financially through the jobs generated by this money and the extra spending in the state.

To get an idea of the impact of the Natural Heritage Trust across Tasmania, I looked at the 2001-02 Tasmanian annual report of the NHT. The number of people reported to be actively involved in NHT projects in Tasmania was over 42,000. Although this figure includes some duplication, it indicates the extraordinary impact of this money on the daily lives of Tasmanians. The total area of native vegetation works is over 42,000 hectares. The area of erosion stabilised is over 17,000 hectares. The length of protective fencing installed is over 1,700 kilometres. There were over 224,000 indigenous plant species established. Over 260 kilometres of waterways have been protected. Almost 10,000 people participated in training courses.

Visitor centres have been established and improved with the help of the Natural Heri-
tage Trust money in Stanley, Tasman Peninsula, Mount Field National Park, Hastings Caves and Thermal Springs, and Freycinet National Park. This includes establishing and improving the walking tracks associated with these centres. Locals and visitors are possibly unaware of the source of this money. Obviously, there are others who are unaware of the source.

To look at another aspect of funds going to Tasmania from the social bonus, the Business Development Fund provides $5 million of competitive grants to boost innovative broadband business opportunities. This fund is administered by the TECC, a centre of information and communications technology expertise based in Launceston. The fund has proved a very important source of funding for promoting electronic commerce and the information and communications technology industry.

The Intelligent Island Board, of which I am a member, is administering $40 million of funds from the social bonus. That money is going to a number of very worthwhile projects, including the Enterprise Development Initiative to encourage collaborative industry partnerships, to further product development or the development of a competitive edge in the ICT sector; funding for the Tasmanian government’s Commercialisation Ready Program for up to 60 information and communications technology businesses during this financial year; and establishing a centre of excellence in bioinformatics. I could spend hours detailing all the benefits which the funds from the partial sale of Telstra have brought to Tasmania. Here I must acknowledge the work that was done by the previous communications minister, Minister Alston, and also by the Leader of the Government in the Senate in the environmental area.

All the money was the result of the partial sale of Telstra. It is one thing leveraging money from the sale of a minority stake of Telstra; it is quite another thing to go the next step and to sell a majority of the company so that the government no longer holds a guaranteed controlling stake. Telstra controls the majority of telecommunications infrastructure—and I emphasise ‘infrastructure’—in Australia. I have not seen anything that would convince me that it is a good idea to hand over this basic infrastructure to a private company. I am of the opinion that it is the proper role of government to provide major public infrastructure for the benefit of the general community.

A significant difficulty I have with the proposal to sell the remainder of Telstra is the number of complaints I receive from Tasmanians about their Telstra service. A large number of these complaints are about Internet speed and pair gain issues. I have raised many of these cases with senior Telstra management, but without satisfactory response. I raised a number of the issues on behalf of constituents some months ago and these issues are still outstanding. If I cannot get a response from a government owned company, and its response rate in Senate estimates is too slow, what hope do my constituents and I have of expecting a response from a company which is not accountable to the government? If I cannot get a response from a company that is, presumably, out to impress, to boost its chance of privatisation, what hope do my constituents and I have of receiving a satisfactory response from a privatised Telstra focused on satisfying its shareholders?

The central point in our consideration of this issue is how the sale would affect Australians. Is it in their best interests? That is not just how it would affect Telstra’s commercial performance, the share price or myriad other considerations. I acknowledge the value of retiring debt and the protection of low interest rates are in the public interest,
but these other considerations need to be put into the balance very definitely by the government. In order to sell the remainder of Telstra, I would need to be convinced that handing over vital telecommunications infrastructure would be of benefit to all Australians. I would need to be convinced that service levels and the quality of infrastructure would improve. I would need to be convinced that government regulatory regimes to oversee Telstra would be equal in power to one of the largest companies in Australia. Unfortunately, I am not so convinced.

Senator Ludwig (Queensland) (11.43 a.m.)—I rise to speak on the Telstra (Transition to Full Private Ownership) Bill 2003. I note that Senator Harradine said that his contribution was going to be short. However, the matters he raised were relevant and needed to be raised, so I do not take issue with his opening comment at all. Senator Harradine mentioned that he cannot get an answer out of Telstra. If Senator Harradine cannot get an answer out of Telstra, then I suspect Australians more generally will get a lot less service. If Telstra is listening, it should at least try to address Senator Harradine’s concerns, but not in the sense of leaving Australians out in the cold.

I would like to make it clear to those from regional and rural areas that only one political party has consistently opposed the full privatisation of Telstra. That is the Australian Labor Party—not the National Party, not the coalition. The purpose of the bill is to amend the Telstra Corporation Act 1991. It repeals the provisions in that act in order to maintain 50.1 per cent equity ownership by the government in Telstra and includes other facilitative clauses.

It also provides the strange term of ‘future proofing’ Telstra services after the sale, particularly in rural, regional and remote communities. It appears that the Nationals did rely on some of that earlier on. Perhaps I can put them straight in respect of that argument shortly. It is really pie-in-the-sky stuff to consider that you can future proof Telstra’s services, particularly in regional and rural areas. The way you can ensure services to rural and regional Australia is to ensure that this bill does not pass.

We have seen the Nationals turn their collective backs on their regional and rural constituents. Not only does their name change signify their turning their backs on regional and rural Australia but their overall attitude in respect of this bill and others demonstrates their lack of interest in regional Australia. They have succumbed to pressures and fallen into line with their coalition colleagues. As I have said, only the Australian Labor Party have stood firm in their opposition to the sale of Telstra. This has been a principle stance, which I am sure is supported by the majority of Australians. We recognise that Telstra is a vital public utility which must remain majorly owned by the government.

Senator Kemp interjecting—

Senator Mackay—Mr Acting Deputy President, I rise on a point of order. Senator Kemp continually interjected throughout Senator Harradine’s speech and now in Senator Ludwig’s speech. I ask you to call him to order. He is being very rude.

The Acting Deputy President (Senator Sandy Macdonald)—Thank you, Senator Mackay. There is no point of order.

Senator Ludwig—An overwhelming majority of submissions to the Senate Environment, Communications, Information Technology and the Arts Legislation Committee’s inquiry into this bill expressed total opposition to the sale of Telstra, yet the government has continued to pursue the full privatisation with a single-mindedness that can only be ideologically driven, and it does not stack up with the committee’s report, which
provided an overview of the many issues that surround this matter.

In retaliation, rather than talk about the issues and about ensuring that regional and rural Australia do have services, the government has simply accused the opposition of scaremongering. The government does not want to grapple with the debate itself. Today we heard from Senator Sandy Macdonald, which I will deal with later. He did not direct his comments to the debate that is before us but moved the debate to what might or might not happen in respect of the sale and what Labor’s position might be. We have consistently set out our position. It is not unclear, and it is not difficult to accept or understand. We have listened to regional and rural Australia; The Nationals have not.

**Senator Boswell interjecting—**

**Senator LUDWIG—**I will take that interjection. Unlike Senator Boswell, I was born in regional Queensland. I have lived in regional Queensland, and I have lived there a long time. Turning to this issue, which I am sure The Nationals would rather not debate, we would prefer the committee to delve deeply into the effects that this privatisation will have on our community.

The opposition has carefully listened to the comments made by government members today. Senator Boswell, who happens to be in the chamber today, pointed out that Labor introduced competition into our telecommunications system. There is no doubt about that—it is something the opposition is proud of. Senator Boswell pointed out that Telstra could not be competitive with so many privatised telcos entering the market, and he said that Labor’s submission inevitably brought about this decision to privatise Telstra. I do not know how that follows. Senator Boswell, like Labor, did not introduce this bill; the government did, surprisingly enough. Even Senator Boswell would understand that.

Senator Boswell said that Telstra could not be competitive against so many telcos. He further admitted that call costs decreased as competitive practices were introduced. If you tidy all that up, Labor’s decision to introduce competitiveness into the telco market resulted in the cost of calls, both local and long distance, dropping. If you juxtapose that with Telstra’s record $3.43 billion net profit for the 2002-03 financial year, how can it not be competitive in a deregulated market? Of course it can be competitive in a deregulated market, and it has demonstrated that. Senator Boswell either is off with the fairies or is doing a poor job of backing the government on this one. That is the only conclusion I can come to. Senator Boswell does not understand the arguments that have been put forward.

In respect of the committee’s report, only six of the 168 submissions received during the inquiry supported the full privatisation of Telstra without changes to the bill. Not surprisingly, these came from a small group of supporters for the sale. More importantly, at least to the opposition, there has been an overwhelming number of submissions opposing the full privatisation of Telstra. More than 140 of the submissions received opposed the sale of Telstra. The submissions presented to the committee were from a wide range of organisations. These include the Australian Consumer Association and many ordinary Australians who believe that, if Telstra is privatised, prices will rise without justification and services will decline irrespective of community service obligations. This government has failed to convince the public and the opposition that community service obligations will be as clear and unencumbered under a privatised Telstra.

This bill will erode the level of regulation open to the Commonwealth once government control slips below 50 per cent. It does not guarantee that service levels will be
brought up to an acceptable level in rural communities, which are already condemning the lack of services provided. The bill removes the ministerial power of discretion over Telstra. Although that power has never been used, the fact that it is there has always ensured that Telstra has at least kept on the right track. Telstra will cease to be subject to the Freedom of Information Act once the Commonwealth no longer has majority ownership. That is an important consideration, because that act at least allows for an open Telstra. This bill does not give any guarantee that the government would be able to regulate a privately owned company, which would be beholden to its shareholders. That is where its loyalties would be directed; not to this or any future government. Smaller telcos have already expressed concerns about Telstra’s market dominance, and a $3.43 billion profit shows they are right to be at least mildly concerned.

Senator Boswell explained to us how this government can assure people in rural communities that their services—and in fact their livelihoods—will not be affected. His answer seemed to be three-year and five-year reviews. I do not think that is an appropriate answer. What I wanted to hear from Senator Boswell was a clear explanation of how over three, five and 10 years this sale will assist rural and regional communities by ensuring they have adequate Telstra services. We in this parliament have an obligation to consider the best interests of the community when considering legislation. We must consider the good of the community, not the government’s fiscal bottom line.

Let me turn to the government’s bottom line. Senator Harris commented that Labor will sell Telstra after the next election. Although I am pleased that, with Senator Harris’s vote, this government will lose the next election, I can assure him that Labor will not sell Telstra. We have been rock solid in our opposition to the sale of Telstra; we have never wavered. Mr Crean stated that it is the one policy that will not be changed. I believe Senator Sandy Macdonald also made the ridiculous claim that we would sell Telstra—although I am happy to be corrected if that is not the case. Fancy that! A Nationals senator selling out on Telstra and blatantly misrepresenting the Labor Party while doing so. Senator Macdonald knows better than that. As I understood his position, Senator Macdonald also said the sale will not go ahead until adequate services are in place.

Senator McGauran—Everybody said they were good!

Senator LUDWIG—That is a ridiculous statement—Senator Boswell knows that and Senator Eggleston knows that. If this coalition votes to pass the bill, the government will be able to sell Telstra as soon as it wants to. The sale will not be conditional on Senator Boswell or Senator Macdonald saying that regional services are not up to scratch. There is no precondition to that sale—that is what the bill provides for and that is what the Senate has before it for debate.

Senator Boswell interjecting—

Senator LUDWIG—There is no caveat whatsoever about regional services being up to scratch. The Prime Minister himself has been running around saying regional services are up to scratch. There is the problem, Senator Boswell. Mr Acting Deputy President, I apologise; I was speaking across the chamber again. The difficulty that always comes in is that on the one hand we have the Prime Minister saying regional and rural services are up to scratch and on the other hand we have Senator Boswell and others from the National Party saying we should expect that regional and rural services will continue to be looked after. There is a problem there. In fact, what I would like to hear from a National Party senator on that side of the cham-
ber is that they agree with the Prime Minis-
ter’s statement that telecommunications ser-
vices in rural and regional Australia are up to
scratch. That would put it beyond dispute.

In addition, Senator Harris said that Labor
wants to spend the money on the further sale
of Telstra after the next election. This is an-
other one of those side issues that always
crop up. What Senator Harris, Senator Lees,
Senator Murray and The Nationals have not
worked out yet is that you cannot spend
money from an asset sale on recurrent ex-
penditure without sending the budget into
deficit. Current Commonwealth accounting
rules prohibit that.

Senator Boswell interjecting—

Senator Eggleston interjecting—

Senator LUDWIG—I can say that again,
but I think you got it and you knew it all
along. Witnesses from the Department of
Finance and Administration admitted as
much when they answered questions in the
Senate inquiry on Telstra a few weeks ago.
The National Party and some senators—not
all, but some—are conducting a phoney de-
bate in respect of Telstra, using that as the
bottom line. They should correct the record,
because I suspect they know better. The
member for Higgins and Senator Minchin
understand that you cannot spend the Telstra
sale proceeds, and that is why they keep tell-
ing everybody the sale proceeds will be used
to reduce debt. The sooner people accept this
simple fact, the sooner we can get back to
having the debate on the issue that is cur-
rently before this chamber. Labor understand
that you cannot spend the Telstra sale pro-
cceeds on infrastructure and that is just an-
other reason why we oppose the sale of Tel-
stra. While we welcome Senator Harris’s
opposition to the sale and congratulate him
on his well-considered position, we abso-
lutely reject his claims that Labor will sell
Telstra after the next election. Goodness
knows how he came to that conclusion.

Opposition senators interjecting—

Senator LUDWIG—I must say that I am
amazed the National Party, particularly Sena-
tor Boswell, have been talking in support of
this bill and his coalition colleagues—I
really am. I would have thought the National
Party would be only too aware of the depth
of the antiprivatisation feelings in regional
and rural Australia. I have been to places like
Toowoomba, Roma, Charleville and Long-
greach. I have been to regional Australia. I
have worked in Mount Isa as an industrial
advocate. I have some understanding of the
antiprivatisation feelings of those people. I
cannot understand why Senator Boswell
would argue in his speech—not today, in his
disorderly contributions across the cham-
ber—that rural and regional Australia would
be satisfied with his position. I think that is
wrong.

Of the 42 submissions received from
Queensland, 39 did not support the full pri-
vatisation of Telstra or the bill in its current
form. Of the total submissions received by
the committee with respect to this inquiry,
over 80 per cent were totally opposed to the
sale of Telstra, believing services would be
further eroded. Most of the submissions re-
ferred to the lack of accountability in repair-
ing black spots, had complaints against the
telco for bad billing practices and noted Tel-
stra’s failure to adequately provide a consis-
tent cable Internet service. Indeed, it would
appear that people have little faith in Telstra
or in government reassurances that the full
sale of Telstra will be in the best interests of
the public.

Who can blame people, especially those
living in Logan, for that? Logan is only 20
minutes south of Brisbane and the second-
largest city in the state. People there find
accessing broadband and Internet services
through Telstra difficult. It took Telstra 18 months to address the difficulties of people living in Logan, as I understand it. While those residents can now access broadband through an ADSL connection at the Marsden exchange, new residential areas are finding that they have the same problem. Logan is a growing area not that far outside the Brisbane CBD. The area was short of broadband, and Telstra are now developing broadband into it. But the growing suburbs on the outer part of that area are going to suffer the same problem, because Telstra are not putting infrastructure in place for when houses are built there. You would think that Telstra would have done that forward planning to ensure that, as those new suburbs developed, they would have those services. They are not that far from Brisbane. The problem that sometimes occurs with these sorts of issues is that there is not a considered view about how Telstra should do its work properly.

While those residents can now access broadband through an ADSL connection at the Marsden exchange, new residents, as I have said, will find it hard. Telstra’s continued failure to lay cables in new residential areas in Marsden and its inability to access underground cables has seen a fall in services to metropolitan areas—let alone in services to rural Australia, which has seen growth too. If this account of Telstra’s inability to supply timely services to metropolitan areas prior to the privatisation is of concern then rural and regional areas should beware. Indeed, the sale of Telstra is particularly galling for the residents of Groom and Maranoa. Unlike the government, residents of rural Australia do not believe the sale would be beneficial to them, given the level of services offered by Telstra whilst under government control.

Let me give an example of Telstra’s failure to provide adequate and timely services to rural areas like the shire of Crows Nest. I am sure some on the other side would know that that shire is just outside of Toowoomba. It is not that far outside of Brisbane into regional Queensland but it is still regional. They have had problems—and I will not have time to go through their problems; I will be happy to take them up with Telstra after this—that show that Telstra is not adequately servicing rural and regional Australia now, let alone if it should be privatised. No reason has been put by the coalition to justify the sale, although they have sought to bring into the debate a lot of spurious side issues. I do not think they have closely read the report. They should closely read the report. It is a good report, and it makes plain what the position should be.

Senator EGGLESTON (Western Australia) (12.03 p.m.)—As Chair of the Senate Environment, Communications, IT and the Arts Legislation Committee, which conducted the inquiry into the provisions of the Telstra (Transition to Full Private Ownership) Bill 2003, I believe I can make some pertinent observations about the bill. The committee received 168 submissions and took evidence from 41 groups of witnesses at seven public hearings. Two of those hearings were held in regional centres: Dubbo in New South Wales and Nambour in Queensland. Witnesses from other parts of the country, such as Western Australia, were also heard via teleconference. As we all know, the bill will amend the Telstra Corporation Act 1991 to repeal the provisions that require the Commonwealth to retain 50.1 per cent of its equity in Telstra, thereby enabling the corporation to become fully privately owned.

I would like to make some remarks about the evidence the committee heard. Firstly, there was a common tendency of submitters to the inquiry to link ownership with control and to argue that a fully privatised Telstra would put profits and shareholder value ahead of the interests of consumers, particu-
larly in regional areas of the nation. This ignores the fact that Telstra has been required to operate on a commercial basis since 1991. The argument that you need to own something in order to be able to effectively regulate it is completely fallacious. There is a range of consumer and regulatory safeguards that will be unaltered by this bill and will remain in place regardless of the ownership status of Telstra.

The ability to regulate Telstra in no way depends on its ownership status. The government will continue to be able to regulate a privatised Telstra, and future governments will be able to choose to extend these safeguards. Existing consumer safeguards include the universal service obligation, the customer service guarantee, the National Relay Service, price controls, untimed local calls, priority assistance for people with life-threatening medical conditions, the low-income customer package, the network reliability framework, the digital data service obligation and the Telecommunications Industry Ombudsman. In addition, the government can impose licence conditions on Telstra. Existing regulations need not remain static and future governments can choose to enhance them, such as by expanding the USO to include technological upgrades, which might also include a requirement for the provision of broadband services at particular levels.

It was a matter of concern to the committee that, based on the submissions received, it seemed that the average citizen had a substantial knowledge deficit in relation to the regulatory regime. This has given rise to misunderstandings based on half-truths about the practical effect of the privatisation of the remainder of Telstra. For example, Phyllis Miller, President of the Shires Association of New South Wales, who is opposed to the sale, appeared to be blissfully unaware of the regulatory regime and, in particular, to have no knowledge of the future-proofing proposals. Accordingly, the committee has recommended that the government launch a public awareness program to improve understanding of the current system of regulation of the telecommunications industry and the rights of consumers under this regulatory regime.

Some submitters, while not happy with the level of existing and proposed consumer safeguards, were sceptical about the willingness of governments of any persuasion to effectively regulate what would be the country’s largest and, arguably, most powerful privately owned corporation. The committee took the view that the public would not accept substandard telecommunications services and that no government would be prepared to risk losing voter support by failing to enforce regulations, especially as it would no longer have a stake in Telstra’s profitability. The committee also noted that there was a tendency by submitters not to recall how things were before the privatisation process began, when Telstra was a fully publicly owned monopoly. I would like to quote the AAPT submission. AAPT said:

It is now hard to remember the days prior to any liberalisation of the telecommunications regime. In that era Australian businesses and residential customers were dependent on the service provided by Telecom Australia. They were subjected to a number of incredibly damaging industrial disputes that brought Australian business to a near standstill. They suffered long delays in receiving new and innovative services, and customer service was very poor.

There were no consumer safeguards, as exist today—and, I might say, these were introduced by the Howard government—and Telstra seemed only to connect telephones and repair faults when it was good and ready. Now, under the customer service guarantee, customers are compensated if a provider breaches performance standards in relation to the timeliness of new service connections.
and fault repairs and the keeping of appointments. That speaks for itself, of course, about how things were under the old regime and how they are now under the regulatory regime that the Howard government has enhanced.

The committee noted that among those opposed to the full sale of Telstra there was general satisfaction with the standard telephone service, especially in regional areas. There were no complaints about basic telephone services; people thought their basic telephone services were good. However, technological advances have created an expectation that more sophisticated services will be provided, particularly extended mobile telephone coverage and fast Internet and broadband services.

I point out to senators that this bill includes a number of future-proofing initiatives for regional areas. In accordance with the recommendations of the Estens inquiry, the government has decided to impose a licence condition on Telstra to maintain a local presence in regional, rural and remote Australia, including developing a local presence plan setting out the range of activities and strategies it will undertake to maintain its local presence, and reporting publicly on its achievements against the plan. This licence condition aims to ensure the continuation and future further development of the Telstra Country Wide business model. Telstra has confirmed its ongoing commitment to regional, rural and remote areas and has confirmed that it will continue its Telstra Country Wide business model because it is in its commercial interests to do so. A higher degree of satisfaction with the Telstra Country Wide service was also evident during the inquiry—something the opposition seems to have missed.

The bill also provides for the establishment of a Regional Telecommunications Independent Review Committee to review the services in regional Australia at least every five years. This will help to ensure that consumers in these areas continue to receive the benefits of technological advances. The committee noted concerns that five-yearly reviews were not sufficiently regular, given the quick pace of change in telecommunications technology. Therefore, the committee has recommended, in accordance with the evidence of Mr Dick Estens, that reviews should be undertaken every three years rather than every five. The committee has also recommended that, if a recommendation of the RTIRC is not accepted by the minister, the minister should be required to give reasons for that decision so that consumers are informed of where the government stands on recommendations made by that committee.

A number of telecommunications companies appearing before the inquiry expressed some concern in relation to the state of competition in the telecommunications market and the continuing dominance of Telstra. As well as being subject to the general trade practices regime, Telstra is subject to part XIB and part XIC of the Trade Practices Act. Part XIB allows the ACCC to issue competition notices to carriers engaging in conduct with the purpose or effect of substantially lessening competition. Part XIC facilitates competing carrier access to the networks of other carriers.

In 2001 and 2002 the government amended aspects of the telecommunications-specific competition regime—including in response to a report by the Productivity Commission—to streamline the access regime, provide greater certainty to telecommunications carriers and improve the operation of the anticompetitive conduct regime. This, of course, refers to matters like the interconnect charges, which Telstra charged other telecommunications companies for access to its network. There were a number
of problems there, where Telstra was failing
to give the other networks certainty about the
costs involved in accessing their network,
and those amendments a couple of years ago
streamlined this process and gave the other
carriers a great deal of certainty about the
costs involved in accessing the Telstra net-
work.

There is now also accounting separation
between the retail and wholesale operations
of Telstra, which is important for those inter-
ested in examining the competitiveness of
the Telstra operation. This accounting sepa-
ration will make Telstra’s costs and its treat-
ment of access seekers more transparent and
it was considered particularly important by a
number of witnesses, including the National
Competition Council, that these steps be
taken.

The committee is of the belief that the
question of competition regulation is sepa-
rate from the ownership of Telstra. The gov-
ernment does not need to own Telstra in or-
der to be able to regulate it. Competition
regulation is not static and the government
has consistently displayed a willingness to
improve the regulatory regime. The commit-
tee considers that the recent competition re-
forms that have been made should be given
time to take effect before further reforms are
considered.

The committee firmly believes that gov-
ernments should be in the business of gov-
erning, not of having a majority interest in a
telecommunications company in competition
with other private companies. The full priva-
tisation of Telstra will remove the conflict of
interest whereby the government is both the
regulator of the telecommunications industry
and the majority shareholder of the largest
player in the industry. The Senate perhaps
needs to be reminded that Australia has 89
licensed phone companies, 88 of which do
not have an Australian government share-
holding but all of which are subject to the
same regulatory regime.

This bill provides for maximum flexibility
of the sale process, with the object being to
maximise returns from the sale. The configu-
ration of the sale will be subject to a scoping
study, and the bill leaves open the option of
using hybrid securities as a means of enhanc-
ing the sale. While Labor has characterised
this as an attempt to exclude retail inves-
tors—the so-called mum and dad investors—
the Department of Finance and Administra-
tion confirmed the importance of retail in-
vestors in terms of maximising returns by
appealing to as broad a range of investors as
possible. The hybrid security option will be
attractive to institutional investors, I have no
doubt, and considering the size of the pro-
posed sale, which is some $30 billion, it is
important to make that sale attractive to as
wide a range of investors as possible. Hybrid
securities will certainly enhance the saleabili-
ty of the Telstra shares which the govern-
ment owns, if they do in fact go to the mar-
ket.

To reiterate, the government does not need
to own something in order to be able to regu-
late it. Arguments that, simply because Tel-
stra will no longer be in public ownership,
telecommunications services in regional ar-
 eas will decline are quite ridiculous. All of
the current regulatory safeguards will remain
in place under this bill, and it is open for fu-
ture governments to strengthen or extend
these safeguards if necessary. The majority
of the committee has made some sound and
sensible recommendations and I urge the
government to give these recommendations
serious consideration.

May I say, as someone who has strong
links with regional Australia, that I person-
ally believe that people living in regional
Australia should have no fears regarding the
full sale of Telstra. It is my belief that the
regulatory regime and future-proofing initiatives will ensure that those in regional, remote and rural Australia will continue to have a high standard of telecommunications services in the future and that, in fact, a privatised Telstra, subject to competition from companies like Optus—with its commitment to satellite service delivery to regional Australia—will be forced by competitive pressure to ensure that technological standards are continually improved.

Senator FORSHAW (New South Wales) (12.20 p.m.)—Today we are dealing with the Telstra (Transition to Full Private Ownership) Bill 2003, which provides for the sale of the final 51 per cent of Telstra. When the first proposal regarding the sale of Telstra came before this parliament in 1996, I stated:

The government’s proposal to sell off Telstra is ... another disastrous piece of legislation—a piece of legislation that will do irreparable harm to the economic and social infrastructure of Australia. I deliberately use the words ‘to sell off Telstra’ because that is what this government has in mind. Notwithstanding that the Telstra (Dilution of Public Ownership) Bill currently before the Senate proposes the one-third privatisation of Telstra, we know that the real agenda of the government is the total privatisation, the total sale of Telstra.

I quoted those comments again in March 1999, when the second stage of the Telstra sale came before this parliament. Of course, back in 1996 the government had an election policy which stated: The Liberal and National Parties believe privatisation should only occur where it is demonstrably in the public interest. We do not take the view that privatisation is an end in itself. Indeed there are many Government functions which public interest and accountability considerations demand remain in public ownership and control.

Those were very noble words. The problem of course is that they were completely ignored once this government came to office in 1996. Progressively this government has sought to implement its ultimate strategy: the total privatisation, the total sale, of Telstra. With 49 per cent of Telstra already sold, we are at the endgame of this ideological pursuit by the Howard government. There are plenty of reasons that can be put to oppose the sale of the remaining 51 per cent of Telstra. The reasons have been put in the excellent ALP dissenting report of the Senate Environment, Communications, Information Technology and the Arts Legislation Committee, tabled yesterday. They have also been put by many speakers from the opposition and from the minor parties in this debate. I do not intend to repeat them.

In my remarks today I want to focus on the reasons that have been advanced by the government in support of the sale of Telstra. I particularly want to focus on the very few reasons put forward by the government senators in the report of the Senate Environment, Communications, Information, Technology and the Arts Legislation Committee, which considered this bill. It is appropriate, I think, that my speech follows that of the chair of the committee, Senator Eggleston. As I said, there are very few reasons advanced by government senators in the report and, indeed, by government senators in the speeches that have been made in support of this bill. The first reason that they put forward is that Telstra is already partly privatised, so it makes little sense to keep it in part majority ownership. They argue we have already sold off 49 per cent; why not sell the rest? Not only is there no logical basis for that argument but it is also disingenuous.

As I said a moment ago, when the government were elected in 1996 and put their first legislation to this parliament following that election they put forward a proposal to sell only one-third. When the Labor Party said, ‘This is the start of the complete sale of Telstra,’ we were abused and criticised up...
hill and down dale for having the temerity to suggest that that was the government’s real policy. The government believed at that time that it was quite appropriate to sell off just one-third of Telstra—that you could pass legislation, sell one-third of Telstra, that it would be a viable telecommunications company and that it would improve the operations of that company. That was their argument then. But today they turn that argument on its head and say, ‘We’ve already sold 49 per cent; there’s no sense in keeping the remaining 51 per cent.’ Why did they not put up that proposition from the outset if that was their real agenda?—and of course we do not know that it was. They did not put it up because they knew it would never have been accepted by the Senate and it would never have been accepted by the people of Australia. So they decided to follow the piecemeal approach—whittle away at Telstra and, hopefully, in the end sell the lot. The whole argument is ultimately sophistry.

Further, it is argued—and we have just heard these arguments from Senator Eggleston and before that from Senator Sandy Macdonald, who is now in the chair—that governments should not be owners; they should be regulators. The government senators referred to the views of those in the telecommunications industry supporting privatisation. In the report, government senators stated:

Amongst this group there was almost universal acknowledgement that ownership had nothing to do with the government’s ability to regulate.

They quote the industry in support of their proposition. They say that, wouldn’t they? What other sort of an argument do you think you would get from the rest of an industry which sees that it is in its interests to have government ownership removed from Telstra? They are the ones who stand to benefit, not the Australian people. Clearly, this view expressed by the industry recognises that government ownership and direct involvement of government does have an impact. It reinforces regulation in the interests of the community. It clearly recognises that ownership and regulation are connected. They are not disconnected, as the industry may have tried to argue and that the government tries to argue. That is the precise reason why the industry want Telstra privatised. It is all about taking government and therefore the taxpayers—the customers—out of the equation. It is about ending up with corporations answerable only to their shareholders, not to the government and not to the customers of the corporation, the taxpayers of this country. Further, at paragraph 4.20 of the report, government senators state:

Governments at all levels, federal state and local, regulate the activities of privately owned companies in the public interest and Telstra is no different.

It is true that governments do regulate the activities of privately owned companies in the public interest. But it does not then follow, as a matter of logic, that Telstra should be sold off and become a private company. The important thing to remember is that Telstra is fundamentally different from other private corporations. There are a number of points to be made here. Firstly, Telstra is the sole owner of the fixed line network. Telstra and its predecessor, Telecom, built the network. That is why people in the bush and remote areas today can have access to telephones and other telecommunication services and can do so at comparable prices. That is what Telecom was all about: ensuring that over time those services were delivered to people in the bush.

Senator Ellison—In the old days they didn’t have them!

Senator FORSHAW—In the old days, Senator Ellison, people did not have TV either. Progress actually does occur over the
years. You guys are trapped back 50 years ago and you are trying to use arguments about what the telecommunications industry was like in the 1940s and 1950s as if it is some comparison to what is happening in the world today.

Telstra is unlike other private sector companies also because it exists for all Australians. It exists for its customers, and every Australian is ultimately a customer of Telstra. Telstra does not exist just for the benefit of the shareholders or for the benefit only of the investment community. So, when the government calls in support for its argument about the need to break ownership from regulation, it calls in the support only of industry. If you are looking for a conflict of interest, Senator Eggleston, that is the conflict of interest you should have looked at. It should also be noted that all of Telstra’s competitors are foreign controlled entities.

There are many areas where governments at all levels are involved directly in businesses competing with the private sector but also regulating it for the good of the community. Transport is one; infrastructure development is another; broadcasting is another.

Senator Eggleston—Who runs the trains these days?

Senator FORSHAW—Who runs the government bus service in New South Wales, Senator Eggleston? The government. Who owns it? The government. They compete with the private sector. You might be best to just listen and learn. Obviously you did not listen to the evidence in your own inquiry.

Third, it is suggested by the government senators that with government being an owner of Telstra there is a conflict of interest. At 4.21 of the committee report, the government senators state:

The committee would contend that the Government would be better able and more willing to regulate the corporation which it did not own than one it did. By privatising Telstra, the inherent conflict between the government being owner and regulator will be removed.

That is what the government senators stated. But where is the evidence of this inherent conflict? There simply is none. Indeed, that is acknowledged in the report by the government senators when they state:

Telstra also pointed out that the power of ministerial direction which would be repealed by the bill had never been used.

If it has never been used, how can you possibly argue that there has been and still is a conflict of interest? The committee then went on to state that it is merely a perception within the industry that a conflict of interest exists. I will continue the quote that I just referred to from paragraph 2.22. Again referring to Telstra, the government senators said:

Telstra went on to say that, while it had never been used, there remained a deeply held perception in the investment community that the Government’s majority ownership of Telstra allowed the government of the day to influence its direction, and that while there was no substance to this perception, these investor concerns acted as a significant disincentive to invest in Telstra.

So it is nothing more than a perception that Telstra is concerned about. But on this perception the government senators try to make the case that there is a conflict of interest when the government is regulator and also a part owner of Telstra. The real question that the government senators should have asked themselves and should have asked Telstra and those in the investment community is: what about the interests of the Australian community? What about the community in rural and regional and remote Australia, where Telstra is very often their lifeblood? Don’t their views count? Apparently not, if you listen to and read the views of the Liberals and especially the National Party senators.
You have to ask yourself what is happening to the National Party, this successor of the once great Country Party. They have deserted the bush in name and in principle. I have listened intently to the arguments put forward by Senators Boswell, McGauran and Sandy Macdonald in this debate. What we saw was a pitiful decline of a once proud party that was prepared to stand up for its rural constituency. No longer is that the case. There has not been a more pathetic retreat since Napoleon left Moscow. Senator Macdonald spoke about his experiences in the days of the PMG about 40 years ago and how difficult, if not impossible, it was to get services then. Do you know what is happening in this parliament right at this moment? Synergi Travel are offline. Telstra, which provides the services, cannot tell them when they are going to fix it. Here in the heart of the parliament, in the heart of the national capital, they are offline. And Senator Macdonald talks about what happened 40 years ago.

What the National Party should have been focusing on is the people who were in the Country Party all those years ago. Where are the Jack McEwens, the Doug Anthonys and the Peter Nixons today? They are people who stood up to the Liberal Party. But what we have today in this place is simply the Three Stooges. The National Party have been missing in action. Not one member of the National Party is a member of the committee that actually looked at this bill. They come in here and talk about services to the bush. They did not even bother to attend the hearings of the committee. Independent members like Peter Andren and Tony Windsor attended, and they represent rural constituencies. Members of the Labor Party were on the committee, as were members of Liberal Party. The National Party did not even bother to turn up. That is how much interest they have in the concerns of the bush.

We heard yesterday from Senator Boswell. What a nonsensical argument was put by Senator Boswell. He said that Telstra has to be sold or else it ‘cannot survive in its current state’. This is the largest corporation in the country. It has 95 per cent of the telecommunications market. It earns annually between $3 billion and $4 billion in profit, and Senator Boswell says, ‘Gee, if we don’t sell it, it won’t survive.’ That is absolute nonsense. Frankly, Senator Boswell’s arguments were a conclusion looking for an argument to sustain them. He went on to say that community services would be upheld even if Telstra is sold. Again, that was refuted in evidence to the committee. Senator Eggleston just spoke and he referred to the views put before the committee by farming organisations. He stated in the government senators report, at paragraph 2.4:

Most farmer and small business groups acknowledged that significant improvement had been made to telecommunications in rural Australia and did not oppose the full sale.

I do not know whether Senator Eggleston actually listened to the evidence and read the Hansard, but that is simply untrue. The NFF representative stated:

... our current policy is that the levels of service in rural and regional Australia need to be equivalent to those services in urban areas before considering the further sale of Telstra.

He further said:

... we are not considering the further sale of Telstra at present.

Senator Eggleston—and I have read the Hansard—kept pressing the representative to try to get him to maybe soften his views. The NFF made it abundantly clear that their policy was not to support the sale of Telstra. He actually said to the committee that they did not support the passing of this legislation. It is in the Hansard. Yet the government senators have brought down a report saying that these organisations did not oppose the sale of
Telstra. I could use an unparliamentary word to describe that, but I will not. It just is not true. The New South Wales Farmers Federation representative said:

The association has examined the Telstra (Transition to Full Private Ownership) Bill 2003 and does not believe that the issues identified in its policy position are addressed. For that reason, the association cannot support enactment of this bill.

I will repeat that for you, Senator Eggleston:

... the association cannot support enactment of this bill.

How much clearer does it have to be to government senators that the farming organisations, the rural organisations—and there were a number of others that came before the committee—said that they do not support this legislation? Yet the government come in here and say, ‘Well, they actually didn’t oppose it.’ They did oppose it. You know it and I know it. I have a final quote from the government senators report:

... the people of Australia will be able to pass judgement on its actions—that is, the government’s actions—at the following election.

That is, if Telstra is sold. I say to the Senate and I say to the people of Australia: it will be too late at the next election if this bill gets through. If this bill is passed and Telstra is sold, and a blank cheque is given to this government to sell off Telstra at a much deflated price, just as happened in the previous sale, it will be too late at the next election. (Time expired)

Senator WEBBER (Western Australia) (12.40 p.m.)—Labor’s position on the question of Telstra’s privatisation and the Telstra (Transition to Full Private Ownership) Bill 2003 is well known, and it has been put before the Senate in relation to earlier partial privatisation bills. In Labor’s view, no cogent public policy rationale has been advanced for the full privatisation of Telstra. No clear and concise evidence has been put forward to show how a further sale would improve the communications services to Australian households and businesses throughout rural and regional Australia. No case has been made to suggest that a fully privatised Telstra would be better fitted to drive national infrastructure development.

The dangers inherent in full privatisation, on the other hand, are readily apparent, perhaps more so now than when the Senate last considered this issue. The intervening years have been ones of great turmoil in the telecommunications industry. Far from ushering in a global age of carrier efficiency and public benefit, policies of privatisation and deregulation have led to the waste of social resources on an unprecedented scale. In Labor’s view, Telstra’s behaviour since 1996 bears out our contention that market pressures often run counter to the role that is still required of a company that is Australia’s only fully national telecommunications service provider.

Partial privatisation has already led to severe and ongoing cutbacks in spending, which have undermined the company’s present performance and threaten its longer term capabilities. Large-scale redundancies and an increasing reliance on contract staff are depleting both the skill level and the local knowledge of its workforce. Telstra’s training and research activities, particularly in my home state of Western Australia, are now shadows of their former selves. Capital expenditure is being wound back, mainly in response to relentless pressure from financial markets. Further privatisation will only reinforce these trends.

Advocates for the full privatisation of Telstra argue that regulatory safeguards can be designed to counteract the logic of the market and its demands for short-term profit maximisation, which is so ill suited to the
requirements of industry and the needs of our community. However, such measures are unlikely to guarantee investment levels and service standards, especially in less profitable sectors such as rural and regional Australia. Australian telecommunications providers are already subject to a highly developed regime of quality of service reporting and monitoring. This has not prevented an unacceptably high level of faults occurring in parts of the Telstra network, the result of cuts to spending on both labour and capital.

In my home state of Western Australia, in response to the federal government’s push to fully privatise Telstra, the Gallop government conducted a major consultation and review of the telecommunications network. The review found that many regional households and businesses have very limited access to affordable high-speed Internet connections. More than 90 per cent of regional households and over 80 per cent of regional businesses are relying on a dial-up connection for their Internet, rather than faster always-on technologies. Many are operating on dial-up speeds that hinder their ability to do business, undertake banking and download complex documents. The review revealed significant disparities in access to communications services between those regions closer to Perth and particularly those in the north of our state. The difference between the access for those in the largest centres and those in communities of fewer than 2,500 people was found to be even more pronounced.

Regional household Internet take-up in Western Australia has increased tenfold in the past six years. Now, almost half the households and three-quarters of businesses in regional areas have an Internet connection. The levels are significantly higher in the Kimberley and Pilbara regions. The study also showed that with the increased mobile phone take-up in regional areas has come increasing expectations and consequences.

Debate interrupted.

**MATTERS OF PUBLIC INTEREST**

Environment, Communications, Information Technology and the Arts
References Committee Report

Senator TIERNEY (New South Wales) (12.46 p.m.)—I rise to speak on the report by the Environment, Communications, Information Technology and the Arts References Committee entitled *Libraries in the online environment*. This report was tabled in the Senate on Thursday, 16 October. The libraries online report arises from very rapid technological change that demands that information be provided promptly, widely and in a dynamic format. Libraries have traditionally performed a very valuable role in the provision of information in an accessible, safe, non-judgmental and supportive environment.

There are a number of recommendations arising from the inquiry that I want to bring to the attention of the Senate today. The recommendations were voted on unanimously across party lines and, if they are adopted, they will assist with libraries’ ability to cater for the demands of the developing information age. The committee’s recommendations cover development of an information policy, increased digitalisation, establishment of an e-rate for broadband services, expansion of broadband services, national site licensing and the significant involvement of the states in increasing their share of funding to libraries.

It has been recommended that the proposed Cultural Ministers Council standing library working group develop a national information policy. The Cultural Ministers Council established a national collections advisory forum in 2002, with the broad objective of bringing industry and community perspectives to federal and state ministers on
policy and planning for galleries, libraries, archives and museums. The time has come for this body to work on a national information policy to be developed with libraries and other interested groups in a consultative framework. A national information policy will provide a clear framework, without the unnecessary bureaucratic pitfalls, for libraries to move forward at the same pace as technology and remain a primary public information resource in the online environment.

It is important, therefore, that libraries have Internet broadband access and that this access is provided relatively cheaply. It is recommended that an e-rate for public libraries is negotiated between broadband providers and the government. Because of the speed at which broadband access is advancing, it is fast becoming a vital and necessary tool for public use to access information. The Internet needs to be accessed by the public quickly and easily to reduce the information divide within the community. It is unlikely that broadband will be adopted universally in all homes in Australia, so it is important that we continue to support the making of communication technology available to the public in public access sites. An e-rate contract is a good way to achieve this outcome. By expanding the National Broadband Strategy to encompass libraries, the government would support in the most equitable manner the adoption of broadband in libraries which do not currently offer access to the technology. In particular, libraries that co-locate with other central infrastructure in rural areas will benefit from such an initiative. This would see the rise of libraries in the same place as online access centres, schools, community centres and rural transaction centres.

Upon examining the current financial model for public libraries, I was dismayed to see what can only be called an abandonment by state governments of our public libraries. State governments across the country have failed to provide the money required to adequately resource libraries so that they can serve the needs of the community. Local government has been left to shoulder the majority of the funding burden. Where there is shared responsibility for public library funding between state and local government, the committee recommends that the states significantly increase their share of public library funding. Ultimately, I believe that state funding should equally match local government funding.

There was a point in time in the mid-1970s when this balance occurred in a number of states, but that was over 25 years ago. New South Wales, in particular, needs to ramp up funding as quickly as possible to our public libraries. Yet again the Carr government is coming bottom of the class. The states really need to take responsibility again for the establishment of knowledge economies that are fast emerging and that they are set to benefit from. It is not fair that local government should continue to shoulder unfairly a disproportionate part of this burden. The states are certainly not pulling their weight when it comes to increasing the scarce funds that libraries need, nor are users.

One of the mantras of library policy is that all services should be free. There was considerable debate in the committee about whether, in the information age with its considerable bandwidth costs, a sea change is needed in the thinking of the library community on charging for non-core services. The committee agreed that a modest charge for costly aspects of Internet access should occur with the usual equity exemptions. Committee members believe this is essential; otherwise, due to costs, access may need to be rationalised because library budgets, as time goes on in the information age, will not be able to cope. People who can afford to pay a small
fee for broadband Internet services should be required to do so. Indeed, many libraries around Australia already do this and the committee received much evidence to support this. The committee believes it should become standard practice.

Libraries are a central infrastructure in the community. They provide the empowering commodity of knowledge in a range of formats that are accessible to all. It is important that these available formats remain in step with technology and that state governments support this transition. The committee recommends the addition of a new national heritage grant program for peak cultural institutions to assist in the digitalisation of their collections. The report states: Many libraries, by chance or design, are the repositories of extensive hardcopy and often fragile local history collections, including maps and manuscripts.

The National Library, for example, began the digitalisation of some of its collections in 1995 but in the coming year, because of financial constraints, will have to halve its digitalisation budget. On the other hand, the State Library of New South Wales in 2010 is marking the centenary of the opening of the Mitchell Library with a program of digitalisation initiatives, including the digitalisation in 2001 of its Matthew Flinders collection, including diaries, logbooks, charts and personal artefacts.

The importance of preserving local history items and making them more widely available digitally has been recognised by the committee, with the Department of Communications, Information Technology and the Arts, in partnership with the National Library of Australia and the National Archives of Australia, offering community heritage grants to assist in the digitalisation of resources that hold historical significance. The recommendation of the committee is that national heritage grants be an extension of this.

Under the recommendations of the report, the National Library of Australia would receive additional funds to provide improved access to Kinetica for all Australian libraries. Kinetica is an online national bibliographic database. New records can be added or records obtained for local catalogues. Libraries pay a subscription for the service, and the database can be accessed from any Internet connection. Under the recommendations, Kinetica will become available to staff and end users in all Australian libraries. Some concerns were raised about the user-friendliness of Kinetica, as well as the funding structure. The committee agreed that Kinetica is a valuable national resource and steps need to be taken to develop the program so that it can be used by public library users as well as staff.

The range of information and resources that are available online is also of critical importance. The committee has recommended that the Australian Research Information Infrastructure Committee consider the question of the availability online of Australian postgraduate theses. The ARIIC was recently formed to act on recommendations for managing and using the vast amounts of research information generated by Australian universities and research organisations. Postgraduate theses provide a wealth of quality information but are often difficult to find, due to the lack of marketing and general inaccessibility. If there were a central repository for postgraduate theses available online, it would solve the dilemma of so much valuable research information slipping into the ether.

The issue of copyright is often resolved by means of paid subscription. This is often extremely expensive for public libraries who, more often than not, simply do not have the
available funds to keep up to date with subscriptions to online resources. So, too, it is recommended that the National Library of Australia identify a number of key databases for which national site licensing might be desirable. If this recommendation were adopted, funding would also be extended to the National Library of Australia for the same purpose.

Libraries have always been central points for accessing information throughout history. Libraries provide an educational and cultural point of reference for people who wish to access information of many varieties. Libraries provide not only information for research purposes but all manner of material and services for special interests and leisure. It is important that, as technology progresses, so too does the range of material available for people who use our public libraries. These recommendations would assist with the libraries’ transition into the information age and ensure that libraries remain a vital infrastructure in the community for years to come.

Aviation: National Airspace System

Senator MACKAY (Tasmania) (12.57 p.m.)—I wish to speak today on a matter of public interest: the waking nightmare known as the National Airspace System. I say a matter of public interest but, in fact, it is a matter of life and death, not to put too fine a point on it. It is a matter of particular concern to the people in my home state of Tasmania. The National Airspace System is due to be introduced on 27 November 2003. This system has been designed by the Prime Minister’s friend Dick Smith and an enthusiastic band of amateurs known as the Airspace Reform Group. I believe this system puts the lives of Tasmanians and other members of the Australian flying public at risk.

I am not a pilot and I am not an air traffic controller but, by virtue of my role in this parliament, like all of us I do fly in aeroplanes an awful lot. At the risk of being accused of exaggerating, I am more than a little scared about what these changes will mean for members of the flying public. My understanding of the issue as it affects my home town of Hobart is that the airspace around Hobart airport and up to about 4,500 feet is currently classified as class C airspace. This means that small aircraft are excluded from that space. Under the proposed changes, this space will be reclassified class E, thus allowing the small craft in with no clearance from the air traffic control tower and no radio contact. This is of particular concern in Hobart, as we have the Cambridge airport virtually across the road and an inevitable resultant mix of aircraft in the area. I suspect this impacts on a lot of areas in Australia.

I do not want to appear too Hobart-centric. Other Tasmanian airports will be affected too. In fact, Launceston, Devonport and Burnie are also facing risks as a result of these changes. Tasmania is particularly affected because we do not have radar coverage for the state, so the large planes will get very little advance warning of the small planes that may be crossing their paths. I have been told that we do not need to worry, because the small plane pilots will be keeping a good look out of their windows and will simply steer around any large plane that is taking off or landing in front of them. They will also need to have on board the collision aversion system. I am sure we are all reassured to know that it must be serviceable as well as just on board. However, for this system to work, it needs to be turned on. I am sure that this will be an important part of the pre-take-off checks that will be performed by all pilots, but I do not think I am being too naive when I say that sometimes people forget things. We are all human be-
ings, after all, and human beings make mistakes. This is small reassurance to members of the public.

As I say, I am not an expert in this field but, unlike the minister, I am prepared to listen to the experts—and what I am hearing gives me even greater cause for concern. Civil Air, the Australian Air Traffic Control Association, the body that represents the professional experts in this field, has been trying to have its voice heard on this issue for some time. It expresses the view that these changes are all about amateur pilots who do not want to pay air traffic control fees and who want to be able to fly whenever and wherever they want. The claim that this system is the same as the United States system has been publicly refuted by United States air traffic controllers themselves.

But putting aside speculation about the motivation for the changes, Civil Air’s major concerns are for the safety of the flying public. It has repeatedly warned the minister about this, but to no avail. The president, Ted Lang, said that these changes, compounded by a further bungle that has seen faulty airspace maps being distributed to 30,000 pilots, will leave us in chaos—and I quote him—‘with holes in airspace safety big enough to drive a jumbo jet through’. He accuses Minister John Anderson of ‘having signed the fatal blow for airspace safety in Australia’. Ted Lang is so concerned about the changes that he is personally flying to Tasmania at the weekend to brief concerned Tasmanians on this issue.

But let us not stop with the Australian experts. On Wednesday, 15 October air traffic controllers and aviation safety experts across the Asia-Pacific region took the unprecedented step of undertaking to warn their governments about the planned unsafe changes to Australian airspace. The Asia-Pacific conference of the International Federation of Air Traffic Controllers held in New Zealand only a fortnight ago condemned ‘radical changes to Australian airspace that allow any aircraft to fly across or directly at descending international and domestic traffic paths’.

But why stop with the Asia-Pacific? The Executive Board of the International Federation of Air Traffic Controllers Associations based in Montreal, Canada, in a press release dated 18 October 2003, said that they ‘strongly recommend to the Australian government that they reconsider the implementation, in particular the reduction of service and safety, that will occur through the introduction of extensive class E airspace to replace the existing class C airspace’.

Add to the voice of the air traffic controllers the voices of the pilots and the airport owners, who have also expressed their alarm at these proposed changes, and you have a pretty convincing trifecta.

I am sorry, but I just do not get it. Every expert in the world, it seems, as well as the shadow minister, Martin Ferguson, the Tasmanian state government and no doubt many other state governments, are screaming at Minister Anderson to stop this before it is too late—but there is a terrible accident. But does he listen? No. Minister Anderson is off with his mates from The Nationals working out how they are going to spend the proceeds of the sale of Telstra, in the unlikely event that Mr Costello ever gets his hands on it. Minister Anderson would rather listen to his unaccountable and unqualified airspace reform group—which, incidentally, does not contain a single commercial pilot or air traffic controller. Mr Dick Smith has many skills, but he is neither a qualified air traffic controller nor a commercial pilot and, with respect, it is our belief that he is not qualified to design airspace.

Tasmania is an island state that, by definition, is hugely reliant on air transport. Tour-
ism is booming in Tasmania, which brings a lot of money and much needed revenue to our home state. And yet here we have a minister who seems prepared to put all this in jeopardy with the stroke of a pen. Australia needs safe airspace, it needs relaxed and comfortable pilots and air traffic controllers and it needs confidence from those who use air services. I strongly recommend that the government listen to the experts and reconsider this change before it is too late and before there is a terrible accident, in Tasmania or anywhere in Australia. I urge Minister Anderson to halt these reforms and go and talk to these experts—go and talk to the people in the field who know what they are talking about. This issue is far too important for anything else. I urge the government to take this on board before, as I say, something disastrous happens.

Immigration: Asylum Seekers

Senator KIRK (South Australia) (1.05 p.m.)—I wish to raise today a matter of public interest. I am sure that many senators would be aware of the recently filed proceedings in the New South Wales Supreme Court by the parents of a young boy named Shayan Badraie. I would like to take this opportunity to send my best wishes to Shayan and his family. I would also like to present their story to the Senate today as an illustration of the practical impact that the government’s inhumane refugee policy is having upon innocent children like Shayan.

Shayan was just six years of age when, instead of experiencing the excitement of starting school for the first time, he was witnessing riots, horrific suicide attempts and the use of tear gas and water cannons and enduring prison like conditions in the Woomera detention centre in my home state of South Australia. Shayan suffered these atrocities because the Howard government’s policy on refugees gave him no choice. Doctors who treated Shayan have said that he was so distressed by life at the Woomera detention centre that, when his condition deteriorated to a point requiring his hospitalisation, he was so traumatised he was unable to eat or speak. Shayan’s parents are seeking damages against the government and Australian Correctional Management for the devastating harm that Shayan has suffered as a result of the 2½ years he spent at the Woomera detention centre. Despite repeated calls by the Labor Party to release all children from detention, the government has chosen to ignore these requests, and it has been children like Shayan who have suffered because of it.

My commitment to this issue is well known. On Sunday, 19 October I released the third edition of Kids in Detention Watch, a newsletter that I publish in partnership with Tanya Plibersek, the member for Sydney. When we released that edition of Kids in Detention Watch in Adelaide I was pleased to have with me Nicola Roxon, the shadow minister for population and immigration, who spoke at the launch on this very important issue. The launch was intended to repeat the Australian Labor Party’s public call for the new Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone, to take a different stance on children in detention from that of her predecessor, Mr Ruddock, and to make her first act as immigration minister the release of all children from Australian detention centres. I repeat that call here today.

The government must acknowledge the harmful effects that the current detention policy is having upon the mental and physical wellbeing of children like Shayan. Shayan’s doctors have said that the illness and trauma he suffered was an inevitable outcome—that the government policy of mandatory detention made it impossible for them to provide this innocent little boy with the proper treatment he needed and that, despite
their repeated pleas to the then Minister for Immigration and Multicultural and Indigenous Affairs, Mr Ruddock, to release Shayan from detention, he failed to heed their warnings.

Thankfully, the Badraie family were eventually granted refugee status and temporary protection visas; but their lawyer says that the ongoing trauma suffered by their son is a high price to pay for that asylum status. Clearly the government’s detention policy is incapable of providing a healthy and proper psychological and physical environment for children. The illness from which Shayan and many other children like him are suffering is a national disgrace. Shayan’s story was a tragedy that did not have to happen and must not be allowed to continue happening.

When Shayan’s case went before the Human Rights and Equal Opportunity Commission last year, the commission found that Australia’s treatment of Shayan Badraie was in breach of the United Nations Convention on the Rights of the Child. If the New South Wales Supreme Court reaches similar conclusions to those of HREOC, it will be a damning indictment of the government’s policy on this issue. What the lawyers for Shayan aim to establish is that the government and ACM, which was in charge of the Woomera detention centre, were negligent in the level of care they provided to Shayan and that their negligence was a significant cause of his illness. To establish this, the lawyers must show that the harm Shayan suffered was reasonably foreseeable. The findings of the Human Rights and Equal Opportunity Commission certainly indicate that this was the case.

Justice Michael Kirby of the High Court of Australia expressed similar sentiments during a recent hearing regarding children in detention. He commented:

It does not require too much imagination to assume that long detention is not good for them; it is bad for their welfare, contrary to their best interests.

The harmful consequences of imprisoning children behind razor wire is clear to the legal profession, clear to medical professionals, clear to the Labor Party and the minor parties and clear to ordinary Australians. Why then is it not clear to the government? These policies are permanently damaging children, most of whom have already endured terrible hardships and have come to Australia, the lucky country, through the choices of their parents. Instead of being offered the freedom and security from persecution that they were unable to enjoy in their homelands and that Australia is duty bound to provide to them under international law, we offer them indefinite detention in sub-standard facilities with little or no contact with ordinary Australian life.

The case of Shayan Badraie is just another sorry chapter in this government’s appalling campaign to dehumanise and degrade some of the most vulnerable people in the world. The government cannot ignore this issue any longer. It must take responsibility for the damaging consequences of its refugee policy for innocent children such as Shayan. In concluding, I once again call upon the government and on the new Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone, to ensure that this government-sanctioned child abuse is put to an end and release all children from detention.

Middle East: Israeli-Palestinian Conflict

Senator NETTLE (New South Wales) (1.12 p.m.)—I rise to speak about a matter of international importance: the ongoing tragedy surrounding Palestine and Israel. Sadly, the situation in the strife torn region between Jordan and the Mediterranean throws up new
tragedies every day; but it is for a more positive reason that I speak on this matter today. Recently the Sydney Peace Foundation unanimously voted to award this year’s Sydney Peace Prize to Palestinian peace activist Dr Hanan Ashrawi. The decision represents a positive move within the Australian community to recognise those who are seeking a genuine peace in Israel and Palestine, and it has raised the profile of the issue beyond its usual audience on a note of optimism and hope. The Greens welcome this move.

Dr Ashrawi has distinguished herself through an unwavering and principled commitment to finding peace with justice not only for her Palestinian people but also for others who are suffering from the ongoing injustice and violence that blights the region. Some have criticised the Sydney Peace Foundation for its decision to award the prize to a former minister of the Palestinian Authority. In their criticisms they miss the point. Peace prizes are not awarded to individuals of unassailable purity or to saints or angels; peace prizes are awarded to those who consistently rise above the failings of the human character and in difficult and complex circumstances move the objectives of peace forward, sowing the seeds of hope in fields of despair. This has been the distinction of Dr Ashrawi, so she is a worthy recipient of the prize.

More important than the individual chosen is the fact that the prize has gone to someone who is articulating a message of peace and hope in relation to the Palestinian-Israeli conflict. The timing is particularly important in the light of the recent escalation of violence in the Palestinian territories and the seemingly unbridled willingness of both the Israeli government and suicide bombers to kill innocent civilians. The time for a major shift in the political balance in the Middle East is long overdue. The message of peace and dialogue that Dr Ashrawi brings simply must be heard if there is to be any hope for the children of Palestine and Israel in the future. Hope remains whilst brave voices on either side of this conflict are prepared to criticise the dogma of war and call for practical justice and peace.

Recently, the former Speaker of the Knesset in Israel and former Chairman of the Jewish Agency for Israel, Avraham Burg, wrote in Israel’s main daily paper Yedioth Ahronoth about the need for this change. He said:

Israel, having ceased to care about the children of the Palestinians, should not be surprised when they come washed in hatred and blow themselves up in the centers of Israeli escapism. They consign themselves to Allah in our places of recreation, because their own lives are torture. They spill their own blood in our restaurants in order to ruin our appetites, because they have children and parents at home who are hungry and humiliated.

We could kill a thousand ringleaders and engineers a day and nothing will be solved, because the leaders come up from below—from the wells of hatred and anger, from the “infrastructures” of injustice and moral corruption.

…

The time for illusions is over. The time for decisions has arrived. We love the entire land of our forefathers and in some other time we would have wanted to live here alone. But that will not happen. The Arabs, too, have dreams and needs. These voices of peace are struggling in a world deafened by the drums of war—drums beaten loudly by the key allies of the Israeli government in the United States administration and foreign policy establishment. It is for this reason that it becomes all the more important that international voices are raised in solidarity with these messages of peace, and remain unafraid to condemn the culture of violence, whether it be from stateless splinter groups or from well-financed states and their military machines.

The Greens are a worldwide party founded on four clear principles. One of those
principles is a commitment to peace and the resolution of conflict through non-violence. This is the perspective that we bring to the conflict in Palestine and Israel. At the national conference of the Australian Greens, which was held two weeks ago here in Canberra, we passed into policy the Greens’ position on the conflict in Palestine and Israel. This policy has been developed over a long period of time with the benefit of much expertise coming from Greens members in both the Palestinian and the Israeli communities in Australia. It gives the Greens the opportunity to do what all concerned with peace in the Middle East should be doing—that is, to speak out for a just peace, just as Dr Ashrawi and Avraham Burg do.

What do we mean by a just peace? The Greens policy focuses on the legitimate rights of Palestinians and Israelis to live in their own respective independent sovereign states in peace and security. It also recognises the ongoing injustice that has been done to the Palestinian people and opposes the continued occupation of Palestinian territories and the illegal establishment of settlements on this land. The Greens policy calls for the respect of international law, the Geneva conventions and the resolutions of the United Nations as a first step towards a fair resolution of the conflict. Of course, there must also be a total withdrawal of Israeli forces from the occupied territories, the removal of all Israeli settlements in those territories and an immediate dismantling of the separation wall.

There should be no impediments to the commencement of these actions, but the Greens recognise that, just as these actions are necessary, so is the cessation of all violence against civilian populations, including state-targeted assassinations and suicide bombings. These are obvious measures but, nonetheless, are difficult to achieve because of their obviousness. The Greens policy is informed by that difficulty in calling for the establishment of an international commission under the auspice of the United Nations to effect a settlement of the conflict. It calls for a peace negotiation to be facilitated by the commission, leading to a schedule for implementation of the goals that I have discussed.

The Greens know that, by articulating our position, we will attract the scorn of those who react to any criticism of the state of Israel with accusations of anti-Semitism. But we will not be cowed by such outrageous and unwarranted accusations any more than we resile from our condemnation of those who target civilians with suicide bombers. The need for courageous calls for peace in Palestine and Israel is too important to let the aggressive lobbying of loud, but not necessarily representative, voices silence it. I cannot continue to hear of the deprivations of the Palestinian people and remain silent. It is simply unacceptable to see the use of military force against children and civilians and remain unconcerned. It is simply not right to stand by and watch a state with one of the most powerful military machines in the world wage war on an occupied and stateless people—many of whom are penniless and brutalised—without calling for justice.

Just as the world quite rightly voices its outrage when bombs destroy buses and cafes, killing and maiming civilians, so we should condemn acts of violence when perpetrated by a state. Indeed, the fact that these actions are perpetrated by a state, and not some shady fanatical group, should leave us all the more incensed. Our democratic tradition includes the expectation that states and executives within them uphold the rule of law. The fact that violent political groups inside and outside a state have no interest in this principle does not absolve the state of that responsibility. This expectation, which is enshrined in international law, is currently
under strain, largely because of the actions of the United States administration. The obstinate refusal of the United States to sign up to the International Criminal Court, their refusal to ratify the international convention against torture, and, of course, their willingness to invade and attack other nations against the will of the United Nations undermine the standing of our international law. Whilst this state of affairs continues, it is much easier for the Israeli government to also flout international laws and international bodies such as the United Nations.

As one of the closest allies of the US administration, the Australian government has a responsibility to do all that it can to turn this situation around. We must speak out against the continued flouting of international law by the United States. An important first step in relation to the Middle East would be to add to our condemnation of suicide bombers a strident and determined criticism of the Israeli leadership for its aggressive actions in the Palestinian territories and the region at large. The Australian government should also be adding its voice to a call for a UN-brokered peace in the region, doing something positive to end the violence and return a rule of law. Australians should be proud that the only international peace prize originating in this country is going to Dr Ashrawi. As a tireless advocate for justice and peace—an advocacy that has seen her attract significant criticism from her own people—she sets an apt example to our political leaders of how to deal with these most fundamental issues of justice and peace.

**Taxation: Mass Marketed Schemes**

Senator MURPHY (Tasmania) (1.23 p.m.)—Today I rise to respond to comments by Senator Watson on 16 October in the adjournment debate when he referred to a question that I had asked of the minister about mass marketed tax schemes and my subsequent motion to take note of the answer. He said that I made some extraordinary and inaccurate statements about the Australian Taxation Office and Supreme Court decisions.

Firstly, let me deal with Senator Watson’s extraordinary and inaccurate statements. The matters of mass marketed tax effective schemes were dealt with in the Federal Court. Senator Watson said:

Allow me to correct Senator Murphy’s interpretation of some of those important decisions. Perhaps the most important decision was known as the Budplan, which followed Howe and Rose and Others.

For Senator Watson’s information, it is actually Howland-Rose and Ors. Howland-Rose and Ors is Budplan. They are one and the same. I would have thought that Senator Watson would at least have got that much right before coming in here to take a course of action to reject statements that I had made in respect of these matters. He went on to say:

The court further ruled that the general anti-avoidance provisions of part IVA of the income tax law operated to deny deductions for the amounts subscribed because the investment made no commercial sense without a tax benefit. I will just go to the Budplan case. The Budplan case was a syndicate case which concerned the funding of a research project. What the finance arrangements were I will not go into, but the court held that Budplan confirmed that if you incur expenditure before a business has started it is not deductible. Therefore, under section 51(1) of the Income Tax Assessment Act there was no deduction, so part IVA had no part to play. This was upheld by earlier cases going back as far as 1976 in Softwood Pulp and Paper v. the ATO, ATR 101, and Goodman Fielder Wattie 1991. There was no new law decided in the Budplan case.
In terms of section 51(1), the taxpayers were found not to be carrying on a business. Rather, their activity could only be described as an activity funding a research project. The court rejected the commissioner’s contention that the Budplan personal syndicate was not commercially viable at the time of the prospectus. Again, this rejects Senator Watson’s claim that it made no commercial sense.

The court also rejected the commissioner’s argument that, because of the round robin bills of exchange, the taxpayers did not effect payment of amounts of $24,000 for the first two years. The absence of cash actually being made available to the project by such a structure did not necessarily preclude them from being effective and legally binding. This is a very important point in respect of the approach the Australian tax office took to all of the mass marketed schemes, particularly those involved in agribusiness. The tax office, which appeared before a Senate committee, said that they were taking a one-in, all-in approach because they were all the same. Essentially, the matter that they were saying was all the same was the funding arrangements, the financing structures. The purpose of my contribution in asking the question of the minister at the time was to demonstrate that the tax office’s approach was fundamentally flawed and that the court had now proven that.

Senator Watson made a comment in his contribution saying that I might have been reading the obiter dictum rather than the ratio decidendi. The only mention of part IVA in the Budplan case was in the obiter, not in the ratio. Again, for Senator Watson’s information—and, hopefully, for his knowledge—there was no decision from the court at that time.

With regard to the round robin financing arrangements, under section 177D of the Income Tax Assessment Act, there are eight factors that have to be objectively determined by the judge or judges in deciding whether the dominant purpose is to obtain a tax benefit. This case is easily distinguished by its application to R&D projects only, particularly unsuccessful ones, and therefore is not representative of the majority of projects. That is correct; it is simply not representative.

Senator Watson went on to talk about the Vincent case. He said that the taxpayer—who actually won on appeal to the full bench of the Federal Court—won on the basis that the deductions were not allowable under section 51(1) of the Income Tax Assessment Act and therefore part IVA did not apply, but that the commissioner, in making an application in respect of the year 1995, was out of time. Those are the facts of the matter. In his contribution, Senator Watson talks further about the Krampel case, which the Economics References Committee never dealt with. Nor did it deal with the following case he mentions, the Kajewski case, which was an EBA case—the Krampel case being a superannuation case.

Again for Senator Watson’s information and for the factual information of the Senate, there was one taxpayer in the Krampel case that actually won. So again Senator Watson has grossly misrepresented the facts. The committee mentioned in its report not so much the Kajewski case but EBAs per se and superannuation cases—it was not dealing with those and they would be a matter for another day. Senator Watson says finally:

However, there was one case that was originally in favour of the taxpayer, but my understanding is that the tax commissioner has appealed and we are awaiting that decision.

The reality is that the taxpayer won three cases. The commissioner has won one, the commissioner has appealed one and the taxpayers have appealed one.
The reason I am raising this matter is that when the tax office appeared before the Senate committee it gave evidence at length and breadth as to the reasons it was going to throw one blanket over all of these schemes. It was questioned at length about this. One of the principal reasons it stuck to was the financing arrangements. This is also supported in letters it sent out on 5 June 2002, following the initial decision in the Vincent case. In a letter from the commissioner to participants in the mass marketed schemes about an extension to the settlement deadline, dated 5 June 2002, the commissioner says:

Federal Court Decisions

The outcome of both the Budplan and Vincent cases confirms that finance arrangements typically used in mass marketed schemes in an attempt to artificially create tax deductions, do not succeed.

The court has found differently to that. I asked the minister a question on the day about a commitment that the tax office gave to fund test cases. It has funded one. There have been other cases that the taxpayers have won, one of which the tax office will appeal, and yet the tax office still has not been prepared to provide test case funding. It made a very clear statement—indeed, it made it to the Senate Economics References Committee.

Another criticism I have made of the tax office—and I think a validated criticism—is that these cases are not all the same, that they are different. This is also supported by a letter from the tax office to one of the participants in the scheme. It says here in a letter dated 8 April 2003:

In addition, it is the Tax Office view that the decision—

this is the subsequent decision in the Vincent case where the full bench ruled in favour of the taxpayer—

in the Vincent case only applies to investors in Active Cattle Management and even then, each case will be decided on its own facts.

I cannot see how the tax office can say at the outset of a process that 40,000 or 60,000 taxpayers are all the same and then argue in a later letter that they are all different. If they are all different then they deserve to have their cases considered individually.

I made a suggestion, during the inquiry, to the tax office. Indeed, I asked the tax office if they could make a commercial viability assessment of a number of these projects and if they could determine from that assessment whether or not there was a capacity to recover the tax deductions claimed at the outset. The response I got—I think it was from Assistant Commissioner Smith—was that, yes, they could make that assessment. I suggested in my minority report that those schemes that could be assessed for viability ought to have been assessed for viability, and that the approach taken ought to have been one that would have seen those schemes not fail because of tax office action but actually be encouraged to survive—and many of them still are—so that the tax office might recoup the deductions that were initially claimed.

In a statement made to Nick Bruining—I am not sure what paper it was in—following the decision of the Sleight case, which found in favour of the taxpayer, First Assistant Commissioner Des Maloney from the tax office section says:

While the judgment is a victory for Mr Sleight, other investors should not assume that it also applies to them.

Why not? It was good enough for the commissioner to say at the outset that one box fits all, that you can throw one blanket over the lot, that they are all the same—and the evidence presented to the committee at the time was exactly that. The tax office cannot
have it every way. They have a responsibility. Taxpayers have to be treated equitably under the tax system. The tax office cannot say, as Michael O’Neill said, that there will be hundreds of cases and that the tax office is going to fund these test cases and then turn around and not do it. I say to the government that you have a responsibility to ensure that the tax office upholds commitments that it made to taxpayers.

With regard to the schemes in general, if the court says on the one hand that the taxpayer’s intention is purely to gain tax advantage, I understand that and I think that is the right approach to take. But the difference and the difficulty here for the tax office is how it explains the circumstances that it is now applying to product rulings for other mass marketed investment schemes. What are the real differences? They are all put out towards the end of the financial year. What is the primary purpose? The primary purpose is for the taxpayer to get a tax deduction. Do any taxpayers really know whether or not some of these schemes are going to be commercially viable? I raised these issues with the tax office during the course of the inquiry. On what basis do they justify one company charging $4,000 per hectare for a blue gum plantation versus another one charging $10,000? Why is there such a big difference? Why is it that some of these companies are allowed to use the money that taxpayers claimed as a deduction to purchase land for themselves when that would not be allowable as the deduction under section 51(1) in normal circumstances if a taxpayer applied individually?

The government must cause the tax office to take a long, hard look at its approach in these matters. The government should insist that the tax office adhere to the commitment that it made and fund some of these cases. It is the right thing to do and it is the fair thing to do for the taxpayers so affected. They should not be treated differently; they should not be bullied by the tax office. As a government and a parliament we have a responsibility to ensure that the taxpayers charter is upheld. The tax office made the commitment and they should adhere to it. (Time expired)

General Employee Entitlements and Redundancy Scheme

Senator HUTCHINS (New South Wales) (1.38 p.m.)—This afternoon I want to take the opportunity to speak about workers’ entitlements and the absolute failure of the General Employee Entitlements Redundancy Scheme, GEERS. Paying entitlements to workers who have lost their jobs through the failure of a company should be the first priority of administrators and governments responsible for those workers. Workers who have lost their jobs as a result of the collapse of their employer, through no fault of their own, have their lives turned upside down. Yet many workers, in spite of their decades of dedication and loyalty to their employer, are left without their entitlements once a company goes under. GEERS was meant to stop that from happening in the future. It was meant to demonstrate the government’s commitment to workers’ rights. It was an election promise which was meant to make workers’ lives more secure, but it has simply failed to achieve its objectives.

There are some essential problems with GEERS. The most obvious is that it fails to guarantee all entitlements. GEERS guarantees unpaid wages, leave, and pay in lieu of notice, but caps redundancy payments at eight weeks. Benefits are capped at a maximum salary of $81,500 per year. The scheme thus still fails to guarantee full entitlements. It is estimated that in the 2001-02 financial year there was a $9.4 million shortfall in payments because of the scheme’s caps. But when Stan Howard’s National Textiles went under, the Howard government paid 100 per
cent of the workers’ entitlements. Soon after, the government introduced the Employee Entitlements Support Scheme. Once Ansett collapsed, the government introduced the General Employee Entitlements Redundancy Scheme, GEERS. But Stan Howard’s National Textiles was the first, last and only failed company to have 100 per cent of workers’ entitlements paid.

The government’s approach to workers’ entitlements is a failure not because of its purported objective, but because its objective has only been achieved in one case: National Textiles. The number of workers who have not received their entitlements is a sad indictment of the government’s failure and favouritism in this area. The Department of Employment and Workplace Relations, which administers the scheme, applies GEERS only to a small number of workers. The stories of many workers who have not been paid their entitlements have been brought to my attention. I will use a few of these stories to illustrate the failings of GEERS. Forty former employees of Aeroflex, a transport company in Sydney, lost their jobs earlier this year. Aeroflex had been bought out by another transport company, TransConnect, and within months of that purchase it was in the hands of administrators.

Because the Department of Employment and Workplace Relations defines the business’s failure as a transmission of business rather than as a collapse, the former employees of Aeroflex are yet to be paid a single cent of their entitlements. Brian Price, one of those employees, worked for Aeroflex for 23 years. He has lost 100 days of accumulated sick leave, all his annual leave, long service leave and redundancy payments. He is owed $27,000 in total and is still waiting. Eddie Bruce, who worked for Fletchers Transport for 34 years, was given two days notice by the new owner, ACL, that the company would become insolvent and was going into the hands of an administrator. Eddie Bruce is owed $10,000 in entitlements. Billy Morris, a fellow driver at Fletchers Transport, is owed $28,000 for his 15 years of service. Neither Eddie Bruce nor Billy Morris has been paid a cent under GEERS. The Department of Employment and Workplace Relations has been waiting for months to make a determination on this.

In Mudgee, a town of fewer than 9,000 people, the closure of the abattoir saw 250 workers laid off last month. Instead of providing them with the same assistance that was provided to the workers at National Textiles, the government chose to absolve itself of responsibility. Instead of helping the workers who lost their jobs through no fault of their own, the government, and in particular the Deputy Prime Minister, engaged in a semantic debate over its responsibility for the entitlements of the former employees at the Mudgee Abattoir. The government has finally decided that the Mudgee Abattoir workers are covered by GEERS, but they are still waiting for their money.

The GEERS scheme is most clearly inadequate when the case of Ansett is considered. The full payment of entitlements to former Ansett employees alone would have cost $730 million—but the government had only set aside $52.8 million for the entire scheme in the 2001-02 financial year. It is unbelievable that a group of people who pride themselves on balancing budgets and being economically responsible have a program that they cannot fund. No matter what sort of capping is introduced, it is impossible to determine how much funding is needed because that is entirely contingent upon how many insolvencies there are. When times are tough and when the government is trying to balance a budget during a recession there are bound to be more insolvencies.
The introduction of the Ansett ticket levy, which collected $280 million, demonstrates that the government recognises those failings in the current scheme, but it has chosen to tinker at the edges instead of embracing a scheme which is fully funded and makes sure that all workers receive the entitlements they deserve. Instead of introducing a sensible scheme which recognises the responsibility of business to pay for workers’ entitlements, the government imposed a ticket levy to pay for the entitlements of workers who lost their jobs at Ansett. But even that money has not been passed on in full. There are people like Dave Lupton, who worked for Ansett for 27 years, who have not received their entitlements. Dave Lupton is still owed about $150,000 in redundancy and superannuation payments two years after the collapse of Ansett.

If the government had listened and if the government had acted upon the concerns of the Australian people, it would have introduced a scheme similar to that which the Australian Labor Party has supported for years. The ALP’s plan would see no more than 0.1 per cent of payroll reserved to ensure the entitlements of workers. In March last year Labor introduced a private member’s bill to that effect, but the government would not even debate it. Instead of supporting the ALP’s sensible bill, the government continues to support the GEERS package, which was hastily thrown together in an attempt to solve the problems faced by Ansett workers.

Most of us know that the government’s dealings on this issue have been motivated by the need to solve a political problem, not by a real desire to help workers who are left stranded. If the government was serious about paying workers their full entitlements, the government would introduce a scheme in which employers paid for insurance which would cover the costs of workers’ entitlements in the event of their company going under. Labor has proposed such a scheme. Our national insurance scheme would cover 100 per cent of workers’ entitlements and the cost would be covered by business, not by the taxpayer.

But instead of implementing a policy which could deal with any corporate collapse, the government introduced a short-term welfare policy for what is a corporate problem. The government’s policy makes taxpayers pay for the mistakes of business. Every Australian pays for GEERS. It is essentially a safety net for businesses that fail to act responsibly and that do not set aside the money needed to pay their workers what they have earned. Workers deserve the full complement of their entitlements, but the Australian public deserve to have their money spent wisely. It is only fair that business insures for its future mistakes.

The workers’ entitlements framework implemented by this government fails to compel business to pay workers what they deserve. Instead, the government has imposed the financial burden of the irresponsibility of company directors on the Australian people. It refuses to legislate or to support Labor’s legislation that aims both to provide workers with their full entitlements and to ensure that business itself plays a role in preserving the entitlements of workers. It is entirely sensible that business should cover those costs. Workers have earned their entitlements. Entitlements such as holiday pay, sick pay, redundancy pay, superannuation and overtime are not bonuses, and workers should be entitled to them when and if they make application for them.

In fact, when we talk about these funds we talk about the amount that has accumulated in them. It is estimated by Davis and Burrows in the Australian Economic Review that $50 billion in workers’ entitlements is held
by employers. Those entitlements have already been earned by workers but will be paid upon the end of their employment with their current employer. The amount of entitlements held by business—$50 billion—is in fact equivalent to the total amount of money lent to business by financiers. Rather than being a liability, workers’ entitlements act as a loan from employees to their employers. That money is used variously as venture capital for research and development and for investment. It benefits business and the Australian economy as a whole. Workers’ entitlements are earned through negotiation and hard work by employees. They are then held by businesses and used as the business sees fit. It is only fair that that work be recognised and that a commitment be given by the current government to ensure that workers enjoy the fruits of their labour.

On the one hand, the government has purported to protect the entitlements of workers, but it has only provided a special deal for the Prime Minister’s brother. On the other hand, the ALP has a plan to make sure that workers’ rights and entitlements are protected. The government and GEERS have sold out the Australian worker. They have let down people like Brian Price, Eddie Bruce, Billy Morris and Dave Lupton—and there are many more. This can be fixed and should be.

Trade: Live Animal Exports

Senator O’BRIEN (Tasmania) (1.49 p.m.)—Today I want to address a matter of very real interest to the people of Australia, particularly regional Australians: the administration of Australia’s live export industry. The Minister for Agriculture, Fisheries and Forestry, Mr Warren Truss, announced the latest review of the industry on 10 October this year. On that date, Mr Truss announced the appointment of Dr John Keniry to chair what he described as ‘a broad-ranging investigation into Australia’s live export industry, with particular reference to the MV Cormo Express incident’.

Although Mr Truss declared the inquiry broad-ranging, he failed to detail the specific terms of reference for the inquiry. The minister’s announcement devoted five sentences to the substance of the inquiry, but that was all. The minister did not reveal when the review would commence or how it would operate, including whether the review team would conduct open public hearings. The minister did not say whether the review would be conducted inside or outside his department. He did not say how it would be resourced. The minister did not even say how industry groups, animal welfare organisations, veterinarians and other Australians would have an opportunity to participate in the review by making submissions to the review team. On 26 October, the minister announced the addition of four members to the review team—Mr Murray Rogers, Professor Ivan Caple, Dr Michael Bond and Mr Lachlan Gosse—but he did not give any more details about the operation of the review, including whether the review team would be empowered to make direct recommendations about the administration of the live export industry.

Unfortunately, Mr Truss has a tendency to mistake review for action. The Keniry review is in fact the fourth live export industry review initiated by this minister in the past four years. None has resulted in substantial change to the way the government administers this $1 billion industry. No changes implemented in the wake of the previous reviews prevented the MV Cormo Express fiasco—very obviously—and no changes have done anything to address the decline in community confidence in this trade. The Keniry review is the fourth review in four years and, in my view, the last chance for the government and the industry to fix up the mess Mr Truss has created.
The minister’s failure to announce the full review team on 10 October was not a good start. The fact that the minister announced no more detail on 26 October is even worse. The Australian people are sick and tired of Mr Truss’s failure to understand their concerns about animal welfare standards in the live export industry. That much should be clear to any of us who read our emails or the mail that we get through our offices on a daily basis. What confidence can Australians have in a minister who cannot even announce the composition of a review team within a space of two weeks? What expectation can they have that he will give the review the independence, authority and resources it needs to address the manifest deficiencies in his administration of the live export industry? The livestock industry itself is still waiting for the release of the full review details. Labor calls on the minister to come clean on this inquiry and reveal whether it is yet another attempt to divert attention from his own incompetence or whether it represents a genuine commitment to clean up Australia’s live export regime.

A number of animal welfare organisations have expressed doubt about the minister’s commitment to effecting real change in this industry. They have questioned whether the Keniry review is just another PR exercise. Frankly, I do not blame them. Only the minister can respond to those matters, and the way to respond is to release the full details about the operation of the review. In late August, Labor called for a review of Mr Truss’s administration of the live export industry, but we also called for action and the transfer of the administration of industry standards to AQIS pending the outcome of the review. In respect of the Cormo Express fiasco, Labor also called on the minister to initiate negotiations on formal protocols with live export markets to prevent a repeat incident. It is telling that Mr Truss’s belated review has not been accompanied by any action. It remains to be seen whether the review itself will have any substance.

Next week, Labor will pursue this matter at Senate estimates. But the minister should not keep relying on the Senate Rural and Regional Affairs and Transport Legislation Committee to do his job for him. I urge the minister to do the right thing and to tell the Australian people how his review into the live export industry will work, because a lot of people are expecting something to happen. They are expecting this government to actually do something, not just commission a review.

Sitting suspended from 1.55 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE
Trade: Asia-Pacific

Senator CONROY (2.00 p.m.)—My question is to Senator Hill, the Minister representing the Minister for Trade. Can the minister confirm that under the recently concluded free trade agreement with Thailand, producers of milk powder, milk and cream will not receive open access to the Thai market until 2025? Is the minister aware that in the 1994 Bogor Leaders Declaration, APEC members announced a commitment to the goal of free and open trade and investment in the Asia-Pacific no later than 2020? Why is the government now negotiating bilateral deals that deliver worse outcomes for farmers than that agreed to by APEC nearly 10 years ago?

Senator HILL—I presume the declaration under APEC is not a trade agreement—that is the answer. It is one thing to aspire to good outcomes; it is another thing to achieve them. It sounds as if the Australian achievement in relation to Thailand was not very different to what the aspiration was in relation to APEC. We could have had Senator Conroy on his feet today congratulating the
government on going so close to the APEC aspiration; yet, in the typical Labor Party way, he just condemned the efforts being made constructively and positively to open up markets and produce benefits to Australian exporters. I respectfully suggest—

Senator Conroy interjecting—

The President—Order! Senator Conroy, it is your question. Listen to the answer.

Senator Hill—you have picked a specific example, but look at the agreement as a whole. The agreement as a whole has been applauded and recognised as a great achievement for the Australian government. Particular credit goes to Minister Vaile, as it gives new and expanded opportunities for Australian exporters, it helps build Australian wealth and it brings advantages to all Australians. So I suggest Senator Conroy look at the positives instead of always looking at the negatives.

Senator Conroy—Mr President, I ask a supplementary question. Given that Australia has dumped the APEC free trade time line for Thailand, will the minister guarantee that it will not dump the APEC agreed access date for industrialised countries—that is, 2010—under the proposed US free trade agreement? Can the minister confirm that under APEC, the US has already made a commitment—reconfirmed just last week in Bangkok—to giving Australia total access by 2010? Isn’t the National Farmers Federation right when it says that five years is the maximum acceptable transition time under the FTA? Wouldn’t a transition time that was longer mean that Australian farmers would be worse off under the FTA than the existing US commitment under APEC?

Senator Hill—Senator Conroy obviously did not listen to my answer, but I have got some further useful information for him. Tariffs on nearly 80 per cent of Australian exports to Thailand will be eliminated immediately. For a small range of products there will be this phasing, but that small range of products amounts to one to two per cent of all tariff lines. Senator Conroy has picked on the one to two per cent—which even then is better than what we have at the moment—and forgotten the 80 per cent of cases where tariffs will be eliminated. That is a tremendous achievement. Even the Labor Party should be able to see the benefits that flow from that.

Howard Government: Economic Policy

Senator Chapman (2.04 p.m.)—I direct my question to the Minister for Revenue and Assistant Treasurer. Will the minister inform the Senate of the importance of the Howard government’s strong fiscal management in delivering benefits for business and also for all Australians? Is the minister aware of any alternative policy approaches?

Senator Coonan—I thank Senator Chapman for that very incisive question. It is true that economic growth in Australia has been very strong since the coalition came to office in 1996. As a result of strong economic growth, more than 1.2 million jobs have been created. That means that the unemployment rate has fallen to a 13-year low of 5.8 per cent. The current success story is due in large part to the Howard government’s focus on balancing the books, including payment for our national security commitments, sustained reforms, and reform of the tax system. A main focus has been the rollout of our business tax reforms: reforms to reduce the company tax from 36 per cent to an internationally competitive 30 per cent; reforms to the consolidation regime, de-merger tax relief and simplified imputation rules; and, of course, reforms to reduce compliance and help commercial restructuring of businesses.

Additionally, the government has been prepared to make some long-term structural
changes to underpin issues associated with the ageing population. I will refer to just one. The proposed modest changes to the Pharmaceutical Benefits Scheme are aimed at putting it on a more sustainable basis so it can continue to deliver access for all Australians to medicines at affordable prices in the longer term. This is because since 1991 the cost of the PBS has nearly quadrupled from $1.2 billion to $4.2 billion and is expected to cost $6.4 billion by 2006. So what happens? Of course, it is opposed in this place by the Labor Party.

The government has implemented policies that recognise that both business and industry are the backbone of the Australian economy and are the sources of jobs and prosperity for all Australians. I am asked about alternative policies. The Labor Party’s rigorous fiscal policy that is now espoused—rather late in the day—by Mr McMullan and Mr Latham promises to cut programs that benefit business and industry. It is a recipe for a fiscal train wreck. Labor’s shadow Treasurer, Mr Latham, has said recently that Labor’s economic traditions and values are for competition and productivity, yet Mr McMullan wants Labor to be a big target, promoting big-spending programs by allocating priorities.

Labor’s hit list should be ringing alarm bells. It will frighten off foreign workers and companies by opposing expatriate tax and international tax reforms. It will rip into the baby bonus and will tax working mothers and families. It will gut the health insurance rebate and hit seven million Australians right in the hip pocket. It will increase tax on ethanol producers, without any plan about how to have cleaner fuels in the long term. It will scrap fuel subsidies to the bush and will can a few thousand jobs on the way through.

Most recently, Labor is espousing that there should be a better savings policy to build up superannuation savings. Nobody disagrees with that, but, within 24 hours of making the statement, Labor had effectively voted against the government’s $1.3 billion package of matched superannuation savings and reducing the superannuation surcharge. Unfortunately, Labor will do nothing but increase the pressure on working families. It will increase the tax burden on working Australians. I agree with Labor’s finance spokesman, Mr McMullan, who said, ‘There will be a lot of people complaining before we are finished.’

Trade: Free Trade Agreement

Senator CONROY (2.08 p.m.)—My question is to Senator Hill, the Minister representing the Minister for Trade. Is the minister aware of comments by United States Trade Representative Robert Zoellick that the US will seek changes to the ‘pharmaceutical protection scheme’ as part of the free trade agreement? Minister, why has the government consistently failed to negatively list the PBS, thereby making it clear that it is off the negotiating table?

Senator HILL—This is a rather feeble attempt to outdo Senator Cook’s record on trade. He will come back if this goes on for much longer! I suspect it also means we will have a long session in estimates. This question has been answered on a number of occasions in recent times. We are entering into a negotiation to achieve benefits to Australia through opening up trade opportunities, but we will negotiate to a background that includes a determination to retain the health and medical benefits that are part of the Australian way of life. I do not know how many times I have said that. I have now said it to you again.

Senator Conroy—Negatively list it—fixed!

Senator HILL—You want to do the negotiation for Mr Vaile. Unfortunately for
Senator Conroy—but fortunately for the Australian people—he does not have that opportunity. Mr Vaile has demonstrated through the Thai agreement, which we have just spoken about, and through the Singaporean agreement that he is a very capable negotiator and can achieve benefits for all Australians through this process. He does have riding orders, it is true, in relation to the health system, in relation to the cultural sector, as we refer to it these days, and in certain other areas. I suggest that Senator Conroy and the Labor Party patiently wait to see the outcome, which we believe will be of benefit to this country.

Senator CONROY—Mr President, I ask a supplementary question. Is the minister aware that on Monday the chief trade negotiator of the US, Mr Ives, stated that in the context of the PBS the US was focused on the ‘values that are awarded to innovative medicines’? Minister, given that this is just code for saying that the US wants to increase the price of pharmaceuticals, will the government now rule out any changes to the PBS as a result of the free trade agreement that would increase the cost of medicines to Australians? Will the government give an undertaking to put the national interest ahead of its short-term political interests and walk away from the FTA if there are going to be changes to the PBS?

Senator HILL—If the Labor Party were genuinely interested in the future of the PBS, it would pass the government’s budget amendments and ensure that the PBS is properly funded for the future. It would ensure that the benefits to Australians will continue as the range of medicines expands. I reiterate: in these negotiations the Australian government will preserve our ability to meet fundamental policy objectives and to ensure the maintenance of a sustainable PBS and the provision of affordable medicines for all Australians.

Superannuation: Public Sector

Senator MASON (2.13 p.m.)—My question is to the Minister for Finance and Administration, Senator Minchin. Will the minister inform the Senate of any recent developments in the structure of the government’s public sector superannuation schemes? How will these changes improve the long-term affordability of public sector superannuation?

Senator MINCHIN—I thank Senator Mason for such a good question. Our government have been concerned about the long-term sustainability of Commonwealth government finances. That is why we produced in last year’s budget the very important Intergenerational Report—to put a focus on the Commonwealth finances over the next 40 years and on what are unsustainable pressures on those finances. That is why we approached things like the PBS, to ensure their long-term sustainability. We have cut the debt we inherited from Labor by over two-thirds and, if we can sell Telstra, we will eliminate government general debt entirely.

But equally, the government and the nation have to focus on the Commonwealth government’s unfunded liabilities—primarily, superannuation—and they are in the tens of billions of dollars. That is why I was very pleased to announce recently that the government proposes to introduce changed superannuation arrangements for all new employees who join the Public Sector Superannuation Scheme from 1 July 2005. It is our proposal to convert the PSS from a defined benefit scheme to a fully funded accumulation scheme from that date. Because these new arrangements will be fully funded they will ensure that superannuation for Australian government employees will be affordable.

The PSS was opened in 1990. The unfunded defined benefits provided under that
scheme have already accumulated liabilities of some $9 billion at present and growing, and that is on top of the unfunded liability in the closed CSS of some $50 billion. The PSS liability was forecast to double from $9 billion to $18 billion over the next 14 years if not addressed. That situation clearly was unsustainable. So changing the PSS to an accumulation fund is an absolutely essential move if we are to contain Commonwealth government unfunded liabilities.

I stress that the change will not affect existing Australian government employees or people with any existing interest in the PSS or CSS. I also confirm that, from 1 July 2005, all new PSS members will receive the same level of employer contribution. That will be at a rate of 15.4 per cent of salary, which is the actuarially determined average employer contribution under the existing arrangements. Importantly, these new arrangements will give new government employees portability of superannuation benefits, which is very much in keeping with our goal of giving Australians much greater flexibility and ownership of their superannuation.

I will be talking to the relevant unions and stakeholders over the next few weeks about developing this scheme. Those consultations are under way. I do want to thank everybody involved in this for their constructive approach, particularly the relevant government employee unions. I point out that the PSS board, which comprises equal ACTU and employer representatives, unanimously supports this proposed change, and I do want to thank them for their support. The changes will come into effect through a disallowable instrument, and I look forward very much to all senators supporting this very essential reform of public sector superannuation.

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**Health Insurance**

**Senator McLucas** (2.16 p.m.)—My question is to Senator Ian Campbell, the Minister representing the Minister for Health and Ageing. Can the minister confirm that Minister Abbott is considering withdrawing the government’s proposal to allow insurance for out-of-hospital medical expenses, as outlined in the government’s original package? Isn’t this a blatant admission that this proposal would benefit only those wealthy enough to afford private insurance, while at the same time putting more inflationary pressure on doctors’ fees? Will the minister rule out this policy proposal once and for all in the interests of fair and affordable health care?

**Senator IAN CAMPBELL**—I thank Senator McLucas for her question on this very important issue. The Minister for Health and Ageing is working very constructively to get a package of measures through the parliament that will strengthen Medicare and make it fairer. Significant progress has been made in designing a package of measures that will include a range of incentives for practices to increase bulk-billing. The package will ensure that bulk-billing is delivered to people who are in need of it, and it will guarantee, for example, that concession card holders will receive the benefit of bulk-billing. There is a range of other measures to address lower bulk-billing rates, particularly in areas where there are fewer doctors. This, clearly, is one of the factors that affect the rates of bulk-billing. In some of those areas of Australia where the number of GPs is lower, you can increase bulk-billing rates. That is one of the important measures.

There is a range of measures in the package to ensure that you can get insurance for very expensive procedures outside the public hospital system. Some people on lower incomes simply do not get access to those sorts
of treatments unless they put themselves on the extraordinarily long waiting lists of public hospitals, which are run by state governments. Some state governments are trying hard to improve the situation but, in many states, these hospital services are going backwards.

Senator McLucas asked what the minister is doing in relation to negotiating changes and improving the package announced in the budget in order to get it through the Senate. Yesterday Senator Allison, on behalf of the Democrats, announced a range of measures that were welcomed by the minister as a constructive approach to improving, strengthening and making Medicare fairer. Labor’s measures seem to have one thing in mind—improving the pay of doctors, as opposed to improving the services for patients. There is a huge dichotomy between the Australian Labor Party, which gets old cronies to write dodgy reports about the inflationary impacts of various policy proposals, and the constructive approach taken not only by the Australian Democrats but also by Senator Meg Lees. They are both quite keen to see a significant improvement in bulk-billing rates and significant improvements to Medicare.

I welcome those contributions. I welcome the approach of the Minister for Health and Ageing, who is determined to get a policy package implemented through this parliament—before Christmas, if that is possible—and to see those policy processes implemented in a timely way. That is in stark contrast to the approach taken by Senator McLucas and her Labor comrades, who offer a lowbrow solution. It is not a solution that improves services to patients; it is a policy that seems to be aimed at simply improving the incomes of general practitioners.

Senator McLucas—Mr President, I ask a supplementary question. I ask the minister to refer to the Hansard, because I am not sure that he actually understands what insurance for out-of-hospital medical expenses is. I would like an answer to the question: what is the government proposing to do about out-of-hospital medical expenses insurance? When will the government admit that the reason that families are finding it harder and harder to afford health care is the government’s complete failure to address the collapse of bulk-billing rates in this country?

Senator IAN CAMPBELL—Mr President, Senator McLucas’s problem in asking questions like that is that the biggest threat to the affordability of private health insurance in Australia is in fact the Labor Party’s refusal to rule out scrapping the private health insurance rebate. Every single Labor spokesman that I have been able to find in Hansard has squibbed this issue all over the place. There are obviously members of the left wing of the Labor Party who want to scrap it all together and more practical members of the Labor Party who aspire to be in government one day trying to squib it. The reality is that the affordability of private health insurance, and therefore access to medical services, has been increased by this government with the 30 per cent rebate. That is threatened by those opposite, who refuse to commit to it and who have a secret policy of abolishing it.

Trade: Live Animal Exports

Senator BARTLETT (2.22 p.m.)—My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry. Can the minister confirm reports that the Israeli Supreme Court has recently issued an order requiring the Israeli Ministry of Agriculture to give reason within 60 days why the imports of live animals from Australia should not stop? Is it the case that the court order was based on extensive evidence presented to the court that showed a wide range of incidents involving cruelty to these ani-
mals exported from Australia, including extracts from *60 Minutes*? Isn’t this another example of the entrenched and inherent cruelty involved in the live sheep and cattle trade and another example that the trade will continue to be subject to unreliability and be unable to guarantee decent animal welfare standards?

**Senator IAN MACDONALD**—I thank Senator Bartlett for his question and I acknowledge that he has a deep and longstanding interest in the welfare of animals. I think that applies to most of us in the Senate. Senator Bartlett articulates it a fraction more vigorously than others, perhaps, but I think we all share that concern for animals. That is why Australia has one of the most humane regimes for dealing with animals—certainly within Australia we are world class in the way we deal with animals. I am aware, Senator Bartlett, of media reports of the Israeli incident that you talk about. A group calling itself ‘Anonymous for Animal Rights’ has taken out a proceeding in the Israeli Supreme Court which has issued an order nisi requiring the Israeli Ministry of Agriculture to give reasons why imports of live animals from Australia should not stop. My understanding, though, is that the court is far from having its final judgment on this particular issue. The claims in that particular media release that the trade has lost credibility are really quite beyond belief. We have had a problem with one sheep shipment this year—

**Senator Sherry**—A lot of sheep, though.

**Senator IAN MACDONALD**—It was quite a small lot, actually.

**Senator Sherry**—One boat, a lot of sheep!

*Government senators interjecting*—

**Senator IAN MACDONALD**—Yes, stick to the liquor trade, Senator Sherry. This year some 314—

**Senator Faulkner**—On Wentworth figures, that’s not much really, is it?

**Senator IAN MACDONALD**—I will repeat that for Senator Faulkner, who would not have been able to hear me shouting across the chamber: there have been 314 cattle, sheep and goat voyages this year and there has only been a problem with one of them. I hasten to add that that problem had nothing to do with the Australian government, nothing to do with the Australian authorities and nothing to do with the way the ship was loaded or transported. It was a problem in Saudi Arabia and nobody really knows what that was about. As best we can find out, it was a dispute between two commercial entities in Saudi Arabia. I want to make it very clear that this is an important industry for Australia: over $1 billion in export earnings and some 9,000 jobs rely on it.

I am aware—and Senator Bartlett mentioned—that the press release claims that footage of the *60 Minutes* story was used in the Israeli court case. It is worth noting that affiliated animal rights groups here in Australia admit that some of the footage used in that particular story was not of Australian animals and was not of Australia. The release does indicate that the case taken by this group in Israel was based on conditions once the sheep had actually been unloaded. Australia, of course, is not in a position to mandate our animal rights standards on other countries. Our position enables us to enforce our welfare standards within Australia but we are unable to do that overseas. We have codes of practice and we are very strict with those. We have new models and, since an incident quite a number of months ago, there have not been any real problems at all with our live animal trade. It is something we want to continue doing because it is valuable to Australia, and we will continue to bear the welfare of the animals involved very much in mind.
Senator BARTLETT—Mr President, I ask a supplementary question. I thank the minister for his answer. How does the minister’s statement that Australia has one of the most humane approaches to the treatment of animals in the world apply to his statement just then that we have no control over or interest in their welfare once they leave Australia’s shores? Surely, if we have concerns and develop codes of practice for the humane treatment of animals, that should matter for those animals once they have left Australia’s shores—whether they are on the ship, once they are off-loaded or when they are slaughtered overseas. Why is the welfare of these animals only of concern depending on their whereabouts in the world? In addition, why has the minister repeatedly told the Senate over recent months that one of the reasons the government was acting on the debacle with the Cormo Express was the atrocious conditions those animals were suffering in, given they had clearly left Australia’s shores?

Senator IAN MACDONALD—I do not think Senator Bartlett is right in that last comment. The animals on the Cormo Express were very well looked after. In fact, in spite of the length of time they were on board, they have been off-loaded in Eritrea in a very good condition. There were a number of mortalities, but that is because it was an incident well beyond what was planned—and everybody in this Senate knows what it is about. Because of Australia’s approach, conditions have improved in many overseas countries. If these overseas countries do not buy the animals from Australia, they will buy them from somewhere else and they will be even less concerned for the animals involved. Senator Bartlett, the point is simply that in the world of trade, once you sell something, you do not then, as an Australian government, try to tell every country in the world what they should do with the goods they have purchased once those get into that country. If we did, you would be the first one to object. (Time expired)

Medicare: Reform

Senator LUNDY (2.29 p.m.)—My question is to Senator Campbell, the Minister representing the Minister for Health and Ageing. Can the minister confirm that the health minister is planning to change the swipe card technology of the so-called Fairer Medicare package and replace it with an expansion of the HIC Online program? Isn’t this switch to the HIC technology an admission that the government’s original swipe card plan would have had drastic inflationary effects on the cost of health care for ordinary Australians, because they would have had to pay the full cost of treatment up front? Isn’t it also the case that the expansion of the HIC Online program will not require legislative change, thereby avoiding parliamentary scrutiny?

Senator IAN CAMPBELL—Thank you to Senator Lundy for her question on health, which is obviously a crucial issue of great concern to all Australians. The problem the Labor Party have is that they have a policy that is very thin. As I said, it is a lowbrow policy. Rather than focusing on delivering better services to the patients and to the community by ensuring that you target measures at those communities that have low rates of bulk-billing, they want to put more money into the system to bring GPs’ salaries up. Their problem is that when constructive players enter the debate—like the Minister for Health and Ageing himself, who is prepared to look with an open mind at how you achieve these things; like Senator Meg Lees, who has come to the table with constructive suggestions; and like her former colleague in the Australian Democrats Senator Lyn Allison, who has come to the table with constructive suggestions—Labor put in this old
tax and spend approach. Not even someone like Neal Blewett, the original author of Labor’s health policy on Medicare, would regard that as a sound policy. The minister has asked: ‘How do you find a way to improve patients’ access to the Medicare rebate? How do you make it easier for the patients?’ Senator Lundy, who in another shadow portfolio responsibility has shown that she has some interest in moving services online, a process that—

Senator Lundy—Mr President, I rise on a point of order going to relevance. I have been waiting patiently for two minutes and the minister still has not turned to the issues specifically raised in my question. I ask you to call him to order.

The President—The minister has over two minutes left to answer his question.

Opposition senators interjecting—

The President—If we stopped getting interruptions from my left, perhaps he would be able to answer the question!

Senator IAN CAMPBELL—The problem is that Senator Lundy does not understand the question. The policy problem she is focused on is why Minister Abbott is trying to find sound solutions to delivering better health services and using online technologies to do so. The point I was making is that you would think that Senator Lundy would encourage the use of Internet based technologies for patients to access payments through the Medicare system. That is the crux of her question.

Senator Lundy—Mr President, I rise on a point of order again going to relevance. I also have to say that the minister is now misrepresenting the question I asked. I want to know about the full, up-front costs of treatment to patients under the proposed new scheme. Answer that.

Senator Faulkner—Senator Campbell, look it up in the index or, if you don’t know, admit it!

The President—Senator Faulkner, I am trying to give an answer to Senator Lundy. Senator Lundy, you will obviously ask the minister a supplementary question. I would ask the minister to return to the question, as he has 1½ minutes left. I remind him of the question that was asked.

Senator IAN CAMPBELL—Mr President, I am answering the question and it is entirely relevant. The question that Senator Lundy asked is: why is the minister looking at delivering Medicare rebates online?

Opposition senators interjecting—

Senator IAN CAMPBELL—Yes, he is. We think it is a good idea to deliver those online. Unfortunately, from the Labor Party’s point of view, they got a former Carmen Lawrence staffer to do a report on the inflationary impacts of the health policies. Since then, we have released an independent study that found that all of the assumptions of that report—and the Labor assertion that providing rebates through the policy mechanisms of A Fairer Medicare would mean an increase in fees and an increase in the number of people who would charge above the scheduled Medicare fee—were incorrect. If you want to base your political arguments on assessments made by people who used to work in the Labor Party and who create their research outcomes by adjusting the inputs, then get up and make these assertions. But the government are committed to providing better access to bulk-billing by using modern Internet technology. We have shown that we are interested in parliamentary scrutiny, interested in getting the package through the Senate and interested in negotiating with people like Senator Lyn Allison and Senator Meg Lees, who have a constructive approach to this. (Time expired)
Senator LUNDY—Mr President, I ask a supplementary question. I have no idea where the minister was taking that. Aren’t the costs of giving GP practices the technology required to access electronic claiming estimated at up to $25,000 per practice? Doesn’t this compare badly to the government’s proposed subsidies for GP practice technology, which are $750 for practices in suburban areas and $1,000 for rural practices? Will the minister rule out pushing for high-technology solutions until the government agrees to provide the resources necessary to make its promises a reality, particularly in rural and regional areas, where quality online services are already more expensive and harder to access?

Senator IAN CAMPBELL—I am thankful for the supplementary question because it allows me to focus more on the positives of our policy and the negatives of theirs. The reality is that what Senator Lundy has done by picking up this $25,000 per practice figure is accept the argument of the AMA, which presumes that no medical practice in Australia has any computers at the moment. The reality is that most general practices do have computers, do have access to the Internet and, in fact, run most of their systems on these. Of course, the government has offered, through the HIC Online program, to provide further assistance to general practices to do this. The government’s forward-looking program is, in fact, to ensure that patients get the benefit of modern technology. What Senator Lundy would want them to do is fill out the form, go to the local Medicare office, pay up front, wait to get it rebated and find a car park in a hot car park while dragging children around. What we want to do is allow the patient to have the money credited to their account on the same day. (Time expired)

Ansett Australia: Employee Entitlements

Senator LEES (2.37 p.m.)—My question is also addressed to Senator Ian Campbell, but in his capacity as the Minister representing the Minister for Transport and Regional Services. I ask the minister: is he aware that a large number of former Ansett employees are still waiting to receive substantial amounts of their full entitlements? Some individuals are waiting for as much as $75,000. Is the minister also aware of concerns amongst former Ansett employees that $115 million of the air passenger ticket levy has not been distributed to Ansett workers but instead has been earmarked by the government to support the tourism industry? Is the minister aware that a number of former Ansett employees have had to sell their homes and are not able to make ends meet financially and, indeed, that there have been several suicides? I ask the minister: will this government commit to ensuring that all former Ansett employees get their full entitlements?

Senator Faulkner—Spend the first two minutes saying how nice she is.

Senator IAN CAMPBELL—I do not need to do that; everybody knows that. I thank Senator Lees for the question. Of course, the air passenger ticket levy policy is to ensure that former Ansett employees are paid their statutory entitlements. The levy, just to update all honourable senators, has raised, as at 31 August this year, $286.2 million. We do expect to receive some further money. The government has paid out $336.1 million to the administrators since December 2001. The establishment of that special employee entitlements scheme for the roughly 12,994 former Ansett employees should guarantee and is designed to guarantee that they do get those statutory entitlements in advance of the sale of the Ansett assets by the administrators.
As Senator Lees and all senators who care about this issue would understand, the sale by the administrators of the assets is a protracted process. You have to ensure, of course, that you get the best price for those assets and that the asset price is, for the benefit of all the creditors, maximised. The government’s process was to ensure that the employees did not have to wait for that long extended process to go through before they got paid, so the government effectively stepped in and ensured that they were paid in time.

There is some speculation, which Senator Lees has referred to, that there could in fact be a surplus available once all of the processes have been settled. We will not know that until the Federal Court proceedings which commenced on 12 November are dealt with in full, so it is a bit of a hypothetical situation to talk about what would happen to the surplus. But the government has indicated that it would be appropriate, if there were a surplus, that any surplus funds be returned, with an emphasis on assisting the aviation industry and the tourism industry, both of which have suffered as a result of a series of calamities.

One was the collapse of Ansett on 14 September, and the others were the September 11 terrorist attacks on the twin towers in New York, followed, just when the tourism industry was beginning to find its feet again, by the terrorist attacks in Bali. So the tourism industries and aviation industries in Australia and world wide have suffered, and the government’s policy decision is that, if there is the surplus that Senator Lees has alluded to, it will be returned in that way. In relation to employees who do have complaints about having not received their full statutory entitlements, I would be very happy on behalf of Senator Lees to take those up with the minister.

**Senator LEES**—Mr President, I ask a supplementary question. I particularly thank the minister for his last comment, but I ask the minister where the problem is when, on the one hand, the government has set up this levy to make sure that people do not wait for years and, on the other hand, people are obviously waiting for many years and becoming more and more stressed. I ask the minister that a full audit be done to see what entitlements are still owed to whom and how much is still owing and that we put together some reasonable assurances for these people and give them some idea of how much longer they are going to wait.

**Senator IAN CAMPBELL**—I think the best way forward is for me to proceed with the offer that I made at the conclusion of my answer to the main question.

**Medicare: Reform**

**Senator HUTCHINS** (2.43 p.m.)—My question is addressed to Senator Ian Campbell, representing the Minister for Health and Ageing. Since the HIC introduced an emergency $6.9 million fund to bribe software companies to include HIC Online in their practice software, can the minister advise how many general practices have signed up and how much the government has spent on implementing this technology? As well, how much more will the government have to spend before the HIC Online plan becomes viable?

**Senator IAN CAMPBELL**—The government is committed to ensuring that patients receive their Medicare rebates efficiently, effectively and in the shortest time possible. This government has been committed to delivering government services online ever since the Prime Minister of Australia made that commitment—I think it was in about 1997. To answer Senator Hutchins’s specific question about the number of doctors who have become part of the HIC
Online project, we have in fact already got over 100 general practices who are signed up. Clearly, if we went down the path of the proposals that were discussed by the minister over the weekend then we would like to see every general practice in Australia online and able to provide patients with quick, efficient service and, obviously, ready access to their rebates in real time through that process.

I would have thought the Australian Labor Party would welcome such an approach, to ensure that patients do not have to fill in forms, find an envelope and stick on a stamp, or go and wait outside a Medicare office or join a queue there. We would think, quite frankly, that it is in Australia’s interests and in the interests of all its citizens to ensure that they have access to the very best benefits of modern technology and that they can access their government services through that technology. This is a forward-looking proposal by the Minister for Health and Ageing to ensure that that is available to the many millions of Australians who benefit from the Medicare program in any one year in Australia.

Senator HUTCHINS—Mr President, I ask a supplementary question. Can the minister confirm that attempts by the HIC to roll out HIC Online have been hampered by ongoing disputes with medical software providers? Can the minister provide an assurance that all major providers of practice software are now on board with HIC Online, or will the government’s new fall-back position for electronic claiming fall in a heap because no-one actually has access to it?

Senator IAN CAMPBELL—Clearly the questions committee in the Australian Labor Party have chosen Senator Hutchins to ask this question because he does have a serious interest in helping to deliver services online. Whenever you seek to deliver a new service online, you always get software companies trying to use their proprietary powers to try and capture control of that marketplace. The Australian government has always delivered its online programs in such a way as to ensure that any software company can deliver those in an open environment—I think that is the terminology, Senator Alston—and, as I understand it, those turf battles between software companies have been resolved. It is in the interests of software suppliers around the world to get on board this project. It is a world-leading project to see health services and health benefits from the Medicare program delivered online to patients, to their benefit, which will strengthen Medicare and make it fairer.

Roads: Scoresby Freeway

Senator TCHEN (2.46 p.m.)—My question is to the Minister for Local Government, Territories and Roads, Senator Ian Campbell. Noting the conspicuous silence of Victorian Labor senators on the topic, I ask: will the minister advise the Senate on the Australian government’s commitment to construction of roads in Victoria? I further ask: can the minister advise the Senate whether he is aware of any alternative policies?

Senator IAN CAMPBELL—That is a very important question, coming from a Victorian senator, Senator Tchen, who I know follows the fiasco that passes for roads policy in Victoria. I was as shocked as Senator Tchen was—and I think it was he who brought it to my attention—to read an article in the Bendigo Advertiser, which is not a paper I read every day but I am reading it more often these days. In the article, on Tuesday, 28 October, the Victorian Minister for Transport, Peter Batchelor, whom I am looking forward to meeting soon—

Opposition senators interjecting—

Senator IAN CAMPBELL—Is he in your faction, Steve? In another faction, is he?
Senator Chris Evans—He’s a very good bloke.

Senator IAN CAMPBELL—Good. I will have to get Kim Carr to introduce me. Only two weeks ago, of course, Premier Bracks had to write a letter to 100,000 people who live down what I would call the Scoresby corridor explaining why he had done a backflip on a promise that he made before the state election to jointly fund the Scoresby Freeway project with the Commonwealth and to build it without a toll. Of course, since then the Premier has torn up that agreement. It was an agreement that was not worth the paper it was written on. He has now said he is going to turn what should have been a freeway, if the Commonwealth-state agreement had stayed in place, into a Bracks tollway. It is interesting that, over the last couple of days, up in Bendigo, Mr Batchelor—and there is a wonderful picture of him sitting down sipping some chardonnay, I think, in a cafe in Bendigo—is saying that now, all of a sudden, there is some money available to build some other roads in Victoria. He specifically said that the federal government—

Opposition senators interjecting—

The PRESIDENT—Order! Shouting across the chamber is disorderly, and you know that.

Senator IAN CAMPBELL—Mr Batchelor said that the federal government has now been released from its commitment to provide $445 million for the Scoresby bypass, which I think is quite alarming for Victorian taxpayers generally and, of course, for the citizens of Victoria who would benefit from the building of the Scoresby Freeway without a toll. It is also concerning that Mr Batchelor is wilfully going around misleading Victorians about Victorian road funding. The Commonwealth puts enormous resources into roads in Victoria and seeks to do so in a cooperative way with the Victorian government, but we have to be very cautious about dealing with the Victorian government as a result of our being literally cheated in relation to the agreement we entered into on Scoresby. So when it comes to negotiating the future of that very important road to Bendigo, the Calder Highway, the Commonwealth will be very cautious about any undertakings from the Victorian government. We have, of course, spent $100 million on building the Calder Highway—a lot more money than the Bracks government has ever spent on it—and we will continue work on that program.

The state minister also said that we are only funding one road in Victoria when in fact, as Senator Tchen will be pleased to know, there are a range of other roads that we are funding. In fact, we are spending $313.5 million in Victoria this year, including $70 million on national highway works. If Senator Tchen were to ask a supplementary question, I could go through a whole range of other projects in Victoria for which we are committing significant money with very little cooperation from the state minister and, of course, no cooperation at all from Premier Bracks himself. We are expending, for example, $68.2 million on Roads of National Importance projects. We are spending over $10 million this year—(Time expired)

Senator TCHEN—Mr President, I ask a supplementary question. Would the minister please advise the Senate further on the government’s commitment to roads in Victoria? I also draw the minister’s attention to my earlier question about whether he knows of any alternative policies.

Senator IAN CAMPBELL—I thank Senator Tchen for asking a supplementary because it gives me the opportunity to home in on his question about alternative policies. There are no alternative policies. In fact, one
of Mr Crean’s frontbenchers, Julia Gillard, attended another Victorian road stunt near the Deer Park bypass site, asking Mr Howard, the Prime Minister, to commit some money to the Deer Park bypass. When Mr Crean was asked by journalist Karen McCann from the Ballarat Courier, ‘Will you commit to funding the Deer Park bypass?’ of course he said, ‘No.’ I am sure that Julia Gillard is wearing more than a bit of smog on her face over that one. The Commonwealth stays committed. We are spending $100 million on the Packenham bypass, $306 million on the Craigieburn bypass, some $7 million on the Albury-Wodonga national highway project, not to mention the Golden Highway— (Time expired)

Family Services: Child Care

Senator JACINTA COLLINS (2.53 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services, and the Minister representing the Minister for Children and Youth Affairs. Can the minister confirm that the Australian Bureau of Statistics CPI figures last week revealed that child-care costs increased nationally by 12.4 per cent over the year to September 2003 and that since September 1999 there has been an increase of 18 per cent in child-care costs. How could Minister Anthony mislead the House of Representatives last sitting week when he said, ‘Child care is 10.2 per cent more affordable than it was in 1999’?

Senator PATTERSON—I am delighted that I have this dorothy dixer from Senator Collins. The government’s financial commitment to helping families access child care is unprecedented. Through its child-care benefit, the government has significantly increased assistance with child-care costs. The latest figures show that families receive on average child-care benefit payments of nearly $2,000 a year. Senator Jacinta Collins—It is not reducing costs.

Senator PATTERSON—Senator Collins says that it is not reducing costs, but she does not understand. I will explain it to her. Contrary to Labor’s claims that child-care prices are spiralling out of control—which is what has been said—child care remains more affordable than it has ever been. Figures released last week by the ABS—quoted by Labor—are based on a model and not on real child-care costs. A better gauge of child-care costs—which the ABS has admitted is a better gauge—is the ABS child-care survey, released in May this year. The ABS survey of costs clearly revealed in May this year that families are spending less on child care. It showed that a family earning $50,000 a year with one child in full-time care now pays about $380 less out of their pocket a year for child-care fees than they would have in June 2000. This means that they have $380 more to spend on other things for their children. In addition—and I am sure that Senator Collins would not wish to remind people—they pay $400 less out of their pocket on an average mortgage. So they are paying less for child care and they are paying less for their mortgage.

The ABS report also revealed that the cost for 45 per cent of children in formal care is less than $20 a week per child after they have received the child-care benefit. We have made child care more affordable and, in addition, we have increased the number of child-care places by 190,000 to over 500,000 places. We have made child care more affordable and more accessible. The ABS figures released in May 2003 show that families earning $50,000 a year are paying $380 less than they would have paid in June 2000 for child care.

Senator JACINTA COLLINS—Mr President, I ask a supplementary question.
Will the minister advise the Senate when the government will alleviate the chronic shortage of child-care places in New South Wales by removing the caps on outside school hours care and family day care?

Senator PATTERSON—We have increased the number of child-care places by 190,000 to over 500,000 places. We have made child care more affordable and more accessible. Yesterday on the ABC Senator Collins said that, for every dollar you invest in child care, there is a $7 return. We have invested $7 billion in child care. Using Senator Collins’s figure, that means we have contributed $49 billion to the economy. When you look at the forward estimates over the next four years, we will be spending $8 billion on child care. Using Senator Collins’s figure of a multiplying factor of seven, we will see a significant input to the economy as a result of a 70 per cent real increase in spending on child care by this government.

Education and Training: Funding

Senator ALLISON (2.59 p.m.)—My question is to Senator Vanstone, the Minister representing the Minister for Education, Science and Training. I refer to a national survey of year 11 students, conducted by the Democrats and released today, which showed that half of the students surveyed said that they had no assembly hall or drama stage and a third of the students surveyed complained about the condition of their portable classrooms. Will the minister acknowledge that the facilities in many government schools are substandard, and will the minister explain why the government has continually increased funding to non-government schools, including capital grants funding, when there is such a great need to invest in our government schools?

Senator VANSTONE—Senator Allison, you will forgive me for not having a brief on the survey done by the Australian Democrats apparently released today. It did not make the front page. I am not sure that the rest of Australia is still holding its breath for the details, but I would be fascinated to see the survey that the Democrats did. I will be very interested in the conduct of the survey and the schools it went to, how it was distributed and how your responses have been put together and your conclusions drawn. I will take a personal interest in this matter and then I will pass it on to the minister responsible.

You ask in addition about funding for schools. It is very clear that funding for schools under this government has been very well handled. Under the new SES system which was introduced in 2001, schools moved to a system of funding based on socioeconomic status of their school community. You talked about non-government schools. Over 76 per cent of available funding for non-government schools goes to needy schools serving lower socioeconomic communities, including Catholic parish schools, low fee Christian schools and Aboriginal community schools. If you want to cancel the policy that does that, if you think those families should not have that choice, then you put out a policy saying that if the Democrats—heaven help us all—ever got to power, that policy would be cancelled.

Catholic schools enrol over 603,000 students, about 58 per cent of non-government school students and 18.3 per cent of all students. During the period 2001-04 the Catholics will be $288 million better off than they were under the old ERI system. Schools serving the neediest communities are now funded up to a maximum of 70 per cent of the average cost of educating a child in a government school. In 2002 maximum funding under the SES model was $3,960 per primary student and $5,229 per secondary school student. SES funded schools serving the wealthiest communities receive only 13.7
per cent of the cost of educating a child in a
government school. In 2002 this was $775
for a primary school student and $1,024 for a
secondary school student. Average per capita
recurrent expenditure in 2000-01 to govern-
ment schools was $6,841 for primary school
students and $8,889 for secondary school
students. Every school benefits by generous
indexation arrangements which the Com-
monwealth is committed to continuing. This
applies to all schools, government and non-
government, and has delivered increases of
five to six per cent each year. No state is in-
creasing its funding to schools at the same
rate as the Commonwealth.

Senator ALLISON—Mr President, I
have a supplementary question. I thank the
minister for her answer and advise that the
minister for education does in fact have a
copy of the survey report. Not only that, he
supported the idea of doing it in the first
place. To get back to the minister’s answer, I
ask the minister what efforts she has made to
encourage the states to do an audit of their
school buildings and facilities to see just how
much money is needed to be injected into
public schools. Will the minister acknowl-
edge that wealthy schools do not rely on
portable classrooms, because they are poor
learning environments?

Senator VANSTONE—I was not aware
that the minister had that survey. I will per-
sonally chastise him for not bringing this
terribly interesting document to the attention
of all of us, because I think we should all
know what fabulous work the Democrats are
doing. I will watch it very carefully. As to the
latter part of your question, I will refer it to
the minister.

Senator Allison—Mr President, the min-
ister has made much of her lack of capacity
to see this report. I seek leave to table the
document at this point.

Leave granted.

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

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS
Iraq

Senator HILL (South Australia—
Minister for Defence) (3.04 p.m.)—Yester-
day Senator Faulkner asked me a series of
questions regarding the role of an Australian
company in the provision of aluminium
tubes allegedly intended for a reconstituted
Iraqi nuclear weapons program. I can pro-
vide some further information on that matter.
I can now confirm that under the relevant
export control guidelines of the international
Nuclear Suppliers Group, which seeks to
restrict the trade in nuclear weapon associ-
atated technology, the tubes concerned are
listed as controlled items due to their specifi-
cations and characteristics and their potential
use in nuclear weapons programs. Conse-
quently, the tubes are also controlled items
under the defence strategic goods list, which
restricts exports of sensitive technology from
Australia. However, there was no require-
ment for the company concerned to seek an
export permit for the tubes for the reason that
the tubes were not exported from Australia
but from China, with the Australian company
merely acting as a broker.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Trade: Free Trade Agreement

Senator CONROY (Victoria) (3.05
p.m.)—I move:

That the Senate take note of the answers given
by the Minister for Defence (Senator Hill) to
questions without notice asked by Senator Conroy
today relating to the negotiation of free trade
agreements.

Back in May, in response to Labor’s con-
cerns about the future of the PBS under the
proposed free trade agreement with the US,
the Minister for Trade told parliament the following:

The Labor Party still cannot get the message. They cannot understand simple English. They are not going after the PBS.

Today, despite months of government denials, continued in question time today by Senator Hill, it is now clear that the Pharmaceutical Benefits Scheme is very much up for grabs as part of the negotiations on a free trade agreement with the US. Have the trade minister and the rest of the Howard government got the message yet? The US are absolutely going after the PBS. They are intent on undermining and destroying it. In the past two weeks the US have repeatedly stated their desire to seek changes to the PBS as part of the free trade agreement. At the APEC meeting last week in Bangkok, the United States Trade Representative, Robert Zoellick, said the US had issues with what he called the pharmaceutical protection scheme.

Last week, President Bush told the Prime Minister that the PBS hindered US companies from recouping their investment. And what did our Prime Minister say? We know he did not tell him that the PBS was off the table, because on Monday, at the start of the talks, chief US negotiator Ralph Ives was asked: ‘Is the Australian Pharmaceutical Benefits Scheme an issue from the United States viewpoint?’ He replied, ‘Yes.’ Mr Ives went on to state that the US was focusing on the process of determining the value of innovative medicines, the transparency of the process and the values that are awarded to innovative medicines. These words are just a coded way of saying that they would like changes that would increase the costs of medicines under the PBS to all Australians.

The changes they have in mind would lead to either an increase in the price of pharmaceuticals to consumers or, if the Commonwealth were to absorb the costs, a slug to the taxpayer. Either way, the ongoing viability of the scheme as we know it would be threatened. What will be the cost to Australian consumers of undermining the PBS? In 2001, the Productivity Commission reported on international pharmaceutical price differences. It found that the manufacturers’ prices for Australia’s top-selling new innovative pharmaceuticals are 104 per cent higher in the United States. A recent study showed that, if the reference pricing system were abolished, the cost of commonly prescribed drugs for asthma and arthritis could rise by up to 300 per cent.

Labor states quite clearly that the dismantling of the PBS is too high a price to pay for a free trade agreement with the United States. If the US insists on pushing the demands of its pharmaceutical industry, the Howard government should put the national interest first and walk away from the deal. The government must end the uncertainty surrounding the future of the PBS and instruct its negotiators to tell their US counterparts that it is off the table. It is a very simple process: they simply have to give a letter to the US negotiator saying, ‘The PBS is off the table.’ There are serious concerns in the community that the PBS is being put at risk by this free trade agreement. The time for equivocation and diplomatic niceties is over. No more mealy-mouthed responses like we got in question time from Senator Hill; a simple ‘It’s off the table’ is all we need. The path that this government is allowing these negotiations to go down does not have to be the case.

The US has made it clear that there are some changes that it is not prepared to consider as part of the free trade agreement. For example, just last week President Bush effectively ruled out any change to what is called the Jones act—a piece of legislation which requires that vessels used to transport cargo and passengers between US ports must be
built in US shipyards. The Premier of Tasmania and the Premier of Western Australia will be extraordinarily disappointed by that position of the US President. If coastal shipping is a no-go for the US, why can’t our Prime Minister say that the PBS is fundamental and that it is off the table for us?

(Time expired)

**Senator FERGUSON** (South Australia)

(3.10 p.m.)—The only conclusion we can draw from Senator Conroy’s little contribution today is that he has never, ever been involved in trade negotiations. I know he has been involved in a lot of factional negotiations within the Labor Party, but he has certainly never been involved in trade negotiations, and it seems that he does not actually understand what the word ‘negotiation’ means. ‘Negotiation’ means that, when there are discussions between two countries, things are on the table to be talked about. This government’s aim, through the negotiations, is to deliver a world-class agreement. That is what the negotiations are all about. If you are going to telegraph all of your punches before you go to negotiations, it leaves you nothing to talk about when you actually get there.

Only last week when President Bush was here he reconfirmed his commitment to the deadlines that have been put in place for these negotiations. And the Prime Minister has already told President Bush that Australia needs to see a good deal on agriculture, for instance, for the FTA to be acceptable to us. That has already been said, but the deal itself is done during the negotiations. It is not unusual to have draft letters of the sort that went around the US congress this last week calling on the administration to do certain things in the negotiations. That is not unusual at all. That is the sort of lobbying and pressure that you would expect, in exactly the same way as Senator Conroy comes into this place and lobbies to say that we must make sure that we protect the Pharmaceutical Benefits Scheme. But do not come out with all the statements prior to negotiations, because negotiations are exactly that: a chance for the two countries and the negotiators to get together to discuss every issue so that, at the end of this time, we can come up with what we hope will be, and are committed to, a world-class agreement that will suit both Australia and the United States of America.

The next round of negotiations is being held, and the Prime Minister and President Bush agreed that Mr Vaile and Mr Zoellick should meet following this week’s negotiations to discuss the sticking points. If you want to look at a history of successful trade negotiations, look at what Minister Vaile has been able to deliver since he has been Minister for Trade. If you want to know how successful negotiations can take place, just look at Minister Vaile’s record.

We need to wait and see what the negotiators put on the table after their discussions in Canberra this week. When we see what they put on the table, then Minister Vaile and Trade Representative Zoellick can get together and do the hard negotiating at the end. We should never prejudge the outcomes of anything that might come out of any trade negotiations taken on behalf of the Australian government by the negotiators and which will, if necessary, be concluded by Mr Vaile and Trade Representative Zoellick.

We all know that Australia is aiming for improvements in the United States offer across the board. That is what negotiations are all about. It is all very well for Senator Conroy to come in here and grandstand about ‘We should be saying this’ and ‘We should be saying that’ prior to the negotiations taking place. But in fact what is taking place this week is laying the groundwork for the final negotiations which will be done by
Minister Vaile and Trade Representative Zoellick.

There are two things that you can be sure of. Firstly, this government will only agree to an FTA that offers substantial benefits to the people of Australia across the board—across all industries and across all sections of Australian manufacturing, industry and agriculture. Secondly, we will continue to ensure that the FTA will not undermine Australia’s ability to deliver key policy objectives in health care, education, cultural areas, consumer protection, quarantine or on environmental issues. These negotiations are currently taking place. We will ensure all the issues raised in those areas will not be undermined by any free trade agreement, because we need to make sure that Australia can continue to deliver on its key policy objectives, and that is what we will do. (Time expired)

Senator O’BRIEN (Tasmania) (3.15 p.m.)—It is interesting to hear Senator Ferguson suggesting that the Minister for Trade, Mr Vaile, is responsible for best practice trade outcomes. We should look at the outcomes before we comment on the prospective outcome of the free trade agreement. Let us look at just one of those outcomes, one being described by Senator Hill as very positive. When the Australia-Thai free trade agreement was announced, the media release was keen to point to the positives. What it did not do was point to the glaring negatives, and those were referred to in question time today, and one is that the deal with Thailand leaves tariffs and quotas in place on Australian milk, cream and powdered milk for 23 years—23 years that Australian dairy producers have to wait for full access to the Thai market.

Australian beef producers, pork producers and potato growers have to wait 17 years for access to that market. That is the best practice outcome Senator Ferguson wants us to focus on before we comment on the prospect of this government rolling over on the PBS in the negotiations. That is the sort of best practice that has us worried, frankly, because it is telling us that we are going to have to look very closely at any package that this government negotiates—look behind the glitz of the press release suggesting that this is all positive for Australia—and wait to see the fine detail. That is what I will be doing with any package proposed. So far as agriculture is concerned, the Howard government must not let down Australian farmers by agreeing to a US free trade agreement that will provide access to the US market for farmers on the never-never as they have done with the Australia-Thailand free trade agreement. Immediate improved access to the US market for key Australian commodities must be a condition of agreement for the proposed trade deal.

Australian farmers now know from the Thai package that the Howard government is prepared to trade off. That is not a good sign for the proposed free trade agreement with the United States. Labor do not support the long phasings for agriculture under the Thai-Australia agreement. We do not oppose a free trade agreement with the United States, but that deal must serve Australia’s national interest. Benefits to Australian farmers and the farm sector should be an important component of the national interest test applied by the Australian government. As I said, the Howard government has already shown its colours by trading away significant potential gains in agriculture under the deal with Thailand. Any suggestion that this government is prepared to stand up to the United States on its inadequate offer on agriculture looks pretty shaky against that Thai deal.

The National Farmers Federation thinks that one to five years is an acceptable transition period for access to the US market.
President of the NFF, Peter Corish, has described transitional periods of more than 10 years as ‘way too long for the free trade agreement to be effective for Australian agriculture’. A veil of secrecy over this part of the package means that farmers hold legitimate fears that the government will agree to agricultural access, as they have with Thailand, on the never-never. The Howard government must lift this veil of secrecy surrounding that free trade agreement negotiation with the United States and reveal whether Australia will sign up to the deal on the promise of US market access on the never-never.

It is a key issue but one that I believe the government is keen to avoid. It is a matter of regret that the Minister for Agriculture, Fisheries and Forestry, Mr Truss, has been a silent player in the debate over the proposed free trade agreement with the United States. Rather than acting as a forceful advocate for the Australian farm sector, Mr Truss has elected to be a mute bystander. While I understand that Mr Truss has an uncanny ability to engineer a crisis in his portfolio every couple of months, which consumes a lot of his time in crisis management, it is about time that the minister recognised his responsibility to Australian farmers and engaged in the debate over the proposed free trade deal. The interests of Australian farmers—including beef, sugar and dairy farmers—must not be sacrificed behind closed doors to achieve a US trade deal. We will be looking at those sectors in particular and others to see how valuable the deal is for the farming sector. A substandard deal should not be forced by short-term political imperatives. (Time expired)

Senator EGGLESTON (Western Australia) (3.20 p.m.)—I suspect that Senator Conroy’s concern about the Pharmaceutical Benefits Scheme flows from a letter which has been circulated around the United States congress by US Republican Senator Kyl. He circulated a draft letter, dated 29 September, calling on the administration to seek the ending of pharmaceutical price controls in countries which had them, and that included Australia. It was not really an Australian-specific letter. He was not specifically concerned with the Australian system so much as with pharmaceutical price controls in any countries outside the United States to which the United States might wish to sell medications.

We have to see this letter in this context. Given that it is such a broad context, one can only say that Senator Conroy is overreacting somewhat. Indeed, the Pharmaceutical Benefits Scheme is very important to this country. We have very much cheaper medications than are available in many other countries, and specifically than are available in the United States. I do not think anyone in the Australian government would want to see our Pharmaceutical Benefits Scheme compromised in any way. I think the Kyl letter, as I understand it—and it is only a draft letter—should be seen more in the context of the current United States congressional debate on the inclusion of prescription drug benefit mechanisms in the US Medicare program and very much less about anything to do with specific US concerns about Australia’s pharmaceutical pricing regime.

As I have said, in the United States the cost of medications is very high. Probably the Democrats in the United States congress are seeking to introduce a scheme whereby drugs can be subsidised. If anything, I suppose, the Australian scheme would have to be seen as a glowing example of the success of such a scheme. In Australia we have a system where a committee evaluates drugs and determines a list of medications which will be approved for a specific list of purposes, and those drugs are subsidised when they are used for those purposes. As I understand it, it may be that the US has expressed
some interest in the list of approved purposes for a variety of drugs, but that does not mean that it is a threat to the fundamentals of the Pharmaceutical Benefits Scheme or that we are suddenly going to find that the Pharmaceutical Benefits Scheme is overthrown in the interests of the United States pharmaceutical industry having a higher degree of access to our drugs and our program in Australia. The contrary is probably quite the case.

In fact, in the United States they have groups, which are rather like mutual benefit societies, that people pay into. Those groups are often quite large, often with a membership close to the population of Australia. Those groups provide subsidised medicines to the members of what we might call these friendly societies for the purpose of obtaining pharmaceutical benefits. The Australian argument is that the Pharmaceutical Benefits Scheme is not much different from those mutual benefit societies which already exist in the United States and, therefore, should not be of interest to the United States negotiators. The fact remains that the Australian government has made it quite clear that the Pharmaceutical Benefits Scheme is sacrosanct and untouchable. Mark Vaile, the Minister for Trade, in a speech to the St George Bank Trends luncheon in Canberra on 23 May this year said:

- We remain committed to a Pharmaceutical Benefits Scheme that provides Australians with access to affordable, quality medicines.
- We will not enter into any arrangement that compromises the scientific integrity …

of Australia’s scheme. He said that we will not see our social policies compromised in any way by this free trade agreement. So I wish to assure the opposition that the Pharmaceutical Benefits Scheme is sacrosanct.

(Time expired)

Senator MARSHALL (Victoria) (3.25 p.m.)—The Pharmaceutical Benefits Scheme is a fundamental feature of the Medicare system. It is a system that Labor introduced and it is a system that Labor will continue to protect, but it would appear that this government, which has already tried to undermine it through previous attempts to cut its budget, will continue to try to undermine it throughout negotiations in a free trade agreement package. The point that Senator Eggleston makes in trying to assure us that the PBS will not be undermined is the very issue before us today, because it is not the words that we are particularly interested in but the actions.

Very clearly, the government could act to remove the PBS from any of the negotiations and protect it from those negotiations by including it on the negative list. That is a very simple process. All it takes is a letter from the Minister for Trade or our negotiator to the US government or their negotiator saying that the PBS is not up for negotiation and it is to be included in the negative list. That will then give us the assurances that we seek because, quite frankly, some of the mealy-mouthed assurances we have been getting are nothing more than that. They talk about protecting the PBS and not removing it, but it is the operation of the PBS that we need to protect.

If people need to understand how it works, it is quite simple. So let me explain it. There is a Pharmaceutical Benefits Advisory Committee that:

... is an independent statutory body which considers evidence on a particular drug’s effectiveness, including its cost effectiveness. It then advises the Minister—

Senator Ferris—If you know it so well, why are you reading it?

Senator MARSHALL—I am just going through the documented process, Senator Ferris, so you at least can understand how the system works. You may then appreciate the benefit of this system to all Australians in
the provision of affordable medicine—something that you do not seem particularly interested in maintaining for all working Australians or, for that matter, all Australians. To continue the explanation:

If the Minister accepts the recommendation, the drug is referred to the Pharmaceutical Benefits Pricing Authority ... When recommending listings, the Committee provides advice to the Authority regarding comparison with alternatives or their cost effectiveness, which keeps the costs of drugs down.

The Authority negotiates with the drug manufacturer on the price at which the drug will be listed on the PBS and advises the Minister accordingly.

That is the process we need to protect. It is the reference pricing system. We are certainly concerned that those are the very areas that you will negotiate away in a free trade agreement. We are not the only ones that do not believe this government—and that may not surprise you, Senator Ferris, given this government’s record of honesty. Just today, the President of the AMA said—

Senator Ferris—You silly person! What a silly thing to say!

Senator MARSHALL—Well, we do not really want to get into the integrity of this government’s record, do we, Senator Ferris? Dr Bill Glasson said today:

... the Government must categorically rule out offering any ... PBS concessions as part of a free trade deal with the United States.

... ... ...

Dr Glasson said the Government must not allow the interests of US drug companies to take precedence over the health of Australians.

“The Government has to get fair dinkum about defending the PBS in the trade talks with the US,” Dr Glasson said.

“Our PBS ensures the best possible health outcomes for all Australians.”

And indeed it does. We have only to go back, after all the assurances we have been given by this government that it is not going to be negotiated and that it is not on the table, to what the Age said on 23 October:

The cost of prescription drugs would skyrocket and the Pharmaceutical Benefits Scheme would stretch to breaking point if Australia gave in to free trade demands by the United States, experts warned yesterday.

US negotiator Robert Zoellick confirmed this week the US wanted changes to the PBS under any free trade agreement, despite assurances from the Federal Government it would not be touched.

Which part of no does Mr Zoellick not understand? The no he will understand is when this government gets fair dinkum and actually puts the PBS on the negative list. While it is not on the negative list, it is up for negotiation. Senator Ferguson talked about the ridiculous process of keeping your cards close to your chest before we actually negotiate the outcome. As a process of negotiating, it is a ridiculous concept if we are to accept this government’s assurances that they are not prepared to negotiate the conditions of the PBS. If we are not going to negotiate on the PBS, then negative list it. Take the PBS out of the negotiation process and we will be satisfied. (Time expired)

Question agreed to.

Trade: Live Animal Exports

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.30 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) to a question without notice asked by Senator Bartlett today relating to animal welfare and live animal export.

That question related to yet another development in the ongoing saga of problems with Australia’s live sheep and cattle trade. Just a couple of days ago the Israeli Supreme Court issued an order requiring the ministry of agriculture in Israel to within 60 days give rea-
son why the import of live animals from Australia should not stop. That order was based on substantial, wide-ranging evidence provided to the court in Israel about significant animal cruelty abuses conducted against those animals as an integral part of the live animal trade within Israel. It should be mentioned that exports from Australia of cattle and sheep are not offloaded directly in Israel. As I understand it, they are offloaded in Jordan and transported from Jordan across into Israel for slaughter. This is clearly another example of the ongoing impossibility of this industry being able to guarantee consistency and stability and, more importantly, being able to guarantee basic animal welfare standards.

The minister today argued almost two completely contradictory lines. On the one hand he was saying Australia has got amongst the best animal welfare standards in the world; on the other hand he was saying that we cannot do anything about what happens to these animals—they are not our responsibility and that is just the way trade is. It is not just the way trade is, and it is not the way trade needs to be. We have, quite rightly, very specific controls in place about what other countries do with our uranium. We cannot just say: ‘Once it has left Australia’s shore, it is other people’s uranium. We cannot tell them what to do with it—that is just the way trade is.’ Clearly, it is not the case with uranium; it is not the case with plenty of other materials as well.

We have had the situation of the Cormo Express. Those animals were not in Australia and were not owned by Australia, as the minister repeatedly said. They were sold to somebody else and were on a vessel from another country. It had nothing to do with Australian law. The Australian government worked—in a very perplexing way—for a very long time to address the situation of those sheep. The minister in the Senate was asked various questions in recent months and he kept saying they were acting to try to reduce the damage to the trade and they were also acting because of the terrible animal welfare implications of this situation. You just cannot have it both ways. If we are saying we are concerned about the welfare of these animals then we are concerned about the welfare of these animals, not just for this month of the year, not just for this group of animals or not just when they are on this patch of dirt.

The components of this trade are licensed by the Australian government. It is regulated by Australian authorities. It is authorised by legal instruments in Australia. Indeed, we saw the outcome—which still is not certain with the Cormo Express—where the Australian government bought the animals and offloaded them eventually in Eritrea. To suggest that we cannot have any say and have no concern even for what happens to these animals is simply wrong as well as totally undermining and showing the emptiness of the words that the ministers keep saying about their concern for the welfare of the animals.

The evidence before the Israeli court showed unacceptable facilities, intolerable climatic conditions, long delays and the cruel treatment that animals were exposed to after being unloaded from the ship and upon arrival in Israel. They can be loaded and unloaded and shifted up to seven times from the moment they leave the ship in Jordan to when they reach their final destination in Israel. This is on top of the cruelty involved in the transportation, particularly the shipping of the animals in the first place. At many times the unloading is without proper facilities. The animals are forced to jump or are dragged or thrown between trucks that are not the same height, sometimes falling down through the gaps and at other times getting their legs stuck and breaking their legs. They can be on the trucks for hours and
hours without water, exposed to the sun in
 temperatures of over 40 degrees in the shade.
 Many of them face food and water with-
drawal before they are offloaded from the
 ship to reduce their weight and therefore the
customs charged. This is all part of the trade.

At least we have got one court in one of
the destination countries saying these condi-
tions are unacceptable. We have got the gov-
ernment of Australia saying it does not mat-
ter. We finally have got a court at the other
end saying that this is unacceptable and it
has to be justified. Yet I am sure the govern-
ment’s response will be to try to stop this
threat to the trade rather than say, ‘Thank,
God, another country is improving its animal
welfare standards.’ The government’s double
standards and doublespeak are simply unac-
tceptable. This is another example of the in-
herent and unavoidable cruelty involved in
this trade and another reason why the trade
should be halted rather than have simply
more mealy-mouthed assurances from minis-
ters of the day. The evidence that has been
shown repeatedly is clear: this treatment is
consistent whether they are Australian ani-
mals or other animals. The cruelty is un-
avoidable, and the trade should be halted.

Question agreed to.

• PETITIONS

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

Workplace Relations: Paid Maternity
Leave

To the Honourable the President and Members
of the Senate in Parliament assembled. The Petition
of the undersigned shows:

• Our concern that Australia is now one of
  only two OECD countries without a national
  scheme of paid maternity leave;

• Our concern about the two-thirds of Aus-
  tralian working women who currently lack any
  paid support on the birth of a child;

• Our strong support for the adoption of a na-
  tional scheme of paid maternity leave for
  Australian working women at the earliest
  opportunity;

• Our belief that paid maternity leave is an
  employment-related measure that recognises,
  first and foremost, the benefits of at least 14
  weeks paid leave for working mothers, their
  children and their families, along with its
  contribution to equal opportunity at work,
  productivity, and women’s employment secu-
  rity and attachment.

Your Petitioners request that the Senate should at
the earliest opportunity pass legislation to provide
a national system of paid maternity leave which
recognises the principles of ILO Convention 183,
and provides at least a 14 week payment for
working women at the level of their normal earn-
ings (or at least at the minimum wage), with
minimal exclusions of any class of women, and a
significant contribution from Government.

by Senator Stott Despoja (from 45 citi-
zens)

Education: Higher Education

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

The Petition of the undersigned draws to the at-
tention of the Senate, concerns that increasing
university fees will be inequitable.

Your petitioners believe:

(a) fees are a barrier to higher education and
note this is acknowledged by the Govern-
ment in the Higher Education at the Cross-
roads publication (DEST, May 2002,
Canberra, para 107, p, 22);

(b) fees disproportionately affect key equity
groups—especially indigenous, low socio-
economic background and rural, regional and
remote students—and note, participation of
these groups improved from the early 1990s
until 1996 but have subsequently fallen back
to about 1991 levels (lower in some cases)
following the introduction of differential
HECS, declining student income, support
levels, lower parental income means test and
reduction of Abstudy;
(c) permitting universities to charge fees 30% higher than the HECS rate will:
   a. substantially increase student debt;
   b. negatively impact on home ownership and fertility rates;
   c. create a more hierarchical, two-tiered university system; and
(d) expanding full fee paying places will have an impact on the principle that entry to university should be based on ability, not ability to pay.

Your petitioners therefore request the Senate act to ensure the principle of equitable access to universities remain fundamental to higher education policy and that any Bill to further increase fees is rejected.

by Senator Stott Despoja (from 40 citizens).

Petitions received.

NOTICES
Withdrawal

Senator ALLISON (Victoria) (3.37 p.m.)—Pursuant to notice of intention given on the last day of sitting, I now withdraw business of the Senate notice of motion No. 3 standing in my name for today for the disallowance of the Civil Aviation Amendment Regulations 2003 (No. 5), as contained in Statutory Rules 2003 No 201 and made under the Civil Aviation Act 1988.

Senator TCHEN (Victoria) (3.37 p.m.)—Pursuant to notice given on the last day of sitting on behalf of the Regulations and Ordinances Committee, I now withdraw business of the Senate notice of motion No. 1 standing in my name for 10 sitting days after today, for the disallowance of the Civil Aviation Amendment Regulations 2003 (No. 6), as contained in Statutory Rules 2003 No. 232 and made under the Civil Aviation Act 1988.

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 6 November 2003.

Senator Heffernan to move on the next day of sitting:

That the Senate—
(a) notes that 2003 is the seventieth anniversary of the enforced famine in the Ukraine, which was caused by the deliberate actions of Stalin’s communist government of the Union of Soviet Socialist Republics;
(b) recalls that an estimated 7 million Ukrainians starved to death as a result of Stalinist policies in 1932-33 alone, and that millions more lost their lives in the purge which ensued for the remainder of the decade;
(c) notes that this constitutes one of the most heinous acts of genocide in history;
(d) honours the memory of those who lost their lives;
(e) joins the Ukrainian people throughout the world, and particularly Ukrainian Australians, in commemorating these tragic events; and
(f) resolves to seek to ensure that current and future generations are made aware of the monstrous evil that led to the famine.

Senator Heffernan to move on the next day of sitting:


Senator Heffernan to move on the next day of sitting:

That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 30 October 2003, from 4 pm, to take evidence for the committee’s inquiry into rural water resource usage.
Senator Carr to move on the next day of sitting:

That the Senate and Senate committees shall not entertain any claim to withhold information from the Senate or a committee on the grounds that it is commercial-in-confidence, unless the claim is made by a minister and is accompanied by a statement setting out the basis for the claim, including a statement of any commercial harm that may result from the disclosure of the information.

Senator Chris Evans to move on the next day of sitting:

That—

(1) The following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 12 May 2004:

(a) the effectiveness of the Australian military justice system in providing impartial, rigorous and fair outcomes, and mechanisms to improve the transparency and public accountability of military justice procedures; and

(b) the handling by the Australian Defence Force (ADF) of:

(i) inquiries into the reasons for peacetime deaths in the ADF (whether occurring by suicide or accident), including the quality of investigations, the process for their instigation, and implementation of findings,

(ii) allegations that ADF personnel, cadets, trainees, civilian employees or former personnel have been mistreated,

(iii) inquiries into whether administrative action or disciplinary action should be taken against any member of the ADF; and

(iv) allegations of drug abuse by ADF members.

(2) Without limiting the scope of its inquiry, the committee shall consider the process and handling of the following investigations by the ADF into:

(a) the death of Private Jeremy Williams;

(b) the reasons for the fatal fire on the HMAS Westralia;

(c) the death of Air Cadet Eleanor Tibble;

(d) allegations about misconduct by members of the Special Air Service in East Timor; and

(e) the disappearance at sea of Acting Leading Seaman Gurr in 2002.

(3) The Committee shall also examine the impact of Government initiatives to improve the military justice system, including the Inspector General of the ADF and the proposed office of Director of Military Prosecutions.

Senator Brown and Senator Lundy to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to ratify the Kyoto Protocol to the United Nations Framework Convention on Climate Change, and for related purposes. Kyoto Protocol Ratification Bill 2003 [No. 2].

Withdrawal

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.38 p.m.)—Pursuant to standing order 78, I give notice of my intention when business is called on this afternoon to withdraw business of the Senate notice of motion No. 1 standing in my name for today for the disallowance of the Fisheries Management Amendment Regulations 2003 (No. 3), as contained in Statutory Rules 2003 No. 112 and made under the Fisheries Management Act 1991.

Presentation

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes that the Prime Minister (Mr Howard) has released a discussion paper on constitutional reform;
(b) opposes amendments to the Australian Constitution that would have the effect of eliminating the requirements to dissolve both Houses of the Parliament and call an election prior to holding a joint sitting of both Houses to consider bills twice rejected by the Senate;

(c) affirms that the Senate plays a valuable role in scrutinising legislation and holding government to account;

(d) rejects the contention in the Prime Minister’s discussion paper that ‘In practice, the minority has assumed a permanent and absolute veto over the majority’;

(e) reminds the Government that only a majority of democratically-elected senators is able to reject legislation;

(f) recognises that the Senate is a more representative chamber that the House of Representatives by virtue of its members being elected using the proportional representation system; and

(g) calls on the Prime Minister to hold a referendum on the introduction of proportional representation for the House of Representatives at the time of the next general election.

COMMITTEES

Selection of Bills Committee

Senator FERRIS (South Australia) (3.39 p.m.)—I present the 14th 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. 14 OF 2003

1. The committee met on Tuesday, 28 October 2003.

2. The committee resolved to recommend—

That:

(a) the Truth in Food Labelling Bill 2003 be referred immediately to the Community Affairs Legislation Committee for inquiry and report on a date to be determined after consulting the committee (see appendix 1 for statement of reasons for referral); and

(b) the Social Security Amendment (Further Simplification) Bill 2003 not be referred to a committee.

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 28 October 2003

• Intelligence Services Amendment Bill 2003.

(Jeanie Ferris)
Chair
29 October 2003

Appendix 1

The Chair
Selection of Bills Committee
Dear Chair

I would be very grateful if your committee would refer my Truth in Food Labelling Bill 2003 to the Community Affairs Legislation Committee.

Yours Sincerely

(signed)

Bob Brown
Australian Greens Senator for Tasmania

Economics References Committee

Meeting

Senator STEPHENS (New South Wales) (3.40 p.m.)—by leave—I move:

That the Economics References Committee be authorised to hold a public meeting during the
sitting of the Senate on Thursday, 30 October 2003, from 3.30 pm to 5.30 pm, to take evidence for the committee’s inquiry into whether the Trade Practices Act 1974 adequately protects small business.

Question agreed to.

NOTICES
Postponement

Items of business were postponed as follows:

General business notice of motion no. 646 standing in the name of Senator Allison for today, relating to a resolution concerning the ethanol industry, adopted at the National Party’s Federal Conference, postponed till 24 November 2003.

General business notice of motion no. 677 standing in the name of Senator Brown for today, relating to mining proposals for Christmas Island, postponed till 30 October 2003.

COMMITTEES

Ministerial Discretion in Migration Matters Committee
Extension of Time

Senator LUDWIG (Queensland) (3.41 p.m.)—I move:

That the time for the presentation of the report of the Select Committee on Ministerial Discretion in Migration Matters be extended till the last day in February 2004.

Question agreed to.

Environment, Communications, Information Technology and the Arts Legislation Committee
Extension of Time

Senator FERRIS (South Australia) (3.41 p.m.)—At the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee, Senator Eggleston, I move:

That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts Legislation Com-


Question agreed to.

GOVERNMENT ADVERTISING

Senator MURRAY (Western Australia) (3.41 p.m.)—I move:

That—

(1) There be laid on the table, by each minister in the Senate, in respect of each agency administered by that minister, or by a minister in the House of Representatives represented by that minister, a statement in accordance with the succeeding provisions of this order.

(2) A statement be tabled in respect of each advertising or public information project undertaken by each agency where the cost of the project is estimated or contracted to be $100,000 or more.

(3) A statement be tabled within 5 sitting days of the Senate after the project is approved. If the Senate is not sitting when a statement is ready for presentation, the statement be presented to the President under standing order 166.

(4) A statement indicate:

(a) the purpose and nature of the project;
(b) the intended recipients of the information to be communicated by the project;
(c) who authorised the project;
(d) the manner in which the project is to be carried out;
(e) who is to carry out the project;
(f) whether the project is to be carried out under a contract;
(g) whether such contract was let by tender;
(h) the estimated or contracted cost of the project;
(i) whether every part of the project conforms with the Audit and JCPAA guidelines; and
(j) if the project in any part does not conform with those guidelines, the extent of, and reasons for, the nonconformity.


Question agreed to.

BUSINESS

Days and Hours of Meeting

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.42 p.m.)—I move:

That the order of the Senate relating to the days of meeting of the Senate for 2003 be varied by adding an additional sitting week as follows:

Monday, 17 November to Thursday, 20 November 2003.

Question negatived.

COMMITTEES

House Committee Reference

Senator BROWN (Tasmania) (3.43 p.m.)—I move:

That the following matters be referred to the House Committee for inquiry and report by 2 December 2003:

(a) the disappearance of many birds from the parliamentary grounds;
(b) the poisoning of bogong moths and whether this had an impact on the disappearance of the birds; and
(c) why this poisoning was conducted, and whether there were special contributing circumstances such as the visit by foreign dignitaries.

Question negatived.

Privileges Committee Reference

Senator BROWN (Tasmania) (3.43 p.m.)—I seek leave to move business of the Senate notices of motion Nos 4 and 5 together and to amend them to omit, in each case, ‘by 3 December 2003’.

Senator Faulkner—As far as the opposition is concerned, I am happy to grant leave on both matters. It may assist the Senate for the question of leave to be divided, given there are two issues here—in the first instance, that the motions be taken together and, secondly, for the reporting dates to be deleted. As far as the opposition is concerned, I am happy to give leave on both those issues.

Senator Hill interjecting—

Senator Faulkner—He sought leave on the two issues, but combined it in the one request for leave. That is the point I am making. I think that is a fair explanation.

Senator Hill—If he is seeking leave to change the reporting date, I have no objection.

Senator Faulkner—He is seeking leave to delete the reporting date.

The DEPUTY PRESIDENT—There are two issues, as I understand it. The first issue is leave to put notices of motion Nos 4 and 5 together. Is leave granted?

Leave granted.

The DEPUTY PRESIDENT—The second issue is leave for the deletion of the reporting date, in both of those cases. Is leave granted?

Leave granted.

The DEPUTY PRESIDENT—Is there any objection to these motions being taken as formal?

Senator Hill—Yes.
The DEPUTY PRESIDENT—There is an objection.

SCIENCE: ASSISTED REPRODUCTIVE TECHNOLOGY

Return to Order

Senator HILL (South Australia—Minister for Defence) (3.45 p.m.)—by leave—The order arises from a motion moved by Senator Harradine, as agreed by the Senate on 28 October 2003, and it relates to assisted reproductive technology. I wish to inform the Senate that the two reports Senator Harradine is seeking were commissioned by the Council of Australian Governments. There is a protocol that such documents are not released without the agreement of the Commonwealth, the states and the territories. In accordance with that protocol, the Commonwealth is seeking the views of the states and territories on the release of the documents and will advise the Senate as soon as possible. Senator Harradine is seeking were commissioned by the Council of Australian Governments. There is a protocol that such documents are not released without the agreement of the Commonwealth, the states and the territories. In accordance with that protocol, the Commonwealth is seeking the views of the states and territories on the release of the documents and will advise the Senate as soon as possible. Senator Harradine has approached me and asked whether we could make efforts to see if such approvals could be given in time for the estimates committees next week. I will certainly pass that sentiment back and see if there is anything we can do to assist.

The two reports relate to COAG’s agreement on 5 April 2002 to limit research that would potentially damage or destroy human embryos that were in existence on 5 August 2002, with this restriction to cease to have effect on 5 April 2005 unless COAG agrees to an earlier time. In a letter sent to all premiers and chief ministers on 25 September 2003, the Prime Minister advised that it was his firm intention not to remove the restriction before 5 April 2005.

Senator HARRADINE (Tasmania) (3.47 p.m.)—by leave—I move:

That the Senate take note of the statement.

Just to provide a bit of background, the documents were prepared by a committee of the National Health and Medical Research Council and by the National Health and Medical Research Council itself, which is a Commonwealth statutory body. The meeting for which these documents were prepared took place on 29 August but, as honourable senators will recall, there was a walkout at that particular meeting over health issues. As I understand it, some of the state leaders established themselves into a ‘leaders forum’ and dealt with a number of issues, one of which was the question that was referred to in the statement of the Leader of the Government in the Senate.

With the exception of Tasmania and South Australia, the leaders decided to lift the restriction under the Research Involving Human Embryos Act on experimenting on human embryos created after April 2002. Until now the experimentation could only take place on human embryos that had been developed before that particular date. The leaders forum purported to lift that restriction and, from now on, to allow experiments to take place on human embryos created after April 2002. This is a very serious issue indeed. That decision was made on the basis of a report prepared by a committee of the National Health and Medical Research Council and another report that was prepared by the National Health and Medical Research Council itself.

I think it is entirely proper for members of parliament to be able to see the documents upon which matters have been decided. It was not a COAG meeting that decided this; it was a meeting of the states—and even then that was not unanimous. The issue is that those two documents were prepared by a federal statutory authority and, in my view, we are entitled to receive copies. The Leader of the Government in the Senate has said that there is a COAG protocol that any documents that they have will not be revealed unless it is agreed upon by the Prime Minis-
ter and each premier or chief minister of the states and territories. That is really a dangerous situation, as I see it. A protocol, as I understand it, is a code of correct conduct. I do not think it is a code of correct conduct to make it difficult to obtain papers that have been prepared for COAG.

COAG is not a statutory body. Who is accountable then? The federal government is accountable. The federal government is the only body we can appeal to. On this particular occasion, I acknowledge that the Leader of the Government in the Senate has indicated he will try to get the documents as quickly as possible—and before the beginning of the estimates committee hearings next week—so that proper examination can take place on these matters. I feel that is acceptable for this occasion; others may not.

The issue will have to be determined at some time or another. Honourable senators will realise that I have a further notice of motion coming up in a couple of weeks on the basis of the need to have accountability and transparency in matters that affect the lives of Australians in a number of ways.

**Senator BARTLETT** (Queensland—Leader of the Australian Democrats) (3.54 p.m.)—I wish to speak briefly to Senator Harradine’s motion. I have spoken a number of times in this chamber, as some senators would be aware, about the growing and historically huge number of refusals to comply with Senate returns to order that this government, particularly in the current term, is building up. There can be legitimate reasons not to comply with a return to order. For instance, the documents requested do not exist or the government needs more time, as in the case of the statement made a day or so ago. Occasionally some of the arguments about public interest et cetera also have some validity. But the number of refusals is simply getting beyond a joke. Firstly, it needs to be emphasised whenever possible—

**Senator Hill**—The number of orders is beyond a joke.

**Senator Robert Ray**—You started it!

**Senator Hill**—We didn’t do a lot.

**Senator Robert Ray**—Oh, come off it!

**Senator BARTLETT**—I do appreciate the extra historical elaboration going on around me, but I would like to finish making my point. I like to make things easier for the Manager of Government Business in the Senate, so I will try to be as brief as possible. For the benefit of those listening—and there are many people in the gallery today, because we have the benefit of not having the distraction of the House of Representatives—

**Senator Carr**—That’s a distraction, is it?

**Senator BARTLETT**—It is not much more than a distraction down at the Reps. They do not do anything of substance, do they? I note of course those in the gallery behind the glass there—the usual locale for Chinese dissidents and students. It should be emphasised that returns to order are important things. The Senate has always had the power to make an order for the production of documents. It is also important, in many cases, for the public accountability of governments or for more informed debate on issues. The issue Senator Harradine is pursuing is one that we all know he has a very strong and passionate interest in. His approach to it is certainly not the same as mine or any of the Democrats’ approaches in some respects, but he and the public have a right to know some of this information.

I want to make two points: firstly, we have yet another refusal to comply for a reason that I am not satisfied with; secondly, it looks like we have another automatic way to dodge scrutiny building up. We have the good old
commercial-in-confidence, which seems to be pulled out regularly now. We have cabinet confidence, which has some substance when it is legitimate, but if documents are trawled through cabinet purely to give them immunity then that is not legitimate. We now have the response that it is a COAG document, so there is a protocol that everybody has to be consulted. I do not mind that in the sense that there has to be some politeness in consulting everybody. As Senator Harradine said, COAG is not a statutory authority. But this is becoming more and more a way to avoid parliaments—all the governments get together, figure out something and leave the parliaments out of it. Depending on how the protocol operates, potentially any one of nine state, territory or federal governments can veto the release of a document that the Senate has ordered the tabling of. I do not think that is a helpful development for scrutiny and accountability.

I certainly take at face value the minister’s statement that the government will consult with other members of COAG and see if there is any problem with the report being released. However, it is bad enough being able to put something through cabinet just to avoid scrutiny; now you can put it through COAG and the Senate has to jump nine separate state, territory and federal government hurdles before there is agreement to release a document, purely because of some protocol that has no legal status. That strikes me as another step down the path of further entrenching the power of the executive at a federal, state and territory level—inasmuch as territories have formal executives, which I am unsure about—while excluding the parliament and therefore the people.

It is an important issue. I will certainly follow whether or not the order is complied with later, but this is another area where the Senate needs to give further scrutiny to the increasing number of mechanisms used to avoid compliance with returns to order and to avoid scrutiny. I am quite willing to take on board Senator Hill’s legitimate point about the increasing number of returns to order and whether that issue can also be addressed by some mechanism. I am certainly not suggesting we should remove the relevant power, but I am quite happy to examine other ways to develop an agreement to make it less demanding on resources and less time consuming.

Senator Carr—It is not demanding: they don’t do it! How is that demanding?

Senator BARTLETT—It does not demand any of their time when they say no. You are right. That is a good point, Senator Carr. As always, the Democrats desire to be cooperative with everybody and acknowledge the validity of viewpoints—

Senator Robert Ray—And tick through the GST, tick through superannuation.

Senator BARTLETT—We are happy to tick superannuation and we are happy to tick many of our achievements. I am sure you like it when we are cooperative with you as well. But this is an issue of the Senate as a whole, in its role as the independent house of parliament, the representative house of parliament and the one that provides scrutiny over the activities of government. The increasing refusal to comply with returns to order is a worrying development. Senator Harradine’s point is well made and is one that we need to continue to examine in order to look at further ways of addressing this worrying avoidance of appropriate scrutiny and accountability.

Question agreed to.

EDUCATION: REGIONAL IMPACT STATEMENT

Return to Order

Senator IAN CAMPBELL (Western Australia)—Minister for Local Government,
I rise to make a statement on behalf of the Minister for Education, Science and Training, Dr Brendan Nelson. The order arises from a motion moved by Senator Carr yesterday which required the laying on the table by the Minister representing the Minister for Education, Science and Training, Senator Vanstone, by no later than today, the regional impact statement prepared by the Department of Education, Science and Training in support, explanation and justification of the department’s higher education policy package. I wish to inform the Senate that it is inappropriate to provide that document because the regional impact assessments were included throughout the cabinet submission relating to the higher education package and tabling of the cabinet submission would reveal the deliberations of cabinet.

Senator CARR (Victoria) (4.01 p.m.)—by leave—I move:

That the Senate take note of the statement.

This was a reasonable request for an attachment to a cabinet submission. It was information that was provided by officers of the department to a Senate hearing on Friday, 17 October. At the moment, the Senate has resolved that a committee be established to examine the government’s higher education package. It is not an unreasonable request by a Senate committee and by the chamber to have access to the relevant documents which go to the impacts of that statement. We were provided with information by the department that the government had undertaken a regional impact statement with regard to that package but had not provided it in any of the documentation that they had provided to the industry as a whole. This, I would have thought, was a document of some significance to the whole sector. If the government has undertaken a study of how this package is going to affect the regions, I think we are entitled to see it.

If it is a case where the government claims that no-one will be disadvantaged, you would have thought the government would be only too willing to provide this information. On the other hand, given that the government managed to get its basic figure wrong on the impact of the higher education statement when it said in its initial budget statements that the cost of this package to bring each of the universities up to a position where they would not be disadvantaged was $12½ million and it subsequently had to re-calibrate that to produce a figure of $36½ million, you would have thought there would be a case for questioning or having a lack of confidence in the government’s calculations. So when we discovered that an impact statement was prepared as part of the government’s assessments on this package, you would equally believe that we were entitled to have a look at it. We are not asking for the cabinet submission. We are asking for an attachment to the cabinet submission—a regional impact statement of the effect of this package on universities of a particular type.

I asked a series of questions that arose from that information provided by the officers. I asked whether or not it went to individual institutions and I was told that the impact did not go to regional institutions as such but that it went to the types of institutions that were affected. We know that in the education system we can see a whole series of groups of universities that operate at a regional level, and we know now that the government has had a good look at this, yet it is failing to provide this basic information.

This follows a pattern that emerged last year when the government refused to provide the forward projections of the financial health of our university system. It was information that it had readily available, would
not cost a great deal to produce and was available for each institution. This parliament established another inquiry to examine that matter. We were told that this information could not be provided at that time because it was commercial-in-confidence. We asked the vice-chancellors whether it was commercial-in-confidence, and 10 vice-chancellors wrote back to the committee and said that it was not and that the information should be made available.

There was further information relating to the operations of the higher education package with regard to a whole series of research reports which the government had at its disposal but chose to reclassify to change them from being available for publication to being available only to the minister by way of ministerial advice. By executive fiat the status of those reports was changed.

Now we have a third case which involves the government undertaking a study of the impact of its policies, and it is not being made available to this parliament at a time when we are being asked to consider some of the most radical legislation in education that we have seen in well over a generation. I cannot, on the face of it, see how the government’s position is justified. This is an appendix to a submission to the cabinet. It is not spread throughout the cabinet report, as the minister representing Dr Nelson has claimed today. I think that position is totally inappropriate. We are now seeing numerous examples of the government refusing to respond to legitimate and reasonable requests for information. It is quite clear that there is a pattern of deceit emerging within this government as it attempts to bulldoze through legislation which will have lasting impacts on the lives of ordinary Australians. We are entitled to know what the government knows about the impacts of those policies. That is being denied to us here today.

Senator ROBERT RAY (Victoria) (4.06 p.m.)—On the same matter, I have a question to Minister Campbell. I was unclear on what he said on one aspect and I would like him to clarify it. I think Senator Carr has touched on it. Was this appendix commissioned specifically for the purposes of the cabinet submission or was it a report that was commissioned that was later attached to a cabinet submission? I think the minister can see the distinction in the way it could be thereby treated. The last thing that this minister or any other minister would want is documents warehoused in cabinet simply to give them protection. If this document had a life of its own before it was attached to the cabinet submission the minister’s reason here does not hold water. If it was commissioned for the purpose of the cabinet submission and always intended to be attached to a cabinet submission the minister’s excuse would be valid.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (4.08 p.m.)—I am happy to respond to the question raised by Senator Ray by reiterating what I said. I think he was genuinely not able to hear what I said. The statement I made on behalf of the minister says:

... the regional impact assessments were included throughout the cabinet submission relating to the higher education package ...

If you take what those words say, there is not a separate document. It is not an annexure; it is part of the cabinet submission. I think Senator Carr is contesting whether this statement is true or not. It is fair enough to contest that. I have been given the statement and I have read it on those terms.

Question agreed to.
COMMITTEES
Scrutiny of Bills Committee
Alert Digest

Senator MACKAY (Tasmania) (4.09 p.m.)—On behalf of the Chair of the Standing Committee for the Scrutiny of Bills, Senator Crossin, I lay on the table Scrutiny of Bills Alert Digest No. 13 of 2003, dated 29 October 2003.

Rural and Regional Affairs and Transport Legislation Committee
Report

Senator McGAURAN (Victoria) (4.09 p.m.)—On behalf of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I present the report of the Rural and Regional Affairs and Transport Legislation Committee on the management of quarantine risks associated with the return of the sheep stranded aboard the MV Cormo Express.

LATE PAYMENT OF COMMERCIAL DEBTS (INTEREST) BILL 2003
Report of Economics Legislation Committee

Senator McGAURAN (Victoria) (4.09 p.m.)—On behalf of the Chair of the Economics Legislation Committee, Senator Brandis, I present the report of the committee on the Late Payment of Commercial Debts (Interest) Bill 2003, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

DOCUMENTS
Responses to Senate Resolutions

The ACTING DEPUTY PRESIDENT (Senator Brandis)—I present a response from the Charge d’Affaires, Trini G. Sualang, Embassy of the Republic of Indonesia, to a resolution of the Senate of 9 October 2003 concerning the first anniversary of the Bali tragedy.

COMMITTEES
Membership

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

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (4.11 p.m.)—by leave—I move:

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

Employment, Workplace Relations and Education References Committee—
Appointed—Substitute member: Senator Johnston to replace Senator Barnett for the committee’s inquiry into the exposure draft of the Building and Construction Industry Improvement Bill 2003

Legal and Constitutional References Committee—
Appointed—Participating member: Senator Buckland.

CHAMBER
Question agreed to.

NOTICES

Withdrawal

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.12 p.m.)—Pursuant to notice given earlier today, I withdraw business of the Senate notice of motion No. 1 standing in my name for today for the disallowance of the Fisheries Management Amendment Regulations 2003 (No. 3), as contained in Statutory Rules 2003 No. 112 and made under the Fisheries Management Act 1991. I seek leave to table a letter from the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald.

Leave granted.

HOUSING ASSISTANCE (FORM OF AGREEMENT) DETERMINATION 2003

Motion for Disallowance

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.13 p.m.)—I move:

That clause 4(3) of the Housing Assistance (Form of Agreement) Determination 2003, made under section 5 of the Housing Assistance Act 1996, be disallowed.

This motion seeks to disallow just one part of the Housing Assistance (Form of Agreement) Determination 2003. The more commonly known term for this determination is the Commonwealth-State Housing Agreement. The agreement commenced on 1 July this year and is for five years. The Commonwealth-State Housing Agreement is the main funding vehicle for public, community and Aboriginal housing. I should emphasise that this motion is not to disallow that agreement. The agreement is something the Democrats strongly support. We are focusing on one component within that agreement that the Democrats believe is inappropriate. As part of the debate, my comments on this will go to the broader issues of the agreement, what the agreement addresses and some of the housing issues more broadly.

The issues of housing provision and housing affordability are finally starting to make it onto the agenda at a national level. Whilst a lot of the debate about housing affordability has tended to focus on private home ownership and first home buyers in particular it has to be emphasised that the housing market is a very complex thing. Public and community housing is a sector of the housing industry. Obviously, by definition, it is not the private sector, but the nature of public and community housing and how it operates clearly impacts on how other areas of the housing market operate, whether that is first home buyers, whether it is people buying second or third homes for their families, whether it is people buying homes as investment properties, whether it is people renting privately or whether it is people in public and community housing, housing coops and other forms of housing. They all interact with each other and it is important that we look at each aspect of housing, not least because—as is often overlooked in the debate about housing—you do not get many things more fundamental than trying to ensure that Australians have a roof over their head. If you cannot get secure and affordable housing for yourself and your family then you are pretty much behind the eight ball, in fact behind about 10 eight balls, in terms of trying to get a stable existence so that you can develop your opportunities in life and you, your kids and your family can get ahead. Housing is critical. The next thing after making sure that you can get enough food to stay alive is being able to access housing.

The Commonwealth-State Housing Agreement is only one part of that but it is a critical part, not least because it focuses in part on housing for some of the less well-off
people in our community. The Democrats advocate the involvement of the federal government in the provision of affordable housing for people on low and moderate incomes, and the Commonwealth-State Housing Agreement is an important part of that. There are many problems with the CSHA that have stemmed back over a number of years now, many of them stemming from an inadequate level of funding. Unfortunately, of course, it is beyond the powers of the Senate—either through this debate, this instrument or, indeed, more broadly—to act to increase the total level of funding. That is something that is determined by the government at the federal level through the usual backwards and forwards and argy-bargy that involve Commonwealth and state negotiations.

This Commonwealth-State Housing Agreement that was recently negotiated and started up in July of this year provides over $3\frac{1}{2}$ billion over five years in equivalent dollar value for this year. This sounds like a great deal of money and of course it is, although it should be noted that it is less than $1 billion a year. The funding for public and community housing, including Aboriginal housing, is inadequate and there is without doubt a huge unmet need. It also has to be stated that the level of funding for the Commonwealth-State Housing Agreement has decreased substantially over the last decade, by around half a billion dollars per annum in real terms—a 28 per cent reduction—and it will continue to reduce under the terms of this new agreement.

When the Democrats have raised questions about this in previous times the minister has said, ‘The total amount of money for housing has gone up because we’re putting more money into rent assistance.’ I am certainly not saying that rent assistance is a bad thing but, in terms of targeted money specifically going in an efficient way to address housing need, there is no doubt that public housing is more efficient. No less an authority than the Industry Commission, the predecessor to the Productivity Commission, has found that. While it does provide some assistance, rent assistance is not nearly so efficient. The fact that we have had an increase in rent assistance and a decrease in money for public and community housing is something that should be noted.

State and territory housing authorities cannot meet the running costs of existing public housing and, in many cases, are being forced to sell their existing housing stock in order to meet recurrent expenditure, including loan repayments, through long-term housing agreements, to the Commonwealth. There is no better example of that than when just yesterday, here in Canberra, ACT Housing broke the news to over 200 tenants that it would sell off or knock down Canberra’s largest public housing apartments—the Currong apartments in Braddon. According to newspaper reports today, ACT Urban Services Minister, Bill Wood, admitted that the loss of Currong would put further pressure on waiting lists and would result in fewer overall ACT housing properties.

On 30 June last year, nationally there were still almost a quarter of a million households waiting to be housed in public housing alone, and less than 37,000 were housed during that year. Plus there are one million people in receipt of rent assistance, of whom 35 per cent pay more than 30 per cent of their income in rent. That 30 per cent mark is not just a figure plucked out of the air. Thirty per cent of your income being paid on housing is the benchmark usually used by lending institutions such as banks to assess affordability, so if people are over that amount then they are clearly in significant financial housing cost induced stress. Indeed, nine per cent of those who receive rent assistance pay more than 50 per cent of their income, so that is nearly one in 10 paying more than half of
their income in rent. The total amount of low-cost rental housing is reducing at the same time as the number of people on low incomes is increasing. By definition, affordability is worsening.

Indigenous housing is also funded through a subprogram in the CSHA—the Aboriginal Rental Housing Program. The new Commonwealth-State Housing Agreement targets the limited funding to rural and remote areas where there are no mainstream alternatives. On the face of it, this sounds like a good thing. It is, as far as it goes, but the reality is a little different and a little more complex than that. Indigenous housing in rural and remote areas is often overcrowded and of poor quality, but that is not the only Indigenous housing issue. Only about 26 per cent of the national Indigenous population live in remote or highly remote areas but they will get 100 per cent of the funding. I am certainly not suggesting that we should use the same amount of money and spread it across a larger number of people because that would simply mean less assistance for Indigenous housing.

It gives an indication of the implication of the shift in funding, which is that New South Wales and Victoria will get very few funds through this component of the CSHA, and this could result in the loss of Aboriginal housing stock in urban areas in those states. Approximately 30 per cent of Indigenous people live in New South Wales, and nationally the areas of highest housing poverty are in Sydney, Coffs Harbour and my home city of Brisbane. In other states and territories this will mean funds will be directed away from urban areas. In reality, it means that funds are being shifted from one disadvantaged group, urban Indigenous people, to a more disadvantaged group, remote Indigenous people, as a way of rationing an inadequate pool of funds.

I will move to the specific clause of the determination that I am seeking to disallow, and that is clause 4(3). This clause withholds five per cent of the total funding available to each state and territory unless they comply with the set of (1) reporting requirements and (2) performance requirements. I do not have any quarrel with the reporting requirements and the nature of the agreement ensuring that all parties are bound to produce these reports. There is a great benefit to all of us, not just to the Commonwealth government, which is providing the money, in having robust quality data on how government funds are expended and ensuring that they are expended in the way they should be. It is worth noting, though, the massive discrepancy between the very stringent, appropriately stringent, reporting requirements that are placed on the states for expenditure under the Commonwealth-State Housing Agreement—an amount, remember, which is less than $1 billion per year—compared to the nonexistence of reporting requirements for the first home owners grant, another grant that is Commonwealth funded but state administered.

We have seen just in the last few weeks through media reports the complete absence of any reporting requirements, the complete absence of any accountability criteria and the complete absence of any sense of needing to see if that money is being spent in the way that it is legally supposed to be spent, let alone who it is being spent on. Neither is there any sort of data on which we can assess whether it is actually assisting in the way that it is supposed to assist—whether it is actually helping in terms of housing affordability or whether it is just $7,000 for a first home owner, which basically just means the price of housing goes up by $7,000. That does not really help anybody very much, except the person who is selling the house in the first place.
There is a problem with the performance requirements, not the reporting requirements, and that is the area I want to focus on, particularly the possibility of a financial penalty for the states if they cannot meet the outcomes required. One of the performance requirements is to reduce work force disincentives by reviewing income based rents. Whilst it is desirable to reduce work force disincentives—or what are more usually perceived as and called ‘poverty traps’—more than half of public housing tenants and applicants are not in the work force, nor are many of them, unfortunately, likely to be. It is also true that income based rents have been able to deliver affordability in a way that other rent setting models cannot. An income based rent can make sure that no tenant pays more than 25 per cent of their income on rent. I have already spoken about the problems you get when people have to spend massive proportions of their income solely on housing costs such as rent. In fact, many of the problems with poverty traps result from the way in which the social security system operates and the levels of taper rates. When these interact with income based rents, it is true that there can be work force disincentives, but that is a matter for the social security system more broadly. I do not believe that public housing recipients should be penalised by an overall reduction in public housing funding as a by-product of that.

The Democrats believe that the Commonwealth should take leadership on this issue not just as a way of helping them to reduce their expenditure but more importantly to take leadership on poverty traps and come up with concrete proposals. But there is no proposal from the Commonwealth to deal with this much larger problem in tandem with the states. The only leadership the Commonwealth is taking is to impose a penalty for noncompliance. It is easy for the Commonwealth: it gets to keep its money and it is somebody else’s problem. The problem in the end is for those people needing to access public housing.

The second performance measurement that is contained in the measure I am seeking to disallow relates to a requirement for state and territory housing authorities to bring in investment from outside the social housing sector—that is, as part of signing up to this agreement to get money for public and community housing, the states are being required to also get private sector investment. I am certainly not saying that private sector investment is not desirable. There has been some good work done in recent times by many people in the housing sector who are trying to find ways to increase the involvement of the private sector and to get them to invest in low-cost housing. But, as part of those efforts, it has become quite clear and the research shows that there are insufficient funds within the existing system to be able to support this degree of private investment. It also shows that the most efficient and effective way of bringing in investment is the development of a federally initiated and consistent national scheme.

Again, there is no Commonwealth leadership being shown on this initiative and the entire onus is on the states and territories. I am in no way suggesting that state and territory governments are not competent or capable—I possibly could in certain instances, but I do not want to get into that debate. The key thing is that each is going about it in its own way. There is no cohesive overall national approach. Whilst that is not there, being able to get a sufficient level of private investment in social housing is simply not going to happen—certainly not in some areas and some states.

There is a view that the states need to be forced to deal with both poverty traps and the need to bring in private sector invest-
ment, and the Australian Democrats agree that these issues need to be addressed. But we very strongly disagree with the method of addressing them, which is basically not the stick but the massive great club of imposing penalties, because it is not really the state or territory governments that will feel the pain of the penalty; it will be the person who is in—or, more importantly, trying to get into—public and community housing. Funding cuts only hurt people on the waiting lists and they further jeopardise the ability of the state housing authorities to maintain their existing housing stock. I believe there is no acceptable argument that can justify the imposition of financial penalties for noncompliance, because those penalties in the end are borne by people who are unable to access public and community housing—people who are overwhelmingly low-income Australians. As I mentioned at the start of my contribution, if people are not able to even get to first base with accessing stable and affordable housing, then their chances of addressing all the other issues that people have to deal with in life are made much more difficult.

There are other problems with this CSHA. I have mentioned the overall problem of an increasing lack of funding. I am sure that the government minister, as government ministers always do—and quite rightly, to some extent—would say, ‘Well, everybody wants more money for everything, and there is only so much.’ Thankfully we have had some debate in this country in recent times about what we should do with surpluses that we have. We have had ongoing debate on this and hopefully we will become more focused on it in the lead-up to the next election. Do we generate funds towards tax cuts; do we put it towards social infrastructure? Much of the time that debate focuses on money for tax cuts or money for health and education. That is an important debate, and the Democrats have contributed and will continue to contribute to it. But housing does not get as much of a mention as it should. I believe it is alongside health and education, if not above them, as an absolute fundamental social necessity and an absolute fundamental piece of social infrastructure. It is clear that affordable housing is declining in part because of a declining amount of investment by federal and state and territory governments in social or community and public housing.

The minister, I am sure, will point out that territory and state governments make only a fraction of the contribution the federal government does. That is a good point to make; I agree with it. I particularly agree with that point, given the massive windfall that some states have been getting in stamp duty due to the surge in the housing market. Many housing groups have suggested that state governments should take the approach of hypothecating a certain component of stamp duty, particularly once it gets above a certain amount, back into community and public housing. So, if state governments do receive a windfall because of huge increases in the cost of buying a house, at least some of that will be redirected into housing at the lower end, which is where it can be accessed by people who cannot afford housing—whether through public housing or even through investment in affordable housing that people can purchase.

It is true that the states are not doing as much as they should in that regard, and the minister will be correct in criticising them when she does, as I am sure she will. But that will not negate the fact that many people are on waiting lists that are far too long, and they should not be made the victims of yet another finger pointing exercise between state and federal governments. States and territories have signed up to this agreement. They do not have much choice. They are over a barrel because they need the funds—
and they do not want to lose the whole deal, as everybody would then be much worse off.

The government has negotiated a joint funding agreement which denies funds for badly needed public and community housing. It is reluctant to demonstrate real leadership when it comes to reducing poverty traps and in this critical area of bringing in private sector investment. I believe that is really what is needed—leadership. We have not had that at national level on housing issues for many years. It is not enough to just say, ‘Well, we have put money into this and into rent assistance; housing is a matter for the states.’ I do not believe that is good enough, and the current crisis in housing affordability, which goes much wider than just the CSHA, clearly demonstrates that it is not good enough.

Many people with an interest in housing—not just the Democrats but also ACOSS, National Shelter and the Housing Industry Association, which I note released more material today—have consistently argued that a housing strategy is needed. I have noted the HIA call for a federal department of housing and for COAG to show leadership on this issue. Quite frankly, with ACOSS and HIA both agreeing on something this important and calling for more government leadership, not less, I really hope the government takes note of it.

The Democrats are firmly of the view that federal leadership is needed if growing housing problems are to be fixed. Those problems are much wider than just what is in the public and community housing sector. The fact is that the amount of public housing in states around the country is declining. We cannot afford even the measure such as the one in this agreement, which risks this problem becoming worse by imposing financial penalties on the states—penalties that will be paid ultimately by Australians who are struggling the most and who are just trying to access the basic right of having a roof over their heads.

Senator JACINTA COLLINS (Victoria) (4.34 p.m.)—While Labor has some sympathy with the aims of the Democrats in moving this motion on housing affordability, it will not be supporting the disallowance. The Housing Assistance (Form of Agreement) Determination 2003 is made under section 5 of the Housing Assistance Act 1996 and is an instrument that gives effect to the Commonwealth-State Housing Agreement 2003.

The Democrats have proposed that clause 4(3) of the determination be disallowed. This clause gives the Commonwealth the power to deduct five per cent of the base grant for a state if it fails to meet certain reporting and performance targets—in particular, those outlined in subclause 6(1)(c)(vi). This subclause requires states to enter into bilateral agreements with the Commonwealth aimed at increasing private investment in the provision of affordable social housing. Also, as Senator Bartlett has pointed out, it requires states to reduce work force disincentives in particular by moving to break any link between tenant income and rent charged.

The 2003 agreement has already been signed off by all state and territory governments and, to Labor, there seems little point in making relatively minor changes at this stage. The real issue with the Commonwealth-State Housing Agreement is not in the fine print, which is subject to a range of bilateral agreements anyway, but with the whole direction being taken by the Howard government in housing. The Howard government has ripped more than $1 billion a year out of the Commonwealth-State Housing Agreement. Ten years ago, in 1993-94, under a Labor government, funding for the Commonwealth-State Housing Agreement stood at $2.8 billion. By 2003-04, under the Howard government, funding had fallen to
$1.3 billion—a decline of 54 per cent. At the same time expenditure in rent assistance has increased only marginally, by seven per cent over the last 10 years. Total federal government expenditure on housing for low-income earners—that is, rent assistance plus the Commonwealth-State Housing Agreement—has fallen from $4.6 billion 10 years ago to $3.2 billion in 2003-04.

This is happening at a time when a great number of Australians are suffering housing stress. Research released recently by National Shelter and ACOSS shows that more than one in three rent assistance recipients—that is, more than 330,000 Australians—exceed the Howard government’s measure of housing affordability. They are under housing stress because they spend more than 30 per cent of their income on rent. This is some of the material that Senator Bartlett has already covered. For instance, one in 10 recipients—that is about 85,000 people—spend more than 50 per cent of their income on rent.

The research shows that in some parts of Melbourne, in a band running from Hawthorn to Moorabbin, and in some parts of Sydney, in a band running from Bankstown to Campbelltown, up to 79 per cent of single recipients are experiencing housing stress—they have to spend more than 30 per cent of their income on rent. There is a housing crisis in Australia and it is hitting our most vulnerable families, low-income renters, the hardest. Women are bearing the brunt of the problem—around two-thirds of rent assistance recipients are women.

The Howard government has no strategy for tackling this problem. It has no national housing strategy and no minister for housing. As Senator Bartlett pointed out, there is no national leadership. The government is in an ideological straitjacket in this area, as it is in some other policy areas. The Howard government’s reliance on the market to fix our national housing problems has patently failed, and the most vulnerable in our society are suffering considerable housing stress as a result. The government needs to recognise that, while rent assistance has its place in the housing policy mix, public and community sector housing also has an important role to play. By ripping $1 billion a year out of the Commonwealth-State Housing Agreement the Howard government has strangled the provision of new public and community sector housing. Many low-income earners across the nation are suffering as a result.

As I have said, Labor will not be supporting this disallowance motion because that would be only tinkering at the edges of a Commonwealth-State Housing Agreement, which has a major, fundamental problem at its core. Unless the Howard government does a complete U-turn on housing policy and adequately funds the Commonwealth-State Housing Agreement, low-income families and individuals will continue to suffer housing stress. Decent accommodation at an affordable rate ought to be the birthright of every Australian, yet under the Howard government at least 330,000 Australians are being denied that right.
dexation for the first time. All the state and territory housing ministers and Senator Vanstone signed the Commonwealth-State Housing Agreement, which took effect from 1 July 2003.

Combined Commonwealth rent assistance and Commonwealth-State Housing Agreement outlays have increased in real terms by $184 million, from nearly $2.7 billion in 1997-98 to over $2.8 billion in 2002-03. Currently, for every dollar of direct Commonwealth housing assistance, state and territory governments contribute less than 13c, by way of matching, under the Commonwealth-State Housing Agreement. I do not think you should call it matching under those terms. This is a very modest contribution, particularly in the light of the stamp duty windfall states and territories are experiencing as a result of increasing house prices.

The Australian government’s requirement to make five per cent of base funding contingent on meeting outcomes is intended to ensure better accountability and transparency as to how states and territories use the Commonwealth-State Housing Agreement money. Two priorities in the 2003 agreement are attracting private investment in social housing and reducing disincentives for public housing tenants to participate in the work force. Timely reporting and performance by the states and territories in these two priority areas are to be subject to the possible five per cent sanction arrangements. Specific outcomes for these two areas will be agreed and elaborated on in bilateral agreements which are now under negotiation. Specific outcomes for these two areas will be agreed and elaborated on in bilateral agreements which are now under negotiation. Specific outcomes for these two areas will be agreed and elaborated on in bilateral agreements which are now under negotiation. Specific outcomes for these two areas will be agreed and elaborated on in bilateral agreements which are now under negotiation. Specific outcomes for these two areas will be agreed and elaborated on in bilateral agreements which are now under negotiation.

I will not hold the Senate up by discussing some of the issues raised by Senator Collins. I could go on at length about the reduction in interest rates, the reduction in inflation and all the other things we have done to ensure that families find housing more affordable. One of the disincentives for people to move into the housing market is huge interest rates, and in this area the government has gained some control by having a sound economic policy. Reducing public debt has meant that we have reduced inflation and interest rates, which makes housing more affordable for people purchasing a house. The first home owners grant, particularly its extension last year, made it more affordable again. I will not go into chapter and verse to discredit what Senator Collins said. I will just say that one of the ways to ensure that people have access to private housing is to make sure that interest rates are kept as low as possible, and one factor in that is running a sound economy and not living beyond our means as Labor was doing to the tune of $96 billion when we came into government. I call on the Senate not to support this disallowance motion.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.42 p.m.)—I rise to reply to the two disappointingly brief contributions. I did not necessarily expect that the disallowance motion would be unsuccessful—although, given the lack of substantial arguments put against it, I am starting to wonder why it will be. I presume the reason is simply that it is a negotiated agreement between the federal Liberal government and a bunch of Labor state and territory governments that might not have liked it but have signed off on it and do not want to set the precedent ofstuffing around with it afterwards. The broader issue of housing is fundamental, and the very cursory contributions to the debate on that matter today from both Labor and Liberal senators are very disappointing.

Senator Patterson—You don’t have to take 20 minutes to say what you need to say.
Senator BARTLETT—If that is all you think you need to say about housing affordability it indicates how completely hopeless this government is and how unable it is to deal with the issue of housing affordability. This is a major crisis for all Australians and you just say, ‘The states aren’t putting enough money in. We’ve got low interest rates.’ It is good that you have low interest rates; I am very pleased about that. It is bad that the states are not putting in enough money; I agree. That is not going to help people. There is more to it than that. It is great to say, ‘Combined Commonwealth-State Housing Agreement and Commonwealth rent assistance has gone up.’ The problem is that Commonwealth-State Housing Agreement money has gone down and that is a far more efficient way of delivering housing for people on low incomes than rent assistance. There is no doubt about that. The Industry Commission has said itself that the most efficient way of spending money to deliver housing outcomes is through public and community housing and it is clearly less efficient to spend it on rent assistance—which is not say that rent assistance does not have its place.

The defensiveness is also very unfortunate. It is an issue that needs to be raised and debated. The failure of the Senate to seriously debate the issue today is very disappointing. Nobody is saying that there is a single, simple solution. The Democrats are certainly not saying that it is all the federal government’s or the state government’s fault—or anybody’s fault. Some of it is just the way things have developed. We need to sit down and seriously debate the issue, rather than just throw off a few glib remarks about low interest rates, high stamp duty or whatever else, which just ignores the fact that, despite all of those factors—and because of some of those factors—we have a housing affordability crisis in Australia.

Part of that crisis is not just due to market forces but, as Senator Collins said, due to the fact that the funding for public and community housing and the housing stock have declined dramatically over the past decade or more. Sure, the quality of housing might have improved, and that is good. But you do not need to be Einstein to recognise that the fewer public and community houses and units that are available—particularly when you put that alongside huge surges in the cost of buying a house—the more pressure is put on low-income people who cannot afford somewhere to live without spending half their income or more to stay under that roof.

This is a major problem and I desperately urge the government to take some national leadership on this—and we are obviously not going to get it out of the minister today. As Senator Collins said, there is no national housing minister for one of the most fundamental issues—that is, adequate housing for Australians. There is no minister and no national housing strategy. The Democrats have asked about that at estimates committees a number of times. At the last estimates hearings I asked the key social policy unit of the Prime Minister’s department whether anything was happening. They said, ‘No, we have the first home owners grant.’ I am not saying that the first home owners grant should be scrapped, but we have seen that it is extremely poorly targeted. The grant is not means tested at all and, in some cases, it is not even going to first home owners; it is going to some people who are using it to buy houses costing $1 million. Apparently, it is going to people under the age of 18. So, at a time when we have a housing affordability crisis, we have this wastage of money.

The money that is provided by the Commonwealth to assist first home owners is roughly equivalent to the total amount of money that is spent on public housing in Australia. So we have a similar amount of
money being spent on public housing. I am surprised that the minister did not actually count that money as assistance to making housing more affordable. It is clearly not efficient. We do not have a bottomless pit of money—and we all acknowledge that. So we should look at the money we are spending and see what we are doing. We are providing money to first home owners to make it more affordable for them to buy a house. So at least in theory it is a housing affordability measure, but I doubt very much that it is in practice.

Let us look at whether we can spend the same amount of money to better assist in housing affordability. The government is not interested. There is no assessment. It is purely a political slush fund. The government is giving this money to the public saying, ‘We are helping you to buy a house. The fact that it may just be pushing up the cost of every house in the market by $7,000 and not actually assisting you at all is neither here nor there. It is always nice to get a cheque for $7,000.’ Let us get some logic into this debate. Let us move this debate beyond all the state and territory finger pointing and recognise that we have a national crisis in housing affordability and that involves a whole lot of aspects.

The lack of money in the Commonwealth-State Housing Agreement is a key aspect. Sure, this disallowance motion only goes to part of that, but to say that we cannot disallow it just because it is tinkering at the edges rather than going to the core is wrong. Unfortunately, we cannot go to the core. The federal government can go to the core but does not want to because it does not have a federal strategy and says that it is a matter for the states. The states cannot go to the core because they are relying on the federal government to provide the money. That is great but the public loses out.

The decline in housing affordability is undeniable. It has to be addressed cooperatively, but with national leadership. We have had national leadership from groups that are, in many ways, incompatible with each other. For example, the Housing Industry Association, the Master Builders Association and the Real Estate Institute—all the people who, generally speaking, like investing in and constructing housing and who like the cost of housing going up—have been working together with people who are activists for the social housing sector, such as public housing tenants groups, national and state shelter bodies, and community housing groups because, together, everybody that touches on housing in any way recognises that affordability is at crisis point. They are all coming up with constructive solutions and ideas. They do not have all the answers, and neither do the Democrats, but, for God’s sake, can somebody that is in government in this country actually start showing some leadership and addressing this issue, rather than handballing it around the place or coming up with little one-off measures? Any one-off measure is not going to be enough.

It is a complex issue. It is always going to be a difficult issue, but just sitting back and letting it take its course is leaving hundreds of thousands to millions of Australians in a situation where they are paying too much for basic housing. In many cases they cannot get affordable or stable housing—they are shuffling from one rental property to another—and they cannot get housing near jobs or services. Housing affordability is not just a matter of being able to get into a house; it is a matter of preventing people from getting a job, getting to universities, and accessing education and health. If you cannot get adequate housing in areas where the services are, you lose out in all those other areas.

Whilst there may have been some dissatisfaction for the component that was seeking
to be disallowed, the lack of willingness to even address this absolutely critical national issue is very disappointing—although, I suppose I would have to say it is not surprising, given that any attempts to genuinely debate housing at the national level in this parliament in the past, certainly for quite a number of years, have basically been swept aside as not being worth the consideration that this issue deserves. That is something that, quite frankly, will have to change sooner or later.

Whilst we are waiting for that change there will be many Australian people—particularly the less well-off amongst us—who will have to suffer the consequences.

Question negatived.

ASSENT

Messages from His Excellency the Governor-General were reported informing the Senate that he had assented to the following laws:

- Civil Aviation Amendment Act 2003 (Act No. 105, 2003)
- Taxation Laws Amendment Act (No. 8) 2003 (Act No. 107, 2003).

COMMITTEES

Privileges Committee

Reference

Senator BROWN (Tasmania) (4.53 p.m.)—I move:

No. 4—That the following matters be referred to the Committee of Privileges for inquiry and report:

In relation to the joint meeting of the Senate and the House of Representatives to receive an address by the President of the United States of America on 23 October 2003:

(a) whether there was any inappropriate presence or activity by agents of the Government of the United States;
(b) whether foreign media or other personnel were permitted to record the proceedings, in circumstances in which Australian media were forbidden to do so, and whether this was appropriate;
(c) whether there was any improper interference with Senator Nettle by any officer of the Parliamentary Service;
(d) whether there was any other improper interference with Senator Brown or Senator Nettle; and
(e) whether there are any implications for the powers, privileges and immunities of the Senate arising from these matters, and whether the Senate should take or recommend any action in consequence.

No. 5—That the following matters be referred to the Committee of Privileges for inquiry and report:

In relation to the joint meeting of the Senate and the House of Representatives to receive an address by the President of the People’s Republic of China on 24 October 2003:

(a) whether there was any inappropriate presence or activity by agents of the Chinese Government;
(b) whether agents of the Chinese Government exercised or attempted to exercise any inappropriate influence over any part of the proceedings, including:
   (i) any suggested cancellation of, or any delay in, the proceedings,
   (ii) the removal or redirection of senators’ or members’ guests from the public gallery,
   (iii) the exclusion of Senator Brown and Senator Nettle from the proceedings and the method by which that exclusion was achieved, and
   (iv) any message or instruction to persons attending the proceedings in
relation to any dress, display of insignia or symbolism;

(c) whether senators were appropriately informed of any of these matters or of any other matters relating to the proceedings; and

(d) whether there are any implications for the powers, privileges and immunities of the Senate arising from these matters, and whether the Senate should take or recommend any action in consequence.

The two motions relate to the events last Thursday and Friday with the visit of the President of the United States on Thursday and the visit of the President of the People’s Republic of China on Friday, and I seek to refer to the Committee of Privileges of the Senate matters that arose out of those two meetings.

With regard to the first, the United States presidential visit, I ask whether there was any inappropriate presence or activity by agents of the government of the United States; whether foreign media or other personnel were permitted to record the proceedings in circumstances in which Australian media were forbidden to do so and whether this was appropriate; whether there was any improper interference with Senator Nettle by an officer of the Parliamentary Service; whether there was any other improper interference with Senator Brown or Senator Nettle; and, finally, whether there are any implications for the powers, privileges and immunities of the Senate arising from these matters and whether the Senate should take or recommend any action in consequence.

Then relating to President Hu’s visit, I ask whether there was any inappropriate presence or activity by agents of the Chinese government; whether agents of the Chinese government exercised or attempted to exercise any inappropriate influence over any part of the proceedings including: (i) any suggested cancellation of or delay in the proceedings, (ii) the removal or redirection of senators’ or members’ guests from the public gallery, (iii) the exclusion of Senator Brown and Senator Nettle from the proceedings and the method by which that exclusion was achieved, and (iv) any message or instruction to persons attending the proceedings in relation to any dress, display of insignia or other symbolism. Further, I ask whether senators were appropriately informed of any of these matters or of any matters relating to the proceedings. And, as a similar component to the last motion, I ask whether there are wider implications for the Senate which should be looked at.

These are important matters. I submit that Committee of Privileges should look into these matters. Both of these matters concern Senator Nettle and me. But, more importantly, I think there is the matter of the influence of the government or other agents of the United States and in particular of the People’s Republic of China in altering procedures or decisions that are made in this parliament relating to both the proceedings in the parliament and to the guests who were invited by members to be in the gallery.

I want particularly to go to one of those points because I think it highlights the need for these motions to be adopted and for the Committee of Privileges to be involved. It is my information that quite extraordinary pressure was placed on the Presiding Officers last Thursday night and Friday morning by the Chinese delegation including the foreign minister of China to ensure that the actions of members of the Senate and House of Representatives who were present were checked in a way that is not usual in our parliament and to specifically exclude three guests of the Greens to the gallery; namely, two Tibetans and Dr Chen, who was representing the Chinese community which is supportive of democratic reform in China.
We cannot have a situation where, when we have an authorised sitting of parliament, outside influences—wherever they might come from—influence decisions made about how that sitting shall proceed or who is able to watch those proceedings from the public gallery. We simply cannot have that. That is a matter for this parliament. It is quite clear that very great pressure was placed on the Speaker and the President and it is clear to me that that pressure was effective in achieving a result. That is what concerns me.

I expect that the matter of standing orders may be raised here. We have quite extensive standing orders on parliamentary privilege and how matters relating to parliamentary privilege should be raised. Let me say two things about that. There has been no specific senator named in these resolutions—or indeed member, although it would be outside our ability to look at what a member did in the other place anyway. So no person has committed a contempt—as pointed to in resolution 6(8) of the rules regarding parliamentary privilege—and no-one is named in either of these motions. Rather, the motions are seeking the Privileges Committee to review the events of last week and see whether persons—either those in the Parliamentary Service, other persons or indeed those representing foreign powers—who were involved in the proceedings behaved in a way which infringed on privilege or was a contempt of privilege. I remind the chamber of the rules of this place regarding matters constituting contempt. Resolution 6 states:

Without derogating from its power to determine that particular acts constitute contempt, the Senate declares, as a matter of general guidance, that breaches of the following prohibitions, and attempts or conspiracies to do the prohibited acts, may be treated by the Senate as contempt.

It then goes on to list the prohibitions. Under the heading ‘Interference with the Senate’, the rule states:

(1) A person shall not improperly interfere with the free exercise by the Senate or ... with the free performance by a senator of the senator’s duties as a senator.

That would include such things as the exercise of free speech and—while it might be contrary to standing orders of the other place—the ability of a senator to speak on behalf of her or his constituents. It also of course does include the free performance by the senator to move and obviously to do such thing as to meet a visiting head of state who is present in the place and meeting other senators. Under the heading ‘Improper influence of senators’, the rule states:

(2) A person shall not, by ... intimidation, force or threat of any kind ... or by other improper means, influence a senator in the senator’s conduct as a senator or induce a senator to be absent ...

Clearly I would think that the Privileges Committee should be looking into the matter of whether a senator was influenced by intimidation or force of threat of any kind in the proceedings last week. That of course relates to not just whether the guests of a senator were interfered with—because that is an extension of a senator’s duties in parliament—but whether the senators themselves were, in that untoward collection at the back of the parliament when President Bush was present and being presented to various senators.

Under the heading ‘Molestation of senators’, the rule states:

(4) A person shall not inflict any punishment, penalty or injury upon, or deprive of any benefit, a senator on account of the senator’s conduct as a senator.

The question here arises—and it is pretty clear to me—of whether it is a punishment or a penalty to have one’s guests in the gallery removed without any consultation and without them posing any different demeanour or prospect in the Senate to any other guest in
the Senate, in the way that occurred last Fri-
day. I believe that is a molestation of a sena-
tor and a senator’s right to not be prohibited
from the same rights as any other senator.
Under the heading ‘Disturbance of the Sen-
ate’, the rule states:

(5) A person shall not wilfully disturb the
Senate—
this was a meeting of the Senate—
... or wilfully engage in any disorderly conduct in
the precincts of the Senate or ... to disturb its pro-
ceedings.

I do not believe that that begins with inter-
jections, though the Privileges Committee
would be quite within its rights to look at
that matter because I believe that is covered
by standing orders. But we do have the ques-
tion of the President of the Senate not being
in the chair, and the very complicated ques-
tion as to whether, without the President be-
ing in the chair, the House of Representatives
standing orders applied. That is also being
looked at by the reference, I would expect, to
the Procedure Committee yesterday.

I also point to the need to inform the
President in writing about a request for a
reference to the Privileges Committee. In one
way it is possible to say that the notice of
motion given to the Senate yesterday and of
course to every member of the Senate, in-
cluding the President, was informing the
President in writing. But we get then to the
very difficult matter of the President being
put in the invidious position of having to
determine a matter of reference to a commit-
tee when he is a central potential witness to
the inquiry. It is quite unfair and untoward
for that procedure to take place. In this par-
ticular circumstance the President was key to
the decision making process that allowed the
Chinese government to have guests removed
from the gallery. Extraordinary pressure was
applied behind closed doors—the Chinese
government was not satisfied to come in on
time and have the President present himself
on time in the chamber. That was delayed as
pressure was applied to ensure that the Presi-
dent of China was not faced with any com-
ment or any display of any issue at all by the
elected members of this parliament.

How can the President be an adjudicator
in a process in which he is a central compon-
et of the complaint that is being made? I
do not believe the standing orders we have
deal with that particular situation. Therefore,
it is right and proper that this motion be
brought before the Senate in the way that it
has been—with notice, as has occurred—and
be dealt with by the Senate today. I am ex-
pecting that we will get debate on that mat-
ter, and that is proper. But again I point to the
fact that we do need to have a ruling made
on the Senate’s role last Thursday and Fri-
day—that is, the role of the President in the
Senate in decisions that were made that
clearly infringed on the rights of the Greens
senators and their guests.

I will be interested to listen to the debate.
Of course, if the government, as it may, op-
poses the motion or components of the mo-
tion, then we will go through the longer or
more formal process of approaching the
President to get an adjudication. But frankly,
without impugning the President in any way,
I believe it is discourteous and wrong to ask
the President to make a ruling on a matter in
which he is a central figure of the matter to
be adjudicated. I think the Senate is always
the arbiter in this matter; it is the Senate it-
self which determines how extraordinary
situations like this should be adjudicated.
That is why these motions that I have
brought forward are correct; that is why
these motions that I have brought forward
should be both considered and passed in here
today so that the Privileges Committee can
look at the whole situation that is encom-
passed in both of the motions.
Senator HILL (South Australia—Leader of the Government in the Senate) (5.08 p.m.)—I am not going to take a point of interpretation under the standing orders. This certainly has not been progressed as a matter of privilege normally is but I accept the argument that the Senate, by resolution, can nevertheless send a matter to the Privileges Committee for the Privileges Committee to consider. My concern is rather that it is a waste of time and, beyond that, it is insulting and offensive to two nations that are very important to Australia’s interests. Senator Brown, I would have thought, had extracted as much benefit from this matter as he could reasonably have expected. It was a stunt from the start. He got the cover on this week’s Bulletin; he got a lot of publicity, a lot of coverage out of it. His small constituency might be applauding, although it is interesting that I have heard of instances where Green voters have been telephoning the offices of honourable members and senators saying how embarrassed they were by the conduct of Senator Brown.

The real point is this: pursuing one’s political objectives or causes is of course legitimate but there are occasions when, in my view, that should be put to one side in the interests of the nation as a whole. During such ceremonial occasions as the two we had last week when, at the invitation of the Australian government on behalf of the Australian people, the leaders of two other nations were given the opportunity to speak to us, I would have thought that common courtesy would require one to listen to each speech and not seek to disrupt it. Senator Brown obviously sees matters differently. He was not concerned about how such matters might be interpreted. He put his own personal political interests ahead of all else and therefore demonstrated in the way that he did and caused some embarrassment—although I must say, in relation to the United States, probably not a great deal, because it was interpreted for what it was.

On the other hand, China is a different case. China does not have our political culture and I suspect does not fully understand the way in which we do our political business. To me, all that means that an extra effort should have been made to ensure that proper courtesies were extended to the President of the People’s Republic of China. It is pretty clear from what Senator Brown has subsequently said that, if he had been given the opportunity, he would have disrupted that session as well. It was just fortuitous that he was being punished for his disobedience of the Speaker’s order on the previous day and that therefore we as a nation were not embarrassed by him on the second occasion.

But why should we now be a party to continuing this stunt? That is what is being sought through the motions being debated here today. I have to say in relation to the first motion concerning the United States that whether he claims to have been in some way accosted or interfered with by an officer of the parliament is presumably a matter that a parliamentary committee could consider. But if he is talking about an officer asking him to leave the parliament in accordance with the direction of the Speaker after the ruling of the Speaker, then I have to say that not only is this a stunt but he has a great cheek as well. I certainly hope that if that is the issue he is trying to put before the Privileges Committee—and I understand that he has got the numbers in this place to get his wish and that this will be going to the committee—the committee will look at his behaviour as well and ask what would be the consequences if all honourable members and senators refused to obey the directive of the Speaker or the President. Of course, there would be anarchy and the whole place would become a shambles. But that would not worry Senator
Brown because, as I said, that seems to be the way in which he wants to do business.

I do think that subclause (a) of the first motion is offensive to the United States. This refers to ‘inappropriate presence or activity by agents of the Government of the United States’. I presume Senator Brown is talking about security staff. In my view it is just an unfortunate state of the world at the moment where a President of the United States is under such risk at all times that special precautions are necessary. I would have thought that all reasonable men and women would accept that in the current circumstances of international terrorism and the like. I certainly do not think that the United States should be subjected to the interrogation of a Senate committee to justify the presence of security staff, which is what I think Senator Brown is seeking here. I think that is offensive to the United States, particularly in the current circumstances and bearing in mind that their President was invited here by the government on behalf of all Australians. I strongly oppose that particular provision going to the committee. In relation to the other matter, as I said, I think it is a stunt and a waste of time, but I am not so passionately opposed to that. If the numbers are such that people want these issues to be looked at by the Senate, then so be it.

In relation to Senator Brown’s motion No. 5, it does not seem to me in this instance that it is possible to disaggregate it. It is basically an attack on the Chinese government and an attack on the way in which the Chinese government was treated in this building last week. I think it is offensive in that it suggests in some way that pressure was brought to bear. On the basis of my inquiries—and, again, I would have thought that reasonable people would have made inquiries—there was no pressure brought to bear at all. The President and the Speaker acted quite properly in all the circumstances, and the outcome, as I said, because of the fortuitous circumstances in which Senator Brown had already been excluded from the chamber, was that we, as a nation, were not embarrassed by his intended behaviour. In those circumstances, I really do think it is offensive and unnecessary to now seek a further debate on whether there was any inappropriate presence or activity by agents of the government of China or whether agents of the government of China tried to bring about any improper influence or pressure. Therefore, the government will be voting against Senator Brown’s motion No. 5. In relation to his motion No. 4, I move:

Motion no. 4, omit paragraph (a).

Senator ROBERT RAY (Victoria) (5.17 p.m.)—Both Senator Hill and Senator Brown have this grossly wrong, and let me explain why. Even if these motions are carried here today, the Privileges Committee will not be examining breaches of privilege and will not be making a determination as to whether a contempt of the Senate has occurred, because standing order 81 has not been abided by. This is a reference to make a report back to the Senate. It is not going to be a report about whether there was a breach of privilege or a contempt of parliament. That is not possible, because Senator Brown and this Senate have not chosen to go by the normal route, described in standing order 81, which would require Senator Brown to write to the President as soon as possible, for the President to make a determination as to whether Senator Brown’s notice of motion should have precedence and for the matter to be determined via that route on the way to the Privileges Committee.

The fact that that has not happened on this occasion does not preclude a senator from moving a motion for a report from the Privi-
leges Committee. It just means that we cannot report on whether there has been a breach of privilege or, indeed, a contempt of the Senate. Anyone who votes on that motion—expecting that action—which both Senator Brown and Senator Hill seem to have espoused today—can forget it. It will not happen as long as I am chairman of the Privileges Committee. If you do not like it, remove me, but I am sure my colleagues on the Privileges Committee would agree with that interpretation.

Senator Brown said that he did not want to go the standing order 81 route because it might have been discourteous to the President. It is a bit late to worry about discourtesy to presiding officers, Senator Brown. It is part of the President’s duty to rule on matters objectively, and I have full confidence that if you had referred this to the President it would not have been regarded by him as discourteous. He would have ruled on it, on the advice of the clerks, and said whether or not there was a prima facie case. If, for some reason, we detected bias there, then we certainly would have backed you up. Senator Brown, in having it referred to the Privileges Committee on the basis that there was bias involved. I do not think it would have been discourteous to go that particular way.

I give credit to Senator Brown for dropping the reporting date. Frankly, it was a joke to try to have the Privileges Committee report by 3 December. I have to tell you, Senator Brown, that I put a higher priority on the weapons of mass destruction inquiry that I am on at the moment, on the inquiry into the arming of ASIS officers and agents and on the inquiry determining the issue of an extra seat in the Northern Territory. Those three inquiries will absorb me in the next three weeks. We will give some attention to yours, but not exclusive attention to the detriment of those other inquiries. I do appreciate that Senator Brown has amended his motion to drop the reporting date. I do not think, in the history of the approximately 112 reports of the Privileges Committee, that we have ever been subjected to a reporting date, and I appreciate and acknowledge what Senator Brown has done.

Traditionally, any Privileges Committee inquiry settles most of these issues on the papers—that is, we write to all the people concerned, they write back to us, and we then make a determination and report to the Senate. There are occasions when there are disputed facts and we have to hold hearings—always in public, I stress. If we have to hold hearings on these particular issues, I can give this Senate a guarantee that it is not going to be stuntsville and it is not going to be turned into a circus. I will not tolerate that in a committee that I chair. If these are serious issues, they will be treated seriously, and anyone who wants to turn it into a circus or a stunt will be dealt with appropriately.

What worries me most about Senator Brown’s motion—and it may not be a long-term worry—is that it is basically a fishing expedition: it throws a lot of bait into the water without any fish appearing. I have to acknowledge that, when Senator Brown puts in a submission to the Privileges Committee on these matters, he may well give us a whole range of details that will be pertinent. Not many appeared in his speech here today, but nevertheless he may be researching and wanting to put those matters in in detail. I do say to Senator Brown, through you, Madam Acting Deputy President McLucas, that it is essential that Senator Brown submits some details to round out the various matters that he wants referred; otherwise, I am not sure how we are going to get that information. Senator Hill was right when he pointed to paragraph (a) in Senator Brown’s motion No. 4. How am I supposed to investigate and find out what agents may have been in the building during the joint sitting?
Senator Santoro—Senator Brown might want you to subpoena the chief of the CIA.

Senator ROBERT RAY—With respect, Senator Santoro, we do not do that sort of thing. We settle it on the papers. We do not have the ambit to be an investigating star chamber or inquisition group.

Senator Santoro—How else are you going to get it?

Senator ROBERT RAY—That is what I am wondering. On the other hand, an allegation having been made, sometimes it is not a bad idea to investigate it and refute it or, if there is substance to it, both you and I would agree, pursue it. I do not know what sorts of agents may have been here. I do know that in 1967 agents of the US secret service behaved abysmally in the Parliament of Australia. The lesson was learnt. It was not repeated in 1991 or in 1996, during the visits of Bush senior and Clinton, and I doubt if it was on this occasion. There was full cooperation. In 1967, the secret service took over the Parliament of Australia. They behaved disgracefully. That has not been repeated since. There has always been proper cooperation. Nevertheless, Senator Brown may have evidence to the contrary. He will have to produce it before the inquiry.

If Senator Brown had gone the route of standing order 81, he would not have been able to pursue these matters anywhere else. You might understand that, Senator Santoro. Having raised it as a matter of privilege and a potential contempt of the Senate, he—or any other senator—would not be able to raise these issues by way of cross-examination elsewhere. Not having gone the route of standing order 81, he has left it open to himself and any other senator to pursue these matters at estimates committees. Even if this motion is carried today, the form that it is carried in and the interpretation that I have given it means that Senator Brown or any other interested senator, including me, can pursue this matter at the estimates committee hearings, starting at nine o’clock next Monday morning in 2S1, I believe.

Senator Faulkner—Are you going to authorise that paid political advertisement?

Senator ROBERT RAY—No, but, as you know, Senator Faulkner, our estimates committee is usually popular. I am just letting all the fans out there know when to watch Senator Brown and the rest of us raise these issues. In some ways, not going the route of standing order 81 is of great benefit to all of us.

One matter that has not been mentioned here today but that will inevitably come up—and will possibly come up because of paragraphs 4(e) and 5(d) of Senator Brown’s motions—is the constitutional position, something that we hit on yesterday in the reference to the Procedure Committee. It seems to me that some people are saying, ‘These joint sittings are not really constitutional.’ If that is true, then parliamentary privilege does not apply to them. If we come up with that conclusion, then all the rest of this reference goes down the drain. There might have to be some cooperation at some stage or some ceding of authority from one committee to another—and I am the only common member of both committees—as to this constitutional question so that it can be determined or so that at least some advice can be sought on it.

Of course, one of the things that the Privileges Committee can report on is whether there were matters of privilege involved in the references of Senator Brown. I hope people understand that subtle difference. The committee can say that there were matters of privilege in relation to these events. It cannot find a breach of privilege or a contempt of the Senate, but it can find where there are matters of privilege that could be raised. Senator Brown mentioned some of them.
will go through the matters constituting contempts, especially in relation to the events of last week. This is not an exclusive list adopted by the Senate—there can be others—but this is the list highlighted by the Senate when it made those changes back in 1988. The first item is this:

Interference with the Senate
(1) A person shall not improperly interfere with the free exercise by the Senate or a committee of its authority, or with the free performance by a Senator of the Senator’s duties as a senator.

There might be some substance to a charge that that occurred on Thursday and Friday. The second is this:

Improper influence of senators
(2) A person shall not by fraud— and I stress the next word—intimidation, force or threat of any kind, by the offer or promise of any inducement or benefit of any kind, or by other improper means, influence a Senator in the Senator’s conduct as a Senator or induce a Senator to be absent from the Senate or a committee.

Again, that may have some relevance to last Thursday. Both of those reinforce Senator Brown’s concerns. However, I also draw the attention of Senator Brown to Nos 5, 8 and 9, which will not necessarily thrill him as much. No. 5 states:

Disturbance of the Senate
(5) A person shall not wilfully disturb the Senate or a committee while it is meeting, or wilfully engage in any disorderly conduct in the precincts of the Senate or a committee tending to disturb its proceedings.

We heard earlier from Senator Brown that the proceedings of the joint sitting were also proceedings of the Senate, so he might want to reflect on that particular contempt of parliament. Or he might want to have a look at No. 8:

Disobedience of orders
(8) A person shall not, without reasonable excuse, disobey a lawful order of the Senate or of a committee.

He might also like to turn his attention to No. 9:

(9) A person shall not interfere with or obstruct another person who is carrying out a lawful order of the Senate or of a committee.

If the Serjeant-at-Arms is ordered to remove a particular senator, I would have thought that covered that particular contempt.

Senator Hill’s motion says that this committee should look at the behaviour of Senator Brown and Senator Nettle. I am not sure that these terms of reference directly allow us to do that or that it is particularly desirable. One thing we can at least do under 5(d) and 4(e) is look at the entire range of possible contempts—the entire range of potential breaches of privilege that may have occurred over those two days—and report those to the Senate.

In one sense, Senator Brown has paid a great tribute here today to members of the Liberal and National parties. They have a majority on the Privileges Committee. Senator Brown has said to them: ‘I believe in your fairness. I believe in your bipartisanship. I believe you will give me a fair hearing on the Privileges Committee.’ I have to tell you, Senator Brown, that on the past track record you can be confident of that. There has been only one Privileges Committee report out of about 112 that has not been unanimous, and that was over the loans affair and the Loans Council in 1975—not one of the more productive years for bipartisanship in this particular chamber. So, hopefully, Senator Brown can be assured of a fair hearing and a fair consideration by this committee, and I am sure that all four members of the coalition will feel quite proud today that he entrusts these issues to their particular hands.
In conclusion, the opposition are saying that matters have been raised, questions have been raised, and we think it is better that those questions be answered. We are in no way endorsing at this stage the comments of Senator Brown, the complaints of Senator Brown, his sense of hurt pride or whatever else he takes in these particular matters. We are also saying that we think the committee may be able to get to the bottom of some of these issues and assist the future guidance of this chamber, and we will do so as impartially as we can. But, in the end, if the intention is to turn this into a circus—and there is no evidence of that—I will be strongly and rigorously opposing it. Senator Brown has posed some questions. He is entitled to some answers. He may not like the answers but he is going to get them.

Senator Santoro (Queensland) (5.31 p.m.)—I have appreciated very much the thoughtful contributions of both the Leader of the Government in this place and Senator Ray. I cannot help but believe, even without the benefit of the deliberations of the Privileges Committee, that the debate we are having is nothing but an absolutely pathetic attempt by Senators Brown and Nettle to justify their shameful behaviour last week during the historic sittings of the parliament. All that we are seeing here this afternoon is—as Senator Ray suggested more diplomatically than I am going to—nothing but a stunt. It is just a continuation of publicity seeking stunts in order to advance the minority and partisan interests of the Greens senators opposite.

I prepared a speech in which I was going to formally detail my absolute contempt for what Senator Brown and Senator Nettle did at the joint sittings last week, but I have been encouraged, in the interests of brevity and of getting on to other more productive business, to perhaps not speak for as long as that. But I do want to touch on something that I have prepared and then I want to respond specifically to some of the points made by Senator Brown in his presentation.

I do believe that it deserves being noted and placed on the record again in this place that Senator Brown seems to believe that he is the nation’s conscience and that this delusion gives him the excuse to be unconscionably rude to our guests. The fact is that he and Senator Nettle were unconscionably rude to the President of the United States last Thursday when the President addressed a joint sitting of this parliament at our invitation. Had they not been prevented from attending the joint sitting that took place on Friday, at which another honoured guest, the President of China, made a speech at our invitation, they would undoubtedly have been unconscionably rude to him also—and that is clear to any observer, even a casual observer, of what happened last week.

If one of our children did something like that to a guest in our home, we would have something to say about it. Sanctions would be imposed and punishment would be meted out. I hope that once the Privileges Committee considers, as broadly as the chairman has suggested, the issues that have been raised in these motions by Senator Brown, some punishment, some sanction or some censure at least will come out of the deliberations of the Privileges Committee.

Today Senator Brown has again been utterly determined to waste the time of the Senate by formulating motions about things he clearly does not understand. That was again very diplomatically and, I thought, very clearly and cleverly outlined by Senator Ray when he said that section 81 of the Senate rules just simply cannot be invoked as a result of the putting forward of these motions and that in fact all we can expect is a report from the Privileges Committee. That is the only possible outcome of any consideration by the Privileges Committee of the motions.
that Senator Brown has put before us today. Again, this points to a stunt and to Senator Brown’s utter determination to waste the time of this chamber, simply because—in this particular case at least—he does not understand how it should operate.

Last week Senator Brown got himself into the international media and, obviously, the national media though a very simple strategy: he heckled the President of the United States of America in the House of Representatives chamber. Our Prime Minister—and I want to put this on the record, because I do not think it has been put on the record during debates that have occurred prior to today—was received courteously and with good manners when he addressed the American Congress earlier this year and after September 11. Perhaps there were American legislators present on those occasions who would have strenuously objected to what our Prime Minister was saying to them at that stage. I readily accept, realise and acknowledge that that is a difficult concept to apprehend—because Australia’s global position under the Howard government is courageous and commonsense. But we should concede, and I do so in this debate, the possibility that somewhere in the American Congress there is a legislator who objects, perhaps strenuously, to Australian policy on something or other. However, our Prime Minister was heard with polite attention in the American Congress. But Senators Brown and Nettle defamed this nation and dishonoured our legislature, as Senator Hill and others have suggested, by heckling the American President.

It was a really cheap stunt. Senator Brown was rude and out of order. Senator Nettle was rude and out of order. A lot more people now know that Senator Brown and Senator Nettle do not care about rules or, indeed, good manners. It is a pity that the President did not utterly, totally and publicly embarrass you by saying not only that he supports free speech but also that he supports the exercising and the displaying of good manners, because that would have put you in your place right there and then and would have added even more impetus to the range of strong opinions objecting to what Senators Brown and Nettle did. We have received a vast amount of feedback about it. In fact I received a call in my office from a member of the Greens who said that I could state how she felt. She said, ‘I will still probably vote for the Greens but I was embarrassed by what my leader had said.’ You should be ashamed, Senator Brown, that even your own people—at least one of them—are saying that.

A lot more people know that the real dignity of parliament—the dignity that comes from giving guests the courtesy of a hearing—means absolutely nothing to Senator Brown and Senator Nettle. A lot of people now know that Senator Brown and Senator Nettle have such a skewed perception of this parliament and their place in it that they will defy the Speaker of the House of Representatives when, on very rare occasions, they are in that chamber.

We in this chamber know that Senator Brown in particular will disrupt proceedings whenever he can. He is like one of those bongong moths that he was trying to defend this morning except that he is not a seasonal pest—he is with us all year round. We know that he will make point after endless point even when there is no point, in fact especially when there is no point. That is what we are doing here today—debating motions that do not, as Senator Ray politely suggested, make sense, that are going absolutely nowhere. The argument, as Senator Ray and Senator Hill suggested, is specious and absolutely flimsy. How you, Senator Brown, are going to be able to prove your points will be
a matter of great interest not only to senators in this chamber but also to all Australians. The more that you continue along these lines the more you will expose yourself and the flimsy policy free zone that you represent. You talked about contempt and about how your privileges were abused. As Senator Ray suggested, it will be interesting, particularly if people take a broad view of the contents of this motion, how you will come up in terms of contempt for the Senate and your fellow senators.

The **ACTING DEPUTY PRESIDENT**

(Senator McLucas)—Senator Santoro, please address your comments through the chair.

**Senator SANTORO**—Yes, through you, of course, Madam Acting Deputy President. In his speech, Senator Brown suggested that senators should not be restricted in representing their constituents. Presumably he was referring to the situation last week, and saying that that restriction should not have applied at the joint sitting. I was in the other place, and what this does is ignore the decision of both chambers of this parliament that there would be only one piece of business conducted at the joint sitting of our parliament. There was an additional piece of business conducted, which I heard Senator Bartlett yesterday mention with approval, and that was the saying of prayers. I was pleased to hear Senator Bartlett say he approved of that additional business which had not been agreed. I think we all do. I hope Senator Brown would also approve of that additional business. The point is that we all agreed in this place—I remember there were debates on whether we should have question time or do other things—that, at least in a broad sense if not specifically, we were coming back to hear an address by the presidents of the United States of America and of China.

Senator Brown also talked about the role of the President at joint sittings, and how he does not want to criticise the President. But we senators were in the other chamber, and presumably if our President had been aggrieved by the way that Senator Brown was being treated by the Speaker it would have been within his ability, within his rights, to bring that to the attention of the Speaker. The fact is we were in the other place and what was happening was contemptuous of the proceedings that we had agreed should occur in the other place. What Senator Brown did was clearly disruptive, unconscionable and rude. It should not have been happening, because we were there for a specific purpose, and that was to listen to the President of the United States. He was our invited guest. You should not have been as rude as you were to him, Senator Brown.

All the arguments you have put forward are, as Senator Ray suggested, extremely flimsy. I think they are going to come back and bite you, Senator Brown. What are you going to do? Are you going to subpoena the chief executive of the CIA to find out whether agents were around the parliamentary precincts or even in this particular place? As Senator Hill suggested, these are very difficult times, and very special circumstances apply to people such as the President of the United States of America. How you could go about making the statements and the allegations that you did in your motion, and then insult us by not putting forward even one shred of convincing evidence or argument to enable us to support you, defies the logic of any reasonable person listening to you.

I am pleased to have been able to make this contribution. If it had been possible I would have said something at greater length yesterday about the rudeness, the lack of courtesy and the objectionable and contemptuous behaviour of Senator Brown and Sena-
tor Nettle. I do not normally get up in this place and make speeches which are as personal and as direct in relation to other senators as I am making now, but I really did feel aggrieved whilst the joint sitting was taking place last week, and I still feel very aggrieved today, as I am sure Senator Brown appreciates.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.42 p.m.)—I would like to make a comparatively brief contribution to this debate. I would like to start by drawing a comparison between the debate we are having today, which is on a matter to be referred to the Privileges Committee, and the debate yesterday, which was a matter to be referred to the Procedure Committee. I think it is important to say that this particular debate has been a better one—a much better one. I think it has been better handled by the government than yesterday’s debate. I was very concerned about the reference yesterday and I did indicate to the chamber what my concerns were. I was concerned by the government amendment moved by Senator Brandis which drew comparisons between the Greens and the Nazis. I think it trivialised the abomination of Nazism. I still wonder: was Senator Brandis’s contribution authorised by the Prime Minister? Did Mr Howard clear this sort of attack on Senator Brown? Did he in fact know about it or was Senator Brandis off on his own frolic, wasting the Senate’s valuable time? Today we have a debate of a different nature and I think all senators in the chamber listening to this debate would be pleased that it has been more substantive in its nature. There is a real difference in the substantive contributions that have been made. It is overdue; I am pleased it is taking place.

We do need to nail down what it is that is before the Senate chamber. It is quite simple. We are asking the Privileges Committee to report on a number of issues. I assume, although I am not certain, that the Privileges Committee will seek submissions on these matters. It will then be open to Senator Brown, Senator Nettle, any other senator or any other person who cares to make a submission to put forward a case or a view on those matters which are contained in the two notices that we are debating.

I have carefully listened to the arguments that Senator Hill has put forward in relation to deleting one element of one of these particular resolutions, namely 4(a). The words are:

whether there was any inappropriate presence or activity by agents of the Government of the United States;

I take the view that if there is evidence that someone cares to put forward on that matter or any of the other matters let them do so. That is the challenge that I think is particularly in front of Senator Brown and Senator Nettle as we speak, but, as I say, there may be others who want to make a contribution on those particular issues. Let us be clear about this. If the committee reports that there may be a matter of privilege, then again it will be up to Senator Brown or Senator Nettle or any other senator to take these matters forward under the provisions of the Senate standing orders, which are clear.

Of course, what that would require is that a senator intending to raise a matter of privilege would notify the President, in writing, of the matter. The President would consider the matter under the standing orders and determine whether a motion would have precedence over other business. The President’s decision would be communicated to the Senate after its communication to the senator. That is the way the standing orders work in this place. That may be an outcome of this broad inquiry that the Privileges Committee is undertaking.
I have not spoken to Senator Ray, who is the Chair of the Privileges Committee, to ask him whether this broader reference to the Privileges Committee is unprecedented. Obviously, the committee normally deals with matters of privilege and the standing orders are very clear about how those issues are dealt with. This is not a matter of privilege, as defined in the standing order. This is a request, if it is agreed to, for the Privileges Committee to report on a range of issues, and that is outlined in the resolutions before the chair.

There is an issue about how the committee itself might deal with its findings—if it were to make findings on any or all these matters. That is a rather open-ended issue and it will be interesting to see how the committee deals with it, but I think that in these circumstances the obligation will be on Senator Brown particularly and Senator Nettle obviously, who is strongly supporting his approach, to put forward any evidence they have. As Senator Ray has indicated, the Privileges Committee tends to deal with matters of privilege on the papers in the first instance, but my expectation would be that submissions would be forthcoming in such an inquiry.

I assume that is the first issue that the committee itself is going to have to deal with. They are going to have to examine how they might handle this particular matter. Certainly I, and I think many other senators, will be interested to see the sort of approach the committee might take on this particular issue. It seems to me, in these circumstances, that the most sensible thing this chamber can do is to pass these motions before the chair, to expect the Privileges Committee to—as I am certain it will—treat these motions and issues seriously and to look forward to the Privileges Committee reporting back to the Senate on the issues. For my part, I will certainly be taking account of what they have to say.

I accept the point that not a lot of evidence has been made available at this stage about the substantive issues raised in the two resolutions. That might be because the senators concerned wish to make their submissions to the Privileges Committee. That might well be the case. I do not know. Only Senator Brown and Senator Nettle would know what evidentiary support they have in relation to the particular issues raised in the resolutions. I do not intend to second-guess them or the Privileges Committee or the Senate on those matters. Again, I do not think that would be a sensible thing to do.

One thing I think we can say about the Privileges Committee is that it is held in high regard in this parliament. The Senate Privileges Committee has a very good reputation. Right around the chamber—not just the government or the opposition but also those senators from minor parties and the Independents who sit on the cross-benches—all have a high regard for the Senate Privileges Committee, and I assume that is one of the reasons why Senator Brown proposes referring these issues to it. While the Senate Privileges Committee might find itself a little in unchartered waters because of the nature of this particular referral, I have confidence that it will deal with it in a sensible way.

As I said, at least this debate today is different in its nature from that relating to the reference to the Procedure Committee yesterday. It has been a more substantive debate; it has been a more sensible debate. I would like a speaker from the government to indicate to the Senate before this particular debate concludes, so that we are all clear, whether Senator Brandis’s contribution yesterday had the authorisation of the government and the Prime Minister. That is a clear question. I think it needs to be answered be-
cause of what was said. The nature of that contribution, in my view, was a trivialisation of the abomination of Nazism, and I think we are entitled to an answer to that issue, too.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (5.54 p.m.)—This debate has gone on for quite a while, but I will speak on behalf of the Australian Democrats, from which no-one has yet spoken to these two motions. A lot of what I would need to say has been said by previous speakers, and I will try not to repeat anything, but it is important to be clear about what is happening here in a substantive sense as well as in a political sense. It is quite easy for this to be portrayed as referring a matter of privilege or getting an investigation under way as to whether or not privilege has been breached or a contempt of the parliament has occurred, and I am sure it will be portrayed in that way. But, as has been said by others who have more experience than me in this chamber, it is not a matter of privilege that we are debating here today. As others have said, this could have been raised in the normal way under standing orders to have a matter of privilege considered. Senator Brown has chosen not to, and that is because it is not a matter of privilege; it is another example of Senator Brown exploring every opportunity to expand on his stunt of last week. That is unfortunate but it is, again, his choice as to how he goes about doing things. It does mean that the genuine issues that can be and I am sure will be considered by the Privileges Committee—because they will consider it in a dispassionate way, away from politicisation—will be overshadowed by the politics being played by Senator Brown once again.

The Democrats will not oppose this motion, despite it not being done through the normal process. If it does end up being a matter of privilege, it will drag out the process, and I am sure any attempt for Senator Brown to milk even more out of his stunt of last week will be welcomed by him. But we will not oppose the motion. I am sure the Privileges Committee will deal with it appropriately, as they do every other matter put before them. That should not be in any way seen as me or the Democrats agreeing with the inferences contained in many aspects. I do share some of Senator Hill’s offence at paragraph (a) and the question about whether there was any inappropriate presence by agents of the government of the United States or the government of China.

I do make this point as neutrally as possible: there is a natural and appropriate desire in all of us to promote the importance of being Australian, the wonderfulness of being Australian, the greatness of our nation and the importance of being independent as a nation. Certainly the Democrats and others have strongly spoken about that many times. But it is important not to let that flow over into antagonism towards people who are not Australian and implied attacks on people who are not Australian. I do not suggest this is Senator Brown’s intent, but I do think on occasion we need to look at some of the words we say. Maybe outside we all get carried away and say things. I have done that myself. One journalist managed to catch me in an unguarded moment just last week in relation to that, and you look at it outside of that and say that it was not the best way of saying things. I think that occasionally happens in relation to some of the comments we make. One example might be the situation regarding the Chinese officials that were here last week. I am not disputing or passing judgment on some of the concerns that have been raised about one or two particular incidents. If we pay attention to what other countries or other officials from other countries might want, that does not mean we are automatically being obsequious, to use a favourite word of Senator Brown’s, or kowtowing
or subservient or whatever. Part of it is respect in taking into account their wishes and part of it, quite frankly—particularly if you are talking about the Chinese here—is a bit of respect for cultural difference.

I have been as critical as anybody about the Chinese government’s human rights record and I will continue to be. But if you are talking about how procedures are going to flow with visiting dignitaries and visiting officials, the Chinese culture and Chinese social mores are very different from ours. I do not profess to be an expert in them, I must say, but you do have to take those things into account. To just dismiss all that by focusing solely on any action through the prism of the politics of the moment can inadvertently, I suggest, lead to statements or inferences that can actually be quite culturally offensive. As a nation that quite rightly prides itself on acceptance, on tolerance and on diversity of cultures we do need to be careful of that. I would simply like to make that point in this context.

Having said that, the Democrats will not support Senator Hill’s amendments to omit that paragraph. As I have said, the Democrats, in not opposing all these motions, are not signing up to any of the inferences contained in them. Firstly, we think it is easier just to let the matter go and for the Privileges Committee to do what it will. Secondly, I am certainly not going to allow our position to be misrepresented as one of preventing Senator Brown’s concerns from being considered or somehow or another censoring his views or preventing freedom of speech or any of those sorts of attacks that are repeatedly made. That clearly would not be being done in any case, but I am not even going to provide the opportunity for that misrepresentation to occur. It is easier simply to allow it through. The Privileges Committee can sift through the cheap shots and the politically loaded language and look at the substantive issues underneath without having to rise to the bait that has been put there—and I am sure it will do that.

There has been a lot of quoting of standing orders in this debate, firstly by Senator Brown and then by others. Such quoting is always welcome because it is good to remind ourselves of the rules that we operate by and even to remind ourselves of the fact that we do have rules—a fact which visitors to this chamber on various occasions might doubt. Senator Brown went through some which relate to resolutions about parliamentary privilege, as did Senator Ray. This is an example of where, in a sense, we have a quasi legalistic situation, and what a word might mean in a technical legal sense is not necessarily what it might mean in everyday language. ‘Contempt’ is probably a good example of that. I think I have made myself quite clear about whose actions I thought showed the most contempt for the parliament last Thursday. That is different from saying that those actions were ‘a contempt of the parliament’ in a technical legal sense.

That might sound like a fine distinction but, in the context of what this committee may examine down the track, it is an important one. Throwing around allegations or accusations, as we all do, regarding various people or senators acting contemptuously or showing contempt or whatever is part and parcel of the robust debate that we all use and celebrate. Frequently we use the phrase ‘robust debate’ as an excuse for abusing people; we say that we are simply involving ourselves in a part of the parliamentary process. But, when we look at the technical meaning of the word ‘contempt’, it is a different issue.

It is similar when we read through the resolutions of the Senate and the standing orders relating to parliamentary privilege. If they are read at face value—taken out of the legalistic context they are put forward in and
just read in a newspaper or a press release or before a television camera—the general person who hears them does not perceive their intended original meaning. Therefore one could say, as Senator Brown did about others, that a person should not wilfully engage in any disorderly conduct in the Senate and, if they do, it is a breach of privilege. Senator Ray I think reasonably made the point that the same accusation could have been made in relation to Senator Brown’s conduct—that he was wilfully engaging in disorderly conduct. Whilst in one sense Senator Brown’s conduct was clearly disorderly, in no way was it a breach of privilege in the legal sense—and I certainly do not accuse him of that. I do not know whether others would, but I think they would be incorrect if they did.

So we need to separate out the language of political debate and public discourse and communication through the media with the more precise meanings encompassed in standing orders. I think much of the language of today has involved deliberately using words that are being put forward in one context and being used out of that context in such a way that they will be perceived differently. Sometimes this has been done innocently and sometimes quite deliberately. Using a word to mean something other than what is intended is an old political trick, and George Orwell was probably the best at showing how that can be done. Much of it happens, of course, but it means a less accurate, less truthful and less informed overall public debate—and that is not desirable. It is something of which we are all guilty and we could all do with reminding ourselves of that from time to time.

The only other thing I want to do is to reaffirm other statements that have been made about the high regard in which the Privileges Committee is held in this place. It does have a government majority, as Senator Ray said. But the fact that Senator Ray, an opposition senator, is chair of that committee despite the government having the majority indicates, firstly, that Senator Ray is seen as an objective chair in what are often difficult circumstances and, secondly, that the committee itself is able to operate in a bipartisan way—and I say ‘bipartisan’ because the other point I want to make is that it does not have any representation from either the Democrats or any other senator from the crossbench. Given that it is nonpartisan, that should not be an issue in this case, but it is nonetheless a point worth making—that the Privileges Committee does only consist of coalition and Labor Party senators, as has been the case for as long as I am aware. It may have been different some time in the past, but that has been the situation for quite some time.

The Democrats will not oppose this reference to the Privileges Committee. With the way it has been done and the language that is used within it, it is not something we would want to sign ourselves up to or necessarily pass comment on one way or the other beyond the specific points I have made, particularly about parts of paragraph (a). I am sure the committee will do its best to get useful information and useful findings out of such a reference. Where it goes from there, as always, will be a matter for the Senate as a whole. Despite all the partisan words and different political positioning we all engage in, I think it will be an example once again of the ability of the Senate and some of its committees at the end of the day to cut through the political smoke and mirrors and heat and light to deal with the substantial issues underneath. That is certainly the approach the Democrats are taking with this issue and we will continue to do so, because it does raise issues that we have raised in the past and that have been raised again more recently, particularly in relation to the nature and substance of joint sittings. Hopefully the
reference to the Privileges Committee will help make these things clearer.

The interesting catch-22 that Senator Ray pointed out may well end up applying—that is, if it is determined that the joint meetings we have been having are not actually formal sittings of the parliament and are not covered by parliamentary privilege, then all of the high-minded sounding stuff that we have been talking about today will be irrelevant. What that would mean in terms of the conduct of those meetings I do not know. It may be that they will be carried out in a more orderly way. If we do not think we are in parliament, if we think we are just in a meeting, we may not carry on as much as we would otherwise. I do not go to a lot of them, but none of the parliamentary addresses by foreign dignitaries and foreign leaders that occur regularly in the Great Hall that I have attended have been disrupted, disorderly or a problem in any way in relation to how people have behaved. If we take away the facade of a parliamentary sitting we might get back to a more appropriate way for those sorts of things to be conducted.

It is also worth emphasising, as I did yesterday in a different debate, that having people from other countries coming here and addressing meetings of parliamentarians and other people, including guests, is not unusual. What is unusual is having them in a chamber of the parliament and calling them joint meetings or a joint sitting. We have had any number of visits by foreign dignitaries and foreign leaders, some of them controversial people from controversial nations that we have difficult relationships with. One meeting I attended was with the then President of Indonesia. There was plenty of opportunity there for difficult issues to come up in a way that would have been unhelpful, but that did not occur. That shows that we are usually able to do this not only without unnecessary disruption or stunts but also without suggesting that, by allowing them to come and address us in our parliament—and most of these addresses occur in our parliament, not in the parliamentary chamber but elsewhere in Parliament House—we are not just showing courtesy, respect and interest in further engagement with their nations but are somehow subverting our sovereignty by allowing these people into Parliament House and possibly letting them tell us how they would like proceedings to operate. I cannot see the problem with that.

The suggestion that it is somehow subservient of us to take into account the views of our visitors as to how they might like things to proceed is a strange one. I do not in any way want to link that statement to any specific incident that people may want to investigate. I am talking about the general principle that foreign visitors to our parliament, particularly those we have invited here to talk with us and to us, should have the ability—and, I would suggest, the right—to put forward reasonably strong views about how they would like proceedings to occur. That does not mean we have to agree with them without question—I know that we do not, as we did not in relation to the meetings last week. It is something that occurs very regularly. Obviously the President of the US and the President of China are somewhere up there at the top in terms of significance, but we should not take from that the impression that the visits last week were absolutely out of the ordinary. They were not, and in some ways it is unfortunate that they have been perceived that way. In any case, the Privileges Committee will be able to cut through all those sorts of mistaken perceptions and address any issues they need to address, and I am sure they will do so in a way that goes to the substance rather than anything else.

Senator BROWN (Tasmania) (6.12 p.m.)—Before I respond to the specifics of this debate, which I have appreciated, I want
to follow up on what Senator Faulkner said about the difference between today’s debate and yesterday’s. Even with you in the chair, Acting Deputy President Brandis, I have to say that the association yesterday in the same speech of the Nazis with the Greens was an appalling breach of the freedoms we have in this parliament to discuss matters without calumny being brought upon anybody. Senator Brandis, who reflected on the Greens in that way in the Senate, reflected on the whole of our democratic system and ought to apologise to the people of Australia.

The Prime Minister should follow suit, because the statement came from a government senator. It has stood undisputed by the government and, so long as it does, the calumny that was involved in it attaches jointly to the government. The Prime Minister needs to set the record straight. The Prime Minister needs to say to the Australian people that that reflection has no part in discourse within the democratic system and it certainly has no place within the parliament. Prime Ministerial silence on the matter is Prime Ministerial consent and should not be accepted.

I now want to refer to the debate today. There is an inference in this debate coming from all parts of this parliament that it is up to Senator Nettle and me to prosecute a case of breach of privilege after the events of last Thursday and Friday. Certainly we are bringing that matter into the chamber today and want it referred to the Privileges Committee, and we will make submissions to the Privileges Committee. Senator Hill says, in the case of China, that he wants the reference to the potential presence of armed personnel in the parliament—whether or not that is a breach of privilege and whether it was appropriate—deleted because it is embarrassing to the United States. It is a matter of fact: either it is the case that there were armed service agents of the United States within the parliamentary precinct or it is not.

Let me say this: Senator Nettle and I do not have the ability to discover that fact but the Privileges Committee does. It can send for people and papers and discover that matter. You might be aware that the Privileges Committee of this house can consult with the Privileges Committee of the House of Representatives to help in those inquiries if necessary. The role of the Privileges Committee is not simply to say, ‘Without evidence being brought forward by Senators Brown and Nettle that there were agents of other countries in this parliament, we cannot look at it.’ It is commonly held that that is what happened last week.

There has been no refutation, either from our government, the government of the United States or the government of China. The least the Privileges Committee can do is get to the heart of the matter and say whether or not there were secret service agents—armed or not—within this parliament. I see their presence as a breach of the privileges of this parliament, but it may be that they were invited into the parliament by the President or the Speaker. If that is the case, that needs to be stated and made clear. I asked the President about that matter two weeks ago and he did not elaborate on it. I believe the Privileges Committee should because the air should be cleared on that. If there is a consensus in this parliament that it is okay for foreign armed secret service agents to be here when a visitor comes from whatever state it may be—and we will not be part of that—allow it to be known in an open way and not kept off the record because it is embarrassing to the United States, China or any other country.

Senator Hill also said that it was offensive and an attack on the Chinese government to suggest that pressure was brought to bear by the Chinese government. Everybody watching the events of last Friday knows that pressure was brought to bear by the Chinese
government and that the parliamentary sitting was delayed as a result. Is Senator Hill truly saying that it was totally the government’s decision, without any input from China or anybody else, to block the Greens’ guests from going into the galleries?

Is it Senator Hill’s assertion that the foreign minister of China did not contact the Speaker in the 24 hours preceding that speech to bring pressure to bear so that the speech would be uninterrupted and that issues that were important to Australia but were not raised in the speech would not be raised by either the Prime Minister or the Leader of the Opposition, that an insignia would not be worn, to wit, the flag of Tibet and that a black armband would not be worn by the member for Cunningham, Michael Organ, drawing attention to the political prisoners who have spoken up for democracy and are languishing in the jails in China? If the Leader of the Government in the Senate can say that no pressure was brought to bear at all from China in the events last Friday, we have a case for being very concerned that there is not going to be an open, honest and factual presentation from the government to the Privileges Committee on these matters, no matter what the Privileges Committee may find.

Let me respond to Senator Ray. I preface this by saying that the health of a democracy can be judged by how it treats minorities—ditto the parliament of democracies. It was implied today that, if the Greens want to bring matters like this to the Privileges Committee, they may get their just desserts. There are no Greens on the Privileges Committee. It is a matter only for the government and the opposition. Senator Ray pointed out the long and distinguished history of the Privileges Committee. Nevertheless, let me say here and now that it is the business of the Privileges Committee to carefully look at matters that affect any members of this place and not to simply put it on to members to be the prosecutors in a case in which the Privileges Committee sits impotently by and makes an adjudication. There is some requirement in this situation for evidence to be sought and perhaps for people to be brought before the committee to give evidence if the issues are to be cleared.

Though he was speaking as a member of the Senate, Senator Ray is the Chair of the Privileges Committee. He said that he felt that my motion was ‘basically a fishing expedition’. I object to that. Would he say that had it come from the Labor Party or the government opposite? No, he would not have. But, because the motion comes from the Greens, it has already been branded as a fishing expedition. He says that I must get the information. We will supply information, but it is incumbent upon the committee to also get information if it is going to discover the facts as best as possible. Senator Ray asked how he was to find out which agent was here. The committee has the power to find that out simply by bringing the Presiding Officers before it. The Greens cannot do that but the Privileges Committee can. When Senator Ray asks how he is going to find that out, I begin to doubt that the Privileges Committee itself may have the will to discover such a matter.

Then there is the matter of wilfully disobeying an order. It was obvious to everybody that I and Senator Nettle interjected in the House of Representatives last week. I maintain that the Senate was not being presided over by its Presiding Officer and that the House rules do not apply to senators. Whatever the circumstances, we interjected. Then the Serjeant-at-Arms came and asked us to leave. I pointed out to the Serjeant-at-Arms that the standing orders did not permit him to make us leave under those circumstances. But I also pointed out to the House that, had that been the case and we had left,
it was incumbent upon the Speaker of the House to call for a vote to have us sus-
pended.

Senator Ray pointed out that there is a coalition majority and he was sure that they
would deal with this matter with great hon-
our. I ask him to hold in reserve his assured-
ness until we see how the committee goes on
the matter. This is unprecedented. The
Greens have come under a hail of criticism
from the government and from some mem-
bers of the opposition, and certainly from the
crossbench, and the question is going to be
whether the Privileges Committee can set
that aside, as they must do, to investigate the
matters that the Greens have brought for-
ward.

Senator Ray said, ‘We are not comment-
ing on his sense of hurt pride, or whatever.’ I
find that pejorative. Senator Ray is here as a
Senator, but is that pejorative comment going
to be expunged from his mind as Chair of the
Privileges Committee? He went on to say,
‘He may not like the answers but he is going
to get them.’ I read that as some adverse
finding for the Greens already settling into
the mind of the Privileges Committee. Sure,
there might be some findings which relate to
other persons, but when we hear from Sena-
tor Ray, ‘Senator Brown might not like the
answers but he is going to get them,’ I have
to suspend my feeling that there is going to
be the fair dealing that is required here. The
Greens have not got another avenue to go to.
We have the right to go to the Privileges
Committee and to be treated absolutely with
the same fairness and balance and assistance
that any other member of this august place
would get.

But the inferences are already flowing. I
ask you, Mr Acting Deputy President Bran-
dis, or anybody else: is the Privileges Com-
ittee the prerogative of government or op-
position? No, it is not. It is there for any
member to approach. What amazes me about
this situation is that nobody else has ap-
proached the Privileges Committee. Every-
body saw the jostling and the physical inter-
ference with Senator Nettle and me at the
end of that session last week. Senator
Lightfoot has talked about his elbow being
used in those circumstances. Isn’t that an
affront to other members of the Senate? Isn’t
that seen as different from interjecting? In-
terjections have flown about all day here in this
chamber, as they do every day in debating
chambers, but where have you ever seen, Mr
Acting Deputy President, physical interfer-
ence with members of this parliament? I
have never before seen that intimidation and
threatening behaviour but, because it hap-
pens to be two Greens who have spoken up
in a debating chamber in a way that has
drawn a chorus of criticism, apparently the
physical interference is okay. At least nobody
else has thought to raise it to the Privileges
Committee.

Then we get to the matter of guests being
removed from the galleries. Everybody
knows that happened. The whole country
knows that happened. Unless the Greens take
this matter to the Privileges Committee noth-
ing is going to be done. And the removal was
done in the service of a foreign country, a
dictatorship. Senator Hill said, ‘No pressure
was brought to bear at all.’ Who was it that
stood up there in front of my staff person and
stopped the two Tibetans and Dr Chen from
the Democracy Movement? A staff member
rang Speaker Andrew’s office and was told
that those people were to be redirected to the
glassproof chamber above. These were not
non-persons. Where was the pressure coming
for that to happen? If Senator Hill is imply-
ing, as he must, that China had nothing to do
with this—that it was a decision by the gov-
ernment that the Greens’ guests would be
treated differently from everybody else’s—
then I ask you: is that not a breach of privi-
lege? Is it not a breach of the right of members to be treated equally in the halls of this parliament?

Let me finish by saying that we will approach the Privileges Committee. This is not a matter that we can spend our whole lives on. It will pass. There are much more important issues which Senator Nettle and I are addressing—education, health, the environment and the sale of Telstra. But we are going to absolutely defend this place as a debating chamber and as a Senate which represents the people of Australia. When the Senate goes and sits somewhere else and its President is not there, there is a question over all the standing orders that we have in this place.

But that aside, when those proceedings in which the Senate is involved come under outside influence it is proper that the Privileges Committee look at the matter and make a ruling. It has been implied in this chamber this afternoon that in some way or other the pressure is all on the Greens for daring to approach the Privileges Committee about this serious matter of foreign interference in the events that occur in our parliament. We will not back off on that. We are not going to be coerced by that. I would ask people over the coming couple of weeks to sit back and think about that. We have done the correct thing by referring these matters to the Procedure Committee yesterday and the Privileges Committee today. The worst that is going to come of all this is some sense of reconciliation—after four speeches to our parliament by visiting foreign heads of state—some stocktaking and some recognition that this evolution of speeches being given to our parliament has not got a rules base to it.

The Greens are moving to see that the parliament gets that. That will be of advantage to this parliament for decades to come—forever. We must evolve with rules to keep up with the political decisions being made, like those that say that visiting heads of state should come into our parliament. It is the Greens who are the motivating force in seeing that we get those rules. It is certainly now up to two committees, on which we have no representation, to deal with those matters. You might say, ‘The Greens are foolish for making the approach. They don’t have the representation. In politics, you do not go into that situation.’ We think more of democracy. The challenge is now with those committees. I wish them well.

Question put:
That the amendment (Senator Hill’s) be agreed to.

The Senate divided. [6.36 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes………… 30
Noes………… 37
Majority……… 7

AYES
Abetz, E. Barnett, G.
Boswell, R.L.D. Brandis, G.H.
Calvert, P.H. Campbell, I.G.
Chapman, H.G.P. Colbeck, R.
Coonan, H.L. Eggleston, A.
Ellison, C.M. Ferguson, A.B.
Ferris, J.M. Hill, R.M.
Humphries, G. Johnston, D.
Kemp, C.R. Lightfoot, P.R.
Macdonald, J.A.L. Mason, B.J.
McGauran, J.J.J. Patterson, K.C.
Payne, M.A. Santoro, S.
Scullion, N.G. Tehen, T.
Tierney, J.W. Troeth, J.M.
Vansstone, A.E. Watson, J.O.W.

NOES
Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Bolkus, N.
Brown, B.J. Buckland, G. *
Campbell, G. Carr, K.J.
Cherry, J.C. Collins, J.M.A.
Conroy, S.M. Crossin, P.M.
The question now is that motion No. 4 be agreed to.

Question agreed to.

The question now is that motion No. 5 be agreed to.

The Senate divided. [6.41 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes…………. 36
Noes…………. 30
Majority………. 6

AYES


NOES


The Telstra (Transition to Full Private Ownership) Bill 2003 does two things: firstly, it confirms the Howard government’s ideological commitment to sell off the remainder of Telstra, despite the wishes of an overwhelming majority of the Australian people; and, secondly, it crystallises the fact that the once great National Party now stands for nothing and no-one, representing only the narrow political interests of its parliamentary elite—if one can refer to them as such.

The road to this point has been a long one. In August last year, the government said that the sham Estens inquiry would ‘take a fresh look at the telecommunications services’ in regional, rural and remote Australia. In his
media release announcing the inquiry, Senator Alston described Dick Estens in this way: ... a cotton farmer from Moree with a long history of involvement in community issues at local and national levels. While running his cotton business he has also been involved with the Moree Plains and Barwon Health Services, chaired the Gwydir Valley Cotton Growers Association and been involved in local Indigenous employment issues. He is a director of Reconciliation Australia and in 2000 received an ‘Outstanding Rural Leader of the Year’ Award for work with Aboriginal employment.

It is true that Mr Estens is all of these things, but the media release fails to point out that at that time Mr Estens was also a member of John Anderson’s branch of the National Party. What a cheap trick. Did the parliamentary wing of the National Party really think that, by placing one of their own in an inquiry chair, the people of rural and regional Australia would simply roll over? Did the National Party think that legitimate concerns about good telecommunications services in rural and regional Australia would simply evaporate because a National Party branch member gave the nod to his more senior colleagues? At any rate, Mr Estens was given an almost impossible task: he had less than three months to receive public submissions and report to the government. Calling the Estens inquiry a process is probably giving it a little too much credit, because in reality it was little more than a failed mechanism designed to lend credibility to the government’s unpopular Telstra sale plan.

It is not only the people forgotten by the Howard government, the people of rural and regional Australia, who do not want Telstra sold; the National Party rank and file, the sorts of people that one would have thought National Party members and senators should represent, are not keen on selling Telstra either. At the National Party’s recent federal council meeting, members passed a motion demanding a defined and known proportion of the funds from the sale to be directed to infrastructure and environmental projects in rural and regional areas. According to reports, the original resolution demanded the allocation of between $3 billion and $5 billion to a special Telstra fund, but it was watered down at the last minute. Even this watered-down motion put significant pressure on the National Party, and that pressure was evident in yesterday’s chastened performance from the Leader of The Nationals in the Senate, Senator Boswell. What Senator Boswell did not mention is that the Treasurer has ignored his party’s demand that proceeds from the sale of Telstra be directed to government spending.

Senator Boswell—You got a billion dollars last time.

The ACTING DEPUTY PRESIDENT (Senator Brandis)—Order! Senator Boswell, you are being most disorderly!

Senator O’BRIEN—I am not surprised that Senator Boswell gave no such commitment, because his party does not have much success in getting the Treasurer to take the National Party seriously. There is no greater evidence of this fact than the failure of the National Party to secure one cent from the Treasurer for the government’s phantom sugar reform package. Instead, the ineffectual Mr Truss was sent away by the Treasurer to raise funds for his sugar package with the bluntest of all revenue-raising tools, a tax on food.

The ACTING DEPUTY PRESIDENT—Senator O’Brien, perhaps I could interrupt you there, it being 6.50 p.m.

Senator O’BRIEN—Perhaps you could, Mr Acting Deputy President. I seek leave to continue my remarks later.

Leave granted.
Senator HARRIS (Queensland) (6.50 p.m.)—Mr Acting Deputy President, I seek leave to incorporate a document that I referred to in my speech on the Telstra (Transition to Full Private Ownership) Bill 2003.

Leave granted.

The document read as follows—

AN OPEN LETTER TO THE BOARD OF TELSTRA CORPORATION LIMITED

Dated: 29 October 2003

Robert Mansfield AO & Dr. Zygmunt (Ziggy) Switkowski:
The Chairman & Chief Executive Officer of Telstra Corporation Limited,

Gentlemen, we have been bugged, our telephone and facsimile services intercepted/interfered with.

• Senator Richard Alston, former Telecommunications Minister and/or his office has breached the FOI Act.

• Since 1994, the TIO Ltd knew of and concealed falsified Telstra documents from us, until 2002.

• Telstra have put us under surveillance by at least two (2) Private Investigation firms.

• Telstra have used false documents, and concealed evidence from us, for over a decade.

• Telstra have misled the Telecommunications Industry Ombudsman Limited (TIO), the Magistrate Court, District Court and the Supreme Courts.

• Telstra employees have sworn, and given sworn evidence, containing false and misleading statements.

• Telstra T1 & T2 public-offer documents do contain misleading statements, and fail to fully disclose the truth, and contain inflated profits, profits that were obtained by deceit on the part of Telstra, using data containing systemic faults and continuing to charge unsuspecting subscribers.

• Telstra employees have falsified, failed to release, lost and or destroyed vital evidence.

• Telstra legal directorate staff conspired with our competitors and opponents.

• Telstra withdrew our businesses telecommunication services, to limit Telstra’s further liabilities.

• Telstra instructed its staff, to ban all telecommunication services, from being connected to our address.

• Telstra continue to boycott and sabotage our businesses.

• Telstra legal directorate in October 2003 is involved in directing our customers to a competitor’s address,

Robert & Ziggy, at the Telstra’s 2002 Annual General Meeting (AGM) you made statements to all fellow Telstra Shareholders, re: Our matters and concerns - Stating Telstra’s values and its adherence to honesty, trust, transparency and integrity, we acknowledge mistakes, we apologize, we fix the problem, and move on!

Gentlemen, its almost 12 months on since the 2002 Telstra AGM, and still, as the two most senior members of Telstra’s Board, you have failed to demonstrate to us, your compliance with any of these clearly well educated choices of words stated. Did you use these words to intentionally mislead Telstra shareholders?

Yours faithfully,

Kenneth Ivory and Max Platt, Directors of ACN 13 055 251 922 and as concerned Telstra Shareholders.

Telstra Shareholders Inquiries Welcome:
C/- PO Box 694
Archerfield, Queensland. 4108

Debate interrupted.

The ACTING DEPUTY PRESIDENT—

It being 6.50 p.m., the Senate will proceed to the consideration of government documents.

DOCUMENTS

Australian Radiation Protection and Nuclear Safety Agency

Senator WONG (South Australia) (6.51 p.m.)—I move:

That the Senate take note of the document.

I want to briefly speak to this document, ARPANSA’s annual report, and bring to the
Senate’s attention one of the activities that ARPANSA has recently engaged in in relation to the proposed nuclear dump in South Australia. It was reported recently that ARPANSA has sought further information from the government about its plans to bury nuclear waste in South Australia and to transport it to South Australia. This should be seen as a slap in the face for the government, particularly for the environment minister. The EIS was done prior to the approval for the construction of the repository.

Honourable senators may be aware that ARPANSA is the licensing authority for all nuclear material in Australia. It is required to license the repositories and the transport of nuclear material. The fact that ARPANSA has reportedly requested more information on transportation from the applicant—the Department of Education, Science and Training—indicates, I suggest, some potential concern with what the government is proposing. Perhaps more importantly, ARPANSA is reported as having set up a working party to investigate the effectiveness of a barrier in the shallow dump which separates the drums of waste from the soil. But the fact that ARPANSA has sought further information can only be seen to confirm the position of the opposition and environmental groups that there are risks associated with this repository which the government has not addressed.

Question agreed to.

Military Superannuation and Benefits Scheme

Senator SANDY MACDONALD (New South Wales) (6.56 p.m.)—I move:

That the Senate take note of the document.

The Military Superannuation and Benefits Scheme replaced the old DFRDB on 1 October 1991. It is an important piece of legislation for our serving personnel. I want to make some comments about concerns that have been aired recently about the level of compensation available to widows of serving ADF personnel, and particularly about comparisons being made to the large damages payouts being provided to civilians through the courts at this time. No-one with a partner serving overseas likes the thought that their partner may be killed, but these things unfortunately happen. The repatriation system was designed to ensure the long-term financial security of the families of Australians killed in action, not to deliver enormous one-off lump sum payments, which may not provide the carry-on financial security that people expect.

The war widows pension is not taxed or means tested, it lasts for a lifetime regardless of any change in the widow’s income or marital status and it is indexed twice yearly to maintain its value. A war widow also receives the gold card, which entitles her and any dependent children to full and comprehensive hospital and medical treatment for illnesses and conditions at the government’s expense. Dependent children are also provided for with orphan’s pensions to the age of 16 or educational support for as long as they are undertaking full-time study. As well as the repatriation benefits, the widow of any ADF member killed in the line of duty has access under this legislation to military compensation and superannuation, as is described in this report. This includes a lump sum tax-free benefit and super entitlements including an optional tax-free lump sum, a productivity lump sum—also not taxable—and a pension.

No amount of money can compensate someone who has lost a loved one in war. But this government is committed to ensuring that the families of those who put themselves in harm’s way for their country are cared for should they pay the ultimate price for that service. As we have a world of increased military tempo, the facts surrounding benefits should be clearly understood in the
community. The community is very supportive of our serving personnel. The government’s response should and does reflect that. If it does not then I am sure the 500,000-odd members of the veterans community will remind us. It is an opportune time to make that point with the tabling of this report.

Question agreed to.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator McLucas)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Hong Kong-China: Closer Economic Partnership Agreement

Senator JOHNSTON (Western Australia) (7.00 p.m.)—On 29 June the Closer Economic Partnership Agreement—in short, the CEPA—between the Special Administrative Region Government of Hong Kong and the Central People’s Government of China was signed. This heralds the start of a further buoyant chapter in the economic integration of Hong Kong and China. This agreement is a significant boon to the Hong Kong government and to the positive outlook of its people on a commercial basis.

As many senators with interests in the stability and wellbeing of Hong Kong would know, the completion of the CEPA agreement provides much relief from the volatility Hong Kong has endured since 1997. As many senators would be aware, the Asian economic meltdown of the late nineties and the more recent impact of the SARS virus have seen substantial economic contraction on the island territory over this period, with property prices falling by at least 40 per cent. The signing of this agreement effectively gives companies operating out of Hong Kong a two-year start before World Trade Organisation rules are fully implemented in 2006. The Hong Kong Coalition of Professional Services has said that, in the area of professional services, many service sectors will have up to a five-year head start over foreign competitors who do not meet the requirements of the prescribed definition of a Hong Kong firm in the agreement.

The agreement covers three broad areas: trade in goods, trade in services and trade-investment facilitation. From 1 January 2004, about 4,000 items of goods originating in Hong Kong, representing 67 per cent of the territory’s total exports to mainland China, will enjoy zero tariffs. Apart from the zero tariff provision on goods, the mainland will also liberalise and lower entry thresholds for 17 service sectors in areas such as the provision of legal and accounting services, distribution services, freight forwarding services, insurance services and management consulting services, just to name a few. One specific example is that the asset requirements for Hong Kong banks wishing to establish mainland branches will be reduced from the current $US20 billion to $US6 billion. Any company, local or foreign, with substantive business interests in Hong Kong and which meets certain criteria, largely relating to the size of the business enterprise and its length of association in Hong Kong, will be eligible to enjoy the benefits offered under the CEPA. Broadly speaking, the liberalisation will permit earlier and easier access for Hong Kong manufacturing companies and service suppliers to the mainland China market ahead of the World Trade Organisation timetable.

Fortuitously, Australian companies have long had a presence in Hong Kong, and the opportunity through the CEPA agreement to leverage business possibilities into China is an opportunity that should be energetically capitalised upon. The Australian Chamber of Commerce in Hong Kong celebrates the agreement and believes that CEPA will de-
liver great opportunities for Hong Kong business to extend into the China market. Jenny Wallis of the chamber recently said:

The Chamber’s view is that as Australian business in Hong Kong is long established, many of its companies are well positioned under the ‘Hong Kong firm’ definition (contained within the agreement), particularly in the services industry. The big four Australian banks, as well as the insurance companies AXA and CMG, plus construction firms Leighton Holdings and Barclay Mowclem, all have well-established offices located in Hong Kong. The liberalisation of the controls placed on Hong Kong based insurance agents will assist Australian companies like the Commonwealth Bank owned CMG, and AXA, in having their 3,000 agents operate in the Chinese market. Peter Fancke, the North Asian manager of the Commonwealth Bank’s international financial services business has commented that the new deal appeared to make it easier for Hong Kong resident life insurance agents and actuaries to operate in China. He said, ‘It could give some flexibility for some of our agency people to operate in China.’

However, it is the Australian based legal firms that probably have the most to gain through this head start opportunity into the mainland Chinese market. I can report to senators who are interested in this matter that Australian lawyers are highly regarded in Hong Kong because they come well equipped with a comprehensive jurisprudential legal expertise and knowledge and a highly developed and comprehensive understanding of the doctrine of precedent and case law, thanks largely to the unique level of training that Australian lawyers gain through their undergraduate experience and the intensive professional and articles year of career development prior to being admitted to practise in their various state supreme courts and bars.

The Australian legal firms already ensconced in Hong Kong are Minter Ellison, Allens Arthur Robinson and Mallesons Stephen Jaques. These firms are particularly well placed to take full advantage of an entry into the mainland Chinese market that the CEPA agreement facilitates. Minter Ellison’s managing partner in Hong Kong, Sam Farrands, has said:

CEPA applies to Hong Kong companies, but it also applies to Australian companies that have had a business in Hong Kong for a long time.

There is an elimination of tariff, so the opportunity is for Hong Kong subsidiaries of Australian companies to receive tariff protection and liberalisation of trade that does not exist as between Australia and China.

He went on further to say:

... this new deal would make it easier for Australian law firms based in Hong Kong to do business in China from their Hong Kong offices. Some of the tax regimes that currently apply to us would no longer apply.

He was referring to the advantages that CEPA will bring. Linked to those advantages is the good news that Hong Kong’s economy is rebounding from the effects associated with the SARS virus health problem faster than expected and is now particularly attractive to overseas businesses. The Chairman of the Federation of Hong Kong Business Associations Worldwide said:

The message we will tell the world is that Hong Kong is recovering well, remains vigilant over public health, and is great value for money. Indeed it now offers additional advantages for companies that want to do business with China. CEPA is certain to expand interest among Federation members in stepping up their Hong Kong presence or developing new partnerships.

With these developments in an economy that is very much on the rebound and capable of significant and high levels of economic growth, the signing of the CEPA agreement
brings an enhanced opportunity for Australian companies to progress their business opportunities in the huge and ever-expanding and developing Chinese economy. The challenge is for Australian companies in Hong Kong to grasp this opportunity and to take full advantage of the economic benefits that are now on offer.

Trade: Free Trade Agreement

Senator MARSHALL (Victoria) (7.07 p.m.)—I rise tonight to raise with the Senate issues concerning Australia’s cultural industries and the effects upon them of negotiations around a potential free trade agreement with the United States of America. Australia’s culture must not be traded off for benefits in the agricultural sector or, in fact, in any other sector when the Howard government negotiates for a free trade agreement with the US. Australia must retain its capacity to make rules and laws, including those governing media, entertainment and culture. We must retain our capacity to offer support and subsidies to the Australian entertainment sector as well as retain the capacity to set local content quotas and standards.

Culture goes to the very essence of what a country and its population is all about. To sell out Australian culture to the might of the US would be a reprehensible act and extremely out of touch with the views of the Australian people. At this time, while negotiations around the free trade agreement continue, many Australian performers, writers, producers, directors, technicians and members of the community are growing increasingly concerned about the future of culture in Australia.

The Minister for Trade, Mr Mark Vaile, continues to maintain that a free trade agreement will have little to no effect on Australia’s current laws and standards. However, in making these claims he has left open the option that Australia might trade away its right to make rules and regulations concerning media, entertainment or cultural areas in the future—that is, that Australia could trade away its capacity to legislate with regard to any and all emerging technology into the future. In effect, this position is like the parliament in 1930 forgoing the capacity to make any regulations or laws around any future emerging technologies, therefore rendering it unable to make laws around television or the Internet or any such technology or medium which emerged after that time. It is a ridiculous notion.

In recent times I have received a number of letters and emails regarding this issue, and I am sure other senators have received them too. People are passionate about this, and so they ought to be. I would like to take this opportunity to read to the Senate and to place on the public record one particular letter I received last week. The letter, from Genevieve Picot, a prominent Australian actor, goes to the heart of the issues at stake here. Ms Picot is in a prime position to comment on what the outcomes of a free trade agreement could be on Australia’s culture and cultural outputs, and as someone who works in the Australian entertainment industry she articulates this better than I could, so I take this opportunity to read her letter:

Dear Senator Marshall,

I am writing in regard to the next round of Free Trade negotiations which are about to take place between America and Australia.

As a performer I naturally have a vested interest in the subject of the arts, media and entertainment industries.

Being an actor, I am well aware, having been in the profession for more than 20 years, how precarious and tough it is, but it is my choice.

At the same time I feel I am privileged to be able to participate in the business of reflecting our culture on stage and screen.

I believe that the Free Trade negotiations should completely exempt the entertainment, media and
performing arts industries from any trade agreements or else our capacity to reflect our culture is under a profound threat.

As I understand it, the negotiations are recommending a 'standstill' arrangement. This is not the rosy ok picture it purports to be.

Granted it allows the current subsidy of the performing arts and films and quota systems on television to be maintained but it allows for no further changes or indeed improvements.

Therefore the new technologies in electronic media and the Internet will not be able to be regulated to include any local content but will be forced to compete with the entertainment juggernauts from the US.

I understand that the US producers’ organisation, the Motion Picture Association of America, MPA, have persuaded the US administration that it cannot proceed with a free trade agreement if the position of the Australian entertainment industry asking for exemption from the talks, stands.

As a performer I see my job opportunities reduced instead of increased by the new technologies if the MPA have their way.

As an Australian I see even further diminution of our culture and particularly in the area where our youth are most engaged, the Internet and multimedia.

The American media and entertainment industries already have very generous access in Australia. 69% of Australia’s total television imports come from the US. Of the 250 feature films exhibited in Australia in 2002, 70% emanated from the US—representing 83% of box office receipts. The Australian share was 8%.

The little local content we have now is largely due to the regulation requirements on our television and the subsidy for our films.

Don’t be fooled by the arguments that Aussie shows rate the best and would survive without regulation.

The profits of free to air are steadily being reduced by the costs of introducing advanced technologies such as High Definition Television and the new markets that are being opened by Pay TV, the Internet and multimedia.

The competition for advertising has never been so great.

The need to find programming to fill all these different media dictates that cheap product sourced from overseas will be far more attractive to purchase than the cost of first run Australian product.

Programs from overseas, particularly the US, have already recouped their production costs in the US and overseas sale is straight profit.

Without our current regulation requiring specific amounts of first run Australian programming the commercial realities faced by the TV networks would reduce the amount of Australian product on our screens despite the fact that they may rate better.

Television audiences are fickle and if the Australian programs aren’t there to watch they will watch something else. We need our local content regulation.

Look how few Australian mini-series and made-for-TV films are on television compared to the eighties when there was better subsidy for such programs.

As there is no regulation for that specific type of programming it has reduced markedly as it is too expensive.

We need more quotas not less if we are to truly reflect our culture in our entertainment and media industries.

Simply being very good at or the best at what we do is not enough when the playing field is not even—when the distribution and marketing budgets of the global entertainment organisations simply overwhelm our capacity to compete.

I am also aware that if we buckle to the pressure of the US entertainment and media industry we will be creating a precedent for other countries whose cultures are under even more threat from the cultural imperialism of the USA, for that is surely what it is.

Cultural diversity like bio-diversity is a vital component of the health of human beings.

We see too often how homogenisation causes tribal uprisings in an effort to create a separate identity; the break up of Yugoslavia and the tur-
moil in Iraq are testimony for the desire of people
to claim their own identity.

We should channel such desires through our own
 cultural expression rather than through tribal war-
 fare. This is not such a long bow to draw—we are
 Australian and we should have the unfettered
 right to express ourselves as such.

The US claim to have complete access to bom-
 bard us with their cultural expression is not fair
 even within the notion of free market forces—
 since their forces are so much bigger than ours.
 Theirs’ is an inappropriate demand as it would
deny us access to our own culture.

Don’t let our entertainment industry’s success
 only be measured by the number of Australians in
 Hollywood playing Americans.

It is fantastic they can compete on the US’ own
turf, but surely we should be able to be just as
 proud of our performers who are great as Austra-
lia characters. They can only do so if they have
 an industry to work in.

The US has access enough now. Please add your
 voice to the demand that the media and enter-
tainment industries be exempt from the Free
 Trade negotiations. We have the right to our own
 Aussie culture.

Instead please call for Australia to support global
 cultural diversity by joining the INCP and devel-
oping an international treaty for the protection of
 cultural diversity.

Yours sincerely, Genevieve Picot.

I thank Ms Picot for her letter and the issues
 she raises. They are pertinent issues which I
 think are indicative of the widespread view
 of the Australian people. The Howard gov-
 ernment must not sell out Australia’s culture
to the US. There is simply too much at stake
 for it to do so.

**Fuel: Ethanol**

*Senator CHERRY (Queensland)* (7.16
 p.m.)—I want to discuss an issue that is very
 important to regional Queensland: the future
 of the ethanol industry. In fact, the demise of
 the industry is all but guaranteed under the
 Howard government’s crazy and short-
sighted ethanol taxation plan. To describe the
government’s ethanol policy as a shambles
 would be an understatement. The policy, if
 implemented, will be disastrous for regional
 Queensland and many towns.

Take Dalby. The Dalby biorefinery is now
 in limbo as a result of the government’s plan.
 What, a year ago, was an exciting and viable
 $80 million investment is now unviable as a
 direct result of the government’s proposed
 changes to ethanol taxation. The plant, which
 proposed converting sorghum into ethanol
 and a by-product of high-protein stockfeed,
 would have created 465 construction jobs, 34
 direct permanent jobs and 186 indirect jobs
 when it was fully operational. It would have
 expanded the economic base of the local
 community by $170 million and added extra
 revenue for local grain growers in addition to
 the jobs associated with the plant.

For a town like Dalby, which has been
 battling drought for many years, that would
 be a huge boost. The Dalby biorefinery have
 spent hundreds of thousands of dollars get-
ing their plant up to this particular stage.
 They did so on the basis of a March 2002
 letter from the Minister for Agriculture,
 Fisheries and Forestry, Warren Truss, stating:

I can confirm on behalf of the Government, that,
as stated in the ‘Biofuels for Cleaner Transport’
policy, the current exemption of fuel ethanol from
the $0.38 per litre excise on petroleum products
will be maintained.

It could not be clearer. Yet that policy and
 that commitment on which this investment
 was based only lasted a year. Now that plant
 is up in the air because the government pro-
 poses to impose an excise on ethanol and to
 start withdrawing an offsetting bounty from
 2008. Plans to build other ethanol distilleries
 in other towns in Queensland are also now
 on hold.

What is desperately needed here is in-
 vestment certainty—certainty for the Dalby
 biorefinery and for the other possible devel-
opers of ethanol plants along Queensland’s sugar coast. The Democrats have put a formal plan to the government to provide that certainty. Our plan, outlined in a letter today from my colleague Senator Lyn Allison to the Deputy Prime Minister, John Anderson, proposes extending the excise exemption by five years so that the rebate would end in 2013. This would give a 10-year window for the ethanol industry to develop.

The view of the Democrats is that there is a good case for mandating a suite of ethanol blends, as many countries have done. Brazil has a 20 per cent requirement. The US energy bill requires at least 19 billion litres of ethanol to be added to petrol by 2015, with 72 plants already in operation and 12 new plants being built. India also has a five per cent minimum in most states. Other countries have also mandated various blends. Given that the CSIRO and the Australian Greenhouse Office have acknowledged the strong health and greenhouse benefits of ethanol, it makes sense for Australia to follow these trends.

My Democrat colleague Senator Allison has also called on the government to revise its ethanol labelling proposals. We expect that the government’s task force will find that the 10 per cent ethanol blend will be suitable for all but a handful of car owners. Warnings are then only likely to damage consumer confidence in ethanol blends. In our view, it would be far more useful to develop a clean fuel rating for all fuels, ethanol and other alternative fuels included.

The Democrats have a long and proud history of supporting the ethanol industry. In 1993 we won a $30 million a year production subsidy for the industry which helped to get the infant industry off the ground. Unfortunately, that bounty was abolished in the first budget of the Howard government, in 1996. But in 1999 we won an alternative fuels grants subsidy scheme to ensure that ethanol and other alternative fuels retained their competitive advantage vis-a-vis petrol. We also won a commitment to shift diesel standards to Euro4 and petrol standards to Euro3, which makes the role of ethanol potentially more important in the future as an additive as it requires a wind-down in the use of other damaging aromatic additives to fuels.

But all of that good work could be undone by the crazy policy on ethanol taxation now being considered by the federal government. The town of Dalby is currently caught in the craziness of this policy, as is the entire Queensland sugar industry, which sees the conversion of sugar into ethanol as an essential value-adding industry, if that industry is to stay economically viable in the long term. As the Executive Director of Canegrowers, Ian Ballantyne, said recently: It would be tragic if Australia missed the opportunity to develop a viable renewable fuels industry able to aid community health through reduced air pollutants, benefit the environment, generate regional employment and reduce Australia’s dependence on costly and dwindling external fossil fuel sources.

I must also note the role of the federal Labor Party, whose posturing on ethanol has been one political grandstand after another. Bob McMullan’s musings last week that Labor had targeted the ethanol production bounty for possible abolition shows that Labor is not committed to promoting a viable biofuels industry in this country at all. Queensland Labor Premier Peter Beattie, who, to his credit, has strongly backed the Dalby biofuels refinery, slammed his federal colleagues, warning: We want to make sure that any federal government supported the ethanol industry.

There is one clear thing that Labor at a federal level can do to ensure that occurs—that is, sign on to support the ethanol industry. It
should publicly back the Democrats plan to extend the ethanol rebate timetable by five years to 2013. That would put the ethanol industry on a growth trajectory and give it the confidence to ensure that its investments can be recouped. If Labor joined with the Democrats to demand this outcome, then Premier Beattie’s vision of an ethanol industry in regional Queensland would be assured.

I urge Labor to join the Democrats in seeking to amend the Energy Grants (Cleaner Fuels) Scheme Bill 2003 to extend the 2008 deadline to 2013. If the government will not agree to that, then I would urge Labor to vote down the excise on ethanol when that bill comes before the Senate. After all, it would be a responsible and long-sighted use of the Senate’s powers to amend laws when appropriate and to reject them when they are contrary to the public interest to ensure that a long-term future for the ethanol industry is found.

Ethanol was, after all, exempt from excise for the entire 13 years of the previous Labor government, and I cannot see why Labor would want to have an industry completely destroyed by a full excise with no rebate, particularly given the greenhouse, environmental and regional aspects. For the sake of Dalby, the coastal sugar towns and other regional centres in Queensland who see ethanol as part of a bright, value-adding economic future for the regions, the Labor opposition has to do much better than political posturing, while the Howard government has to do much better than short-term band-aids.

Australian Constitution: Education

Senator PAYNE (New South Wales) (7.24 p.m.)—Between 21 October and 2 December this year there is a series of public meetings being convened across Australia to discuss an important challenge in Australian politics—that is, how to resolve parliamentary deadlocks. Written submissions will be received until the end of year. The Prime Minister has released a discussion paper on section 57 of the Australian Constitution that considers additional options for the resolution of deadlocks between the Senate and the House of Representatives. Section 57 currently provides for deadlocks to be resolved by a double dissolution election.

The first option canvassed by the discussion paper would allow the Governor-General to convene a joint sitting of both houses to consider a deadlocked bill 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. This is an important and live issue and I encourage members of the public to read the discussion paper on the Prime Minister’s web site and to become at least informed about, if not involved in, the debate.

In reality this inquiry will largely go unnoticed by the vast majority of Australians until a referendum question is actually put to them. This brings me to the point of my remarks this evening: the importance of education about the Australian Constitution. It is my firm view that Australia needs greater constitutional education. In fact, reflecting on the republic referendum in 1999, this is patently clear.

As former Attorney-General the Hon. Daryl Williams AM, QC, MP remarked to the Australian Association of Constitutional Law national conference in 2001:

...(p)olls before the republic referendum showed many Australians have a fairly limited understanding of our constitutional arrangements. It seems that this has fostered a certain constitutional conservatism. However, it needs to be recognised that legislative restrictions on Commonwealth expenditure make it difficult for Federal governments to engage in education campaigns when they are likely to be most effective: in the lead up to a referendum.
The Legal and Constitutional Affairs References Committee’s inquiry into an Australian republic also faces the challenge of knowledge in the community about constitutional arrangements. The current inquiry, supported by the Senate, seeks submissions on:

(a) the most appropriate process for moving towards the establishment of an Australian republic with an Australian Head of State; and

(b) alternative models for an Australian republic, with specific reference to:

(i) the functions and powers of the Head of State

(ii) the method of selection and removal of the Head of State, and

(iii) the relationship of the Head of State with the executive, parliament and the judiciary.

To collect meaningful submissions and considered opinions on these issues from people other than constitutional lawyers—or, some might say, the usual suspects—there needs to be greater public awareness of our Constitution. Indeed, the fact that the proposition put at the 1999 referendum was, given the level of popular poll based support for an Australian head of state, defeated in part by, some have said, confusion, is one of the best arguments for more civics education. Again, as a former Attorney-General, Daryl Williams, said in 2001:

... lack of understanding of existing constitutional arrangements has been identified as an important factor in the defeat of the referendum. Questions of public understanding and education will again loom large if and when the republic question is put to the citizens of Australia again.

There may be a need to do the difficult ground work of educating voters more generally about the Constitution. A responsibility for education may be a corollary of the obligation to vote. A widespread lack of knowledge of our constitutional arrangements may foster a lack of confidence and a desire not to meddle in those arrangements ...

This cogent argument is supported by a paper by Ian McAllister titled Civic education and political knowledge in Australia, which included questions asked as part of the 1996 Australian electoral survey. Those true or false questions included very simple prospects, such as:

1. Australia became a Federation in 1901
2. The Senate election is based on proportional representation
3. Senators may not be members of the Cabinet
4. The Constitution can only be changed by the High Court ...

The very high proportion of respondents that answered that they did not know the answer and the number who answered incorrectly was, I think, still surprising. Overall, the so-called median voter, whoever that really is, could answer correctly only two of the seven statements. Only one voter in 20 had the highest level of knowledge by answering all seven questions correctly.

Gender, birthplace and occupation all influence the extent of political knowledge that a person possesses. The empirical reality, which was commented on at the time of the referendum, is that women have less political knowledge than men but participation in the labour force is an important factor which interacts with gender questions. Studies have shown that among men and women who are in the full-time labour force, the gender gap almost disappears. It gives me no pleasure, of course, to report these statistics. It is not surprising that those who are born overseas possess less local political knowledge than those born in Australia, since they have had less exposure to the political system.

Age is usually identified as being a major factor influencing levels of political knowledge. Citizens accumulate political information as they gain more experience with the
political system and as they are exposed to more political socialisation. As a consequence, other political indicators—like the proportions that participate in elections and identify with a political party—increase steadily with age.

While I would be keen to see the parliament in particular consider what can be done to reach those who do fall between the gaps in terms of constitutional knowledge and awareness, I think the lack of civics knowledge amongst migrants to Australia and young people is being addressed well through two programs being run by the departments of Immigration and Multicultural Indigenous Affairs and Education, Science and Training.

For example, ‘Let’s Participate: A Course in Australian Citizenship’—which was developed by the Australian Migrant English Program for use with its clients—has educated over 8,000 people since June 2001. It is a multimedia kit aimed at helping learners develop their English language skills while learning about Australia and the Australian way of life.

Units of study include an introduction to Australian citizenship; democratic government in Australia; the rights, responsibilities and privileges of Australian citizenship; and law and democracy in Australia. Those applying for Australian citizenship are required to undertake units on rights and responsibilities, and completion of the AMEP civics course can contribute to satisfying requirements of the department for conferring citizenship.

The Ministry of Citizenship and Multicultural Affairs ‘Citizen 2030’ education resource has also been sent to all secondary schools throughout Australia. In 2002, ‘Citizen 2030’ program events provided a very special opportunity for young people in metropolitan and rural locations across Australia to receive better civics education. The course has promoted student discussions about Australian citizenship and has provided an ideal basis for discussion about subjects such as the importance of community harmony to national security. In 2003 the Australian government developed an Australian Citizenship Day resource for primary schools to encourage young Australians to think about the values and institutions which underpin Australian citizenship, the responsibilities and privileges of Australian citizenship and what Australian citizenship means to them.

The Department of Education, Science and Training is also working to improve civics understanding with the Discovering Democracy program to help embed civics and citizenship education in Australian schools. Since 1998 the Australian government has provided schools with free resource materials and a professional development officer in each state and territory to help teachers use the program in schools. The Commonwealth government, with state and territory education ministers, continues to work to ensure that students’ civic knowledge and understanding, citizenship participation skills and civic values are developed long before they leave school. Every day, when we look up to the galleries here, we see schoolchildren in our parliament participating in that process—and that is an important part of it.

Our democracy depends on informed participation. Schools play a crucial role in helping to foster such participation. Young people need to understand the workings of our political and legal system and our history as a democratic nation so they can take their rightful place as confident and open-minded citizens in a 21st century Australia. Discovering Democracy has helped to revitalise what had really become a neglected part of the school curriculum. Civics and citizenship education is now winning increased recognition across Australia in curriculum docu-
ments and in school practices. I think all education authorities agree that effective civics and citizenship education is central to contemporary schooling.

As Australians, we have rights—all of which come with responsibilities; we should not exercise one without understanding the other. We live in a free, independent and democratic country which enables us to express our views while respecting and listening to those of others. Education about those rights and responsibilities is also fundamental. In conclusion, it does not really matter what the nature of proposed constitutional reform is—whether we are talking about the current proposals on section 57 for Senate reform or making Australia a republic, a subject dear to my heart—there is a very important key to effective participation and to ensuring it is supported: constitutional awareness and education.

Health: Obesity

Senator BARNETT (Tasmania) (7.34 p.m.)—Tonight I rise to highlight a battle to be won in Australia, and that is to ensure that our children are healthy and fit enough to reach out and realise their dreams throughout their life. Australians are getting fatter: 67 per cent of Australian men and 57 per cent of Australian women are obese or overweight and childhood obesity has more than doubled in the past 10 years. Eight thousand deaths in Australia annually are related to weight problems. Obese people are six times more likely to get coronary heart disease and 10 times more likely to get diabetes. In Australia the health costs alone are $400 million each year. The International Obesity Task Force estimated that the intangible or quality of life costs of obesity to the Australian population are in the order of $5.5 billion.

Obesity leads to diabetes, heart disease, cancer, amputations and the vicious circle of a sedentary lifestyle. We have seriously unhealthy habits and refuse to change. In Australia and the USA, at least, nearly half of all deaths could be prevented or postponed by effective public health practices. This is the real tragedy—these deaths are preventable. That is why the obesity epidemic demands our urgent individual and corporate response now.

Being overweight, poor dietary habits and lack of physical activity account for at least 14 per cent of deaths in the USA, or some 300,000 premature deaths each year. Total direct and indirect costs attributed to being overweight and to obesity were estimated at $117 billion in 2001, according to the US Department of Health and Human Services. The US Surgeon General, David Satcher, said in 2001 that childhood obesity and type 2 diabetes had become epidemics which could devastate future generations and consume the health care budget.

All the research confirms to me that obesity is the 21st century tobacco. We now have an epidemic. The diabetes community knows it, nutritionists and doctors know it, fast food chains know it, processors know it and lawyers know it. Companies that engage in advertising and marketing that encourage poor lifestyle habits are at risk of litigation. The world’s fast food companies are in danger of becoming the tobacco industry defendants of tomorrow.

Today I want to suggest a range of initiatives which are not prescriptive or exhaustive but which I believe deserve consideration and development into a national strategic plan. So far, the Australian government has undertaken several important measures aimed at tackling this crisis. Firstly, the health and ageing policy committee of the Australian government has introduced healthy lifestyle forums to combat childhood obesity. These have been held twice in Tasmania by me and there are plans to hold
similar awareness forums in other states and territories next year. Secondly, a national obesity task force has been established to coordinate a national approach. It will report at the end of November this year. An updated nutritional guide has been produced by the National Health and Medical Research Council.

In my view there should be legislated compulsory physical education in all primary schools throughout Australia. Maths and English are compulsory subjects in schools, so why not physical education? Schools and colleges need to be encouraged to provide both the venues and the time for a healthier lifestyle to be integrated into the curriculum. We could do this through a series of incentives. I would like to see the introduction of fitness credits whereby a school would be rewarded for promoting sport and physical activity. Financial and other incentives should be provided to schools that are proactive in encouraging physical activity above minimum recommended levels.

In July last year I called for fast food reform and said that fast food companies should include nutritional labels on their packaging. The response at the time was that it was too hard and could not be done. McDonald’s Australia has already shown that it can be done by agreeing to implement the measure. This was announced by the Managing Director of McDonald’s Australia, Guy Russo, at the healthy lifestyle forum I held in Hobart on 8 May this year. The fast food industry needs to be encouraged to be part of the solution. Without action and reform, fast food businesses will become the tobacco companies of the future—a phenomenon that has already started in the United States.

I advocate tuckshop smart cards to empower and enable parents to determine and know what their children buy from the school canteen or tuckshop. Doctors should be encouraged to make lifestyle prescriptions for patients such as timetables and guidelines for walking, jogging and other physical activity. Government, business and community groups and families should work together to encourage Internet, video game and television free days or weekends.

Together with Trish Draper, the chair of the government’s health and ageing committee, I have been working closely with the Australian Association of National Advertisers since November last year to plan a healthy lifestyle advertising campaign primarily aimed at children. This is due to be launched in the early part of next year. The message to children is to exercise regularly and eat a balanced diet.

The other major initiative which I am proud to have been involved with is a code of advertising to children drawn up by the Australian Association of National Advertisers and, I am pleased to say, adopted by their membership. It is now being considered by the fast food industry and other industries, and I hope they take it up. In summary, there is much more to be done for the sake of our children. I trust and pray that within a few decades we will look back and say that fixing the obesity epidemic was a triumph as vital and historic as changing attitudes and behaviour towards smoking.

Senate adjourned at 7.40 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:

Anindilyakwa Land Council—Report for 2002-03.
Australian Broadcasting Authority—Report for 2002-03.
Australian Communications Authority—Report for 2002-03.
Australian Institute of Criminology and the Criminology Research Council—Reports for 2002-03.
Australian Postal Corporation (Australia Post)—Equal employment opportunity program—Report for 2002-03.
Australian Radiation Protection and Nuclear Safety Agency—Report for 2002-03.
Australian Transaction Reports and Analysis Centre (AUSTRAC)—Report for 2002-03.
Bundanon Trust—Report for 2002-03.
ComLand Limited—Report for 2002-03.
Defence Force Retirement and Death Benefits Authority—Report for 2002-03.
Department of the Treasury—Report for 2002-03.
Food Standards Australia New Zealand—Report for 2002-03.
Grape and Wine Research and Development Corporation—Report for 2002-03.
Health Insurance Commission—Equity and diversity program—Report for 2002-03.
Military Superannuation and Benefits Board of Trustees—Report for 2002-03.
National Competition Council—Report for 2002-03.
NetAlert Limited—Report for 2002-03.
Northern Land Council—Report for 2002-03.
Special Broadcasting Service Corporation (SBS)—Report for 2002-03.
Tiwi Land Council—Report for 2002-03.

Tabling

The following documents were tabled by the Clerk:

- Extradition Act—Regulations—Statutory Rules 2003 No. 266.
- National Health Act—Determination under Schedule 1—PHS 19/2003.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Attorney-General’s: Community Legal Centres and Regional Law Hotline**
*(Question No. 1754)*

**Senator Ludwig** asked the Minister representing the Attorney-General, upon notice, on 12 August 2003:

In relation to the department’s submission to the Attorney-General on Community Legal Centres and the Regional Law Hotline: Can a copy be provided of the department’s submission.

**Senator Ellison**—The Attorney-General has provided the following answer to the honourable senator’s question:

No. The submission is an internal working document. It involves policy advice on issues which are still under consideration. Disclosure of the submission would prejudice ongoing policy development and could lead to confusion, ill-informed speculation and unnecessary controversy amongst the community and stakeholders.

**Health and Ageing: Aged Care Assessment Teams**
*(Question No. 1808)*

**Senator Chris Evans** asked the Minister for Health and Ageing, upon notice, on 21 August 2003:

(1) Are there any plans to shift the Commonwealth’s current funding and administrative responsibility for Aged Care Assessment Teams; if so; (a) what are these plans; and (b) what is the timeframe for any proposed changes.

(2) Can the Minister confirm whether there are any plans to outsource or contract out the function of Aged Care Assessment Teams on a national or regional basis.

(3) Can the Minister confirm whether there are any plans for the Commonwealth to take full responsibility for funding and administering Aged Care Assessment Teams.

**Senator Ian Campbell**—The Minister for Ageing has provided the following response to the honourable senator’s question:

(1) (a) and (b). There are no current plans to shift the Commonwealth’s current funding and administrative responsibility for Aged Care Assessment Teams.

(2) See response to question 1.

(3) See response to question 1.

**Health: Autism**
*(Question No. 1992)*

**Senator Allison** asked the Minister for Health and Ageing, upon notice, on 11 September 2003:

(1) How many children in Australia were diagnosed formally with autistic disorder in each of the years 1983 to 2002 by: (a) age group; and (b) state and territory.

(2) How many children in Australia were diagnosed formally with Asperger’s syndrome in each of the years 1983 to 2002 by: (a) age group; and (b) state and territory.

(3) How many children in Australia were diagnosed formally with pervasive developmental disorders and/or autism spectrum disorders in each of the years 1983 to 2002 by: (a) age group; and (b) state and territory.
(4) (a) Can an explanation be provided for the disparity in Australian Institute of Health and Welfare data from 1998 that shows adult rates of autism spectrum disorder to be significantly lower than those for children, given that this is a life-long condition; and (b) to what extent can the disparity be attributed to better diagnosis.

(5) Does the Government agree with recent comments by Professor Fiona Stanley that there is an epidemic of autism; if so, what is the extent of the epidemic.

(6) With reference to the December 2002 report of the Employment, Workplace Relations and Education References Committee, ‘Education of students with disabilities’, which cites the incidences of autism as 27 to 93 per population of 10,000, to what extent does the Government regard autism spectrum disorder as a health problem.

(7) What are the assumptions that underlie the fact that in Australian Bureau of Statistics statistics, children with autism are grouped with those with intellectual disability.

(8) Is the Government aware that a survey of paediatricians in Victoria in 2002 identified autism as one of the more difficult areas of practice.

(9) What measures has the Government adopted for ensuring that children with autism spectrum disorders receive effective, evidence-based treatment for their condition.

(10) Is the Government aware that the Medical Journal of Australia editorial, 2003, said in relation to autism spectrum disorder: ‘The early intervention that has been subjected to the most rigorous assessment is behavioural intervention. There is now definite evidence that behavioural intervention improves cognitive, communication, adaptive and social skills in young children with autism. Most young children with autism in Australia do not receive intensive behavioural intervention programs – partly because such programs are not recommended by many health professionals and partly because of their prohibitive cost for families’.

(11) What efforts have been made by the Commonwealth to see that: (a) health professionals are adequately informed in the diagnoses and treatment of children with autism spectrum disorder; (b) affordable, evidence-based early intervention from specialist behavioural psychologists is available for all children with autism spectrum disorders; and (c) all children with autism spectrum disorders can readily access appropriate early intervention and treatment such as speech therapy, occupational therapy and physiotherapy.

(12) With reference to the establishment by the United Kingdom Government of specialist research institutes for autism spectrum disorders, has the Government considered doing so in Australia; if not, why not.

(13) (a) What research is currently underway; and (b) what is planned in the future looking into the cause, diagnosis and/or treatment of autism spectrum disorders in Australia.

Senator Ian Campbell—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) (a) and (b), (2) (a) and (b), (3) (a) and (b) There is no national data on the diagnostic profiles of people with autistic disorder and/or Asperger’s syndrome and/or pervasive developmental disorders. However, some States and Territories may keep their own records. Various health professionals eg General Practitioners, psychiatrists, paediatricians, psychologists are involved in the diagnosis of these disorders and there is no law which requires them to report their diagnoses, and there is no registry of people diagnosed with these conditions. Therefore it is not possible to say how many are diagnosed with these conditions each year. Some conditions eg cancer, do have central registries but that is not the case with this group of conditions.

(4) (a) The Australian Institute of Health and Welfare data that is referred to are data from the Australian Bureau of Statistics 1998 Survey of Disability, Ageing and Carers. This is a point
prevalence survey based on self-report data. (b) I am unable to comment on this question. The modelling by the Institute, which gave an estimate of 29,730 with Autism Spectrum Disorder in 1996, did assume that people who were diagnosed as children continued to have Autism Spectrum Disorder as adults. That is why the 29,730 is higher than the 12,985 reported in the 1998 Australian Bureau of Statistics Disability, Ageing and Carers Survey. Of the 12,985, 11,339 were children 0-14 years, and no one aged 45 or over reported an autism-related disorder.

(5) We have no evidence by which to assess this. Autism is seen as a range of developmental disorders that are neuro-biological and significantly impact on child development.

(6) The Government has taken no specific action in relation to children with autism or Autism Spectrum Disorders. The provision of treatment is the responsibility of the treating clinician.

(7) The number of children with autism is collected in the ABS Survey of Disability, Ageing and Carers (SDAC). The coding of the conditions reported in this survey follows the International Classification of Disease (ICD10) guidelines, which describes autism as: ‘a type of pervasive developmental disorder’, under the broader category of ‘Mental and behavioural disorders’. The International Classification of Disease (ICD10) is developed by the World Health Organisation with Australia’s input to development managed by the Australian Institute of Health and Welfare.

(8) As the Australian Government was not involved with the survey of paediatricians in Victoria, I am unable to comment on the findings.

(9) Autism is regarded as a neurodevelopmental disease. Therefore the provision of services is usually addressed through State and Territory disability programs and I cannot comment specifically on this question. The clinician is responsible for the treatment of the condition.

(10) Yes. However, the provision of services for developmental disorders are usually addressed through State and Territory disability programs.

(11) (a), (b) and (c) The provision of health and disability support services is a responsibility of each State and Territory.

(12) No. The Australian Government has a single research funding agency, the National Health and Medical Research Council (NHMRC), which supports research across the entire health and medical continuum.

(13) (a) The NHMRC is currently funding seven grants relevant to Autism Spectrum Disorders, with a 2003 budget of approximately $717,500. In addition, the NHMRC will provide approximately $31 million in 2003 for funding other research projects into mental health and neurosciences, which may have the potential to benefit those suffering from a range of conditions including autism; and (b) The NHMRC funds health and medical research across a wide range of disciplines, mainly on the basis of excellence, significance of achievement, approach and feasibility of the proposed research, and on the record of the applicants, as judged by a rigorous system of peer review. As a general rule, the NHMRC does not direct researchers to undertake research in a particular area, but rather relies on the researchers themselves to determine the topics for investigation.

Health: Community Midwifery Program

(Question No. 1996)

Senator Webber asked the Minister for Health and Ageing, upon notice, on 11 September 2003:

Is the Government committed to continuing the funding of the Community Midwifery Program in Western Australia beyond the 2003-04 financial year, under the National Women’s Health Program; if so, when can a decision be expected; if not, why not.
Senator Ian Campbell—The Minister for Health and Ageing has provided the following response to the honourable senator’s question:

The Australian Government contributes towards the capacity of individual States and Territories to maintain and improve the general level of Australia’s health through the Public Health Outcome Funding Agreements (PHOFAs). These Agreements provide broadbanded funding to assist in the achievement of nationally agreed outcomes which include the National Women’s Health Program.

The present PHOFAs are for the five-years 1999-2000 to 2003-2004, and are designed to give State and Territory Governments the flexibility to determine public health expenditures across programs and associated services, in line with local priorities and community needs. Accordingly, funding for particular local services or programs - such as the Community Midwifery Program in WA - are a matter for individual jurisdictions to decide in the context of broader outcomes being sought (such as improving the responsiveness of the health system to women’s health needs).

It is anticipated that the Australian Government will finalise its position on any future funding arrangement by the end of 2003.

**Health and Ageing: Institute of Public Affairs**

(Question Nos 2049 and 2062)

Senator O’Brien asked the Minister for Health and Ageing and the Minister representing the Minister for Ageing, upon notice, on 15 September 2003:

(1) For each of the following financial years: (a) 1996-97; (b) 1997-98; (c) 1998-99; (d) 1999-2000; (e) 2000-01; (f) 2001-02; (g) 2002-03; and (h) 2003-04, has the department or any agency for which the Minister is responsible, including boards, councils, committees and advisory bodies, made payments to the Institute of Public Affairs (IPA) for research projects, consultancies, conferences, publications and/or other purposes; if so, (i) how much was each payment, (ii) when was each payment made, and (iii) what services were provided.

(2) In relation to each research project or consultancy: (a) when was the IPA engaged; (b) for what time period; (c) what were the terms of reference; (d) what role did the Minister and/or his office have in the engagement of the IPA; (e) was the contract subject to a tender process; if so, was it an open tender or a select tender; if not, why not.

Senator Ian Campbell—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) There has been one payment made to the Institute of Public Affairs (IPA) in the period specified. The payment, which was for the purchase of a publication, was made on 26 August 1996, the cost of which was $12.95.

(2) Not applicable.

**Veterans’ Affairs: Institute of Public Affairs**

(Question No. 2060)

Senator O’Brien asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 15 September 2003:

(1) For each of the following financial years: (a) 1996-97; (b) 1997-98; (c) 1998-99; (d) 1999-2000; (e) 2000-01; (f) 2001-02; (g) 2002-03; and (h) 2003-04, has the department or any agency for which the Minister is responsible, including boards, councils, committees and advisory bodies, made payments to the Institute of Public Affairs (IPA) for research projects, consultancies, conferences, publications and/or other purposes; if so, (i) how much was each payment, (ii) when was each payment made, and (iii) what services were provided.
(2) In relation to each research project or consultancy: (a) when was the IPA engaged; (b) for what time period; (c) what were the terms of reference; (d) what role did the Minister and/or his office have in the engagement of the IPA; (e) was the contract subject to a tender process; if so, was it an open tender or a select tender; if not, why not.

**Senator Hill**—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) and (2) The Department of Veterans’ Affairs and all other agencies within the Minister’s portfolio have not made any payments to the Institute of Public Affairs.

**National Radioactive Waste Repository**

(Question No. 2139)

**Senator Brown** asked the Minister representing the Minister for Science, upon notice, on 18 September 2003:

With reference to market research work undertaken in relation to the proposed nuclear waste dump in South Australia in the 2002-03 financial year: (a) What market research was undertaken; (b) who undertook the work; (c) what was the cost of the research; and (d) when was the research report completed and supplied to the department.

**Senator Vanstone**—The Minister for Science has provided the following answer to the honourable senator’s question:

(a) Quantitative benchmark and qualitative market research were undertaken on the national repository.

(b) Worthington Di Marzio Pty Ltd.

(c) $61,369 inclusive of GST.

(d) The Qualitative Phase research report was supplied to the Department of Education, Science and Training in the week beginning 17 February 2003. The Quantitative Benchmark Phase research report was supplied to the Department of Education, Science and Training on 25 February 2003.

**Education: Notre Dame University**

(Question Nos 2142 and 2143)

**Senator Webber** asked the Minister for Health and Ageing and the Minister representing the Minister for Education, Science and Training, upon notice, on 19 September 2003:

(1) Given the recent awarding of medical places to Notre Dame University in Western Australia, has the Minister been contacted by any organisations expressing concern that the university’s philosophy may prevent them from training students in the full range of reproductive health treatments; if so, how many groups or organisations have contacted the Minister.

(2) Will the university have control over the curriculum taught at the medical school, and therefore be able to restrict the curriculum and the selection of staff and students on the basis of conformity with the university’s Catholic philosophy.

(3) Will students be able to graduate without having a full medical education in the areas of birth control, infertility, sterilisation, stem cell research and preventative medicine relating to sexual activity and health.

(4) Will graduates who lack these skills be limited in their capacity to provide health services to the public.

**Senator Ian Campbell**—The Minister for Health and Ageing has provided the following response to the honourable senator’s question:
(1) I am aware of an organisation that has expressed concern that the University of Notre Dame’s philosophy may affect its capacity to provide medical students with appropriate training in reproductive health.

(2) In allocating the new medical school places that will be made available as part of the A Fairer Medicare package, the Government has given in-principle support to the establishment of a new graduate medical school at the University of Notre Dame. The future allocation of places is dependent on the University of Notre Dame successfully obtaining accreditation by the Australian Medical Council (AMC). The accreditation process is undertaken by a team of experienced and expert educationalists and teachers drawn from other Australian and New Zealand medical schools. This process examines a range of issues including the selection of medical students, communication and other clinical skills, development of professional attitudes, and development of lifelong learning skills.

The medical school must have a clearly defined admission policy that is consistently applied and is free of discrimination and bias, other than explicit affirmative action in favour of nominated disadvantaged groups. To obtain accreditation a school must demonstrate that it is able to provide a full range of medical education.

(3) A graduate of a medical course accredited by the AMC is eligible for registration as a medical practitioner in any State or Territory of Australia. By assessing the medical schools, the AMC is able to assure the medical registration boards that a medical school’s educational program satisfies agreed national guidelines for basic medical education. The over-riding requirement of AMC accreditation is that medical schools produce medical practitioners who are safe and competent to practise as interns under supervision, and who have an appropriate foundation for lifelong learning and for further training in any branch of medicine.

(4) Should the University of Notre Dame be successful in obtaining AMC accreditation, graduates of its medical school will be trained in the same competencies, and to the same high standards, as graduates of all other Australian medical schools.

**Customs: Bay Class Vessels**

*(Question No. 2199)*

Senator Chris Evans asked the Minister for Justice and Customs, upon notice, on 8 October 2003:

(1) When was the contract signed for the Bay Class Customs vessels.
(2) When were the first and last vessels delivered.
(3) When were the first and last vessels accepted into service by Customs.
(4) How many vessels were delivered under the contract and what was the total cost.
(5) What were the original estimates for the cost of operating and maintaining the fleet, and what was the actual cost for each of the following financial years: (a) 2001-02; and (b) 2002-03.
(6) What was the original expected life of the vessels and what is the current estimate for when they will be retired from service.
(7) Is it planned to have a replacement vessel in service when the vessels are retired.
(8) Is there a plan to refit the vessels or extend their life; if so, what is the estimated cost of the project.

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

(1) The contract for the vessels was signed on 6 May 1998.
(2) The first of the Bay class fleet was delivered in February 1999 and the last in August 2000.
(3) The first vessel was accepted into service in February 1999 and the last in August 2000.
(4) There were eight vessels delivered under the contract at a total cost of $55.5 million (1998 prices).
(5) The estimate for operating and maintaining the fleet in the financial year 2001-02 was $37.4 million, and the actual cost was $28.5 million. The estimate for the year 2002-03 was $36.4 million and the actual cost was $35 million.
(6) The expected life in Customs of the Bay class fleet is 10 years, with retirement of the fleet anticipated to commence in 2009.
(7) Yes.
(8) No.