SENATE
Official Hansard
No. 2, 2004
TUESDAY, 2 MARCH 2004
FORTIETH PARLIAMENT
FIRST SESSION—SEVENTH PERIOD
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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 12.30 p.m., and read prayers.

WORKPLACE RELATIONS AMENDMENT (IMPROVED REMEDIES FOR UNPROTECTED ACTION) BILL 2002

Second Reading

Debate resumed from 1 March, on motion by Senator Ian Campbell:

Senator GEORGE CAMPBELL (New South Wales) (12.31 p.m.)—On 7 April 1998 this government launched a vicious assault which destroyed the trust of the nation. Never again could any Australian worker feel totally safe in their job. The cherished Australian ideals of fair play and good faith in the workplace were swept away in a sea of balaclavas, armed thugs and German shepherds. Since its first day in office in 1996, the Howard government had promised that the law of the jungle would come into effect in Australian workplaces. That day had finally come. On this occasion the government’s brazenness sealed its own fate. The Australian community rallied to the side of the Maritime Workers Union of Australia and its members. While the government had lost all semblance of moral responsibility, the Australian community had not. When future generations look back at the Howard government, this despicable attack on its own citizens will forever colour their view.

But it is by no means an isolated incident: this government has always been at war with working Australians. The incidents have not always been as spectacular as the waterfront dispute, but they have been happening all the same. When Peter Reith was the minister for workplace relations, he was quite open about his desire to be an employer advocate. The current incarnation, however, doggedly clings to a ridiculously flimsy veil of falsified impartiality from behind which he attacks the conditions, rights and security of working Australian families. What are his favourite targets? They are the voice of working Australians, the trade union movement, and the cornerstone of the industrial relations system: the impartial umpire, the Australian Industrial Relations Commission.

The Workplace Relations Amendment (Improved Remedies for Unprotected Action) Bill 2002 is nothing more than another component of this antiworker campaign initiated by Peter Reith, continued—albeit in a haphazard, fragmented and unsuccessful manner—by Tony Abbott and now in the hands of another rabid ideologue, Kevin Andrews. Having been unable to push the Orwellianly titled ‘More Jobs, Better Pay’ omnibus bill through the Senate, the government thought no-one would notice if they split it up and snuck it through separately. On the surface the Workplace Relations Amendment (Improved Remedies for Unprotected Action) Bill 2002 may seem relatively benign to the casual observer. It proposes three main amendments to the Workplace Relations Act 1996. First, it seeks to introduce a provision that the commission must, as far as practicable, hear and determine an application for a section 127 order within 48 hours. Second, it proposes a new provision giving the commission explicit power to make interim orders if it cannot come to a final decision within 48 hours. Finally, it looks to introduce new considerations for the commission to take into account in considering whether to make an interim order. But, while this bill may seem nothing more than an administrative fiddle around the edges of one section in an entire act, it is in fact a serious attack on the right of working Austra-
lians to stand up for their jobs and their working conditions.

So what is this bill really all about? It is about implementing the coalition’s extremist industrial relations agenda, no matter what the cost is to our community. This government wishes to remove the right of working Australians to bargain collectively, hamstring the Industrial Relations Commission to ensure that there is no fair and independent umpire to resolve disputes, and obliterate the concept of good-faith bargaining. The evidence is right here before us. First, there is no way that this bill is actually aimed at assisting the IRC to do its job, as the previous minister erroneously claimed. Let us take the attempt to introduce a strict 48-hour period in which the IRC must hear and determine section 127 matters. Is this indicative measure really necessary? The IRC already has the power to hear section 127 matters as quickly as practicable. Why amend the act to specify a 48-hour period? Why become obsessed with the process rather than look at the practicality of the issues? Currently the commission is doing its job in a very timely and efficient manner. A Senate committee report found that over half of section 127 applications were already decided within 48 hours. The previous minister himself said: The latest figures show that some 85 per cent of section 127 applications are first heard within four days of lodgement.

Why is the government so keen to introduce what in fact is a redundant measure?

Putting aside for a moment the irony of a right-wing ideologue arguing in favour of greater intervention in the industrial relations process, I am assuming that it is not because this government is in favour of indicative time frames. In 2002 the government howled down a Labor proposal to introduce a time frame in which unfair dismissal claims should be heard. While the miners of the Blair Athol coalmine, who waited nearly five years for their unfair dismissal case to be heard, thought it was a very sensible idea, this government did not. Apparently such a proposal was impracticable. Obviously, in the addled minds of the Tory brains trust, things have changed.

There is only one answer. By enforcing the 48-hour time frame, the government is attempting to curtail the ability of trade unions to prepare and present evidence and argument against a section 127 order. This government is trying to shut down the right of workers to act collectively in order to ensure that they receive a fair deal at the hands of their employers. This becomes more evident when we further examine this redundant measure in the context of the bill’s remaining elements. The government seeks to encourage the commission to make interim orders within 48 hours if they have not had time to hear all the evidence and submissions required to make a final ruling. The commission would not be required to hold a hearing or to form a view about whether the action would be protected under the act. Instead, the IRC would be forced to consider set factors when deciding whether to grant an interim section 127 order, again putting the focus on process rather than on the practicalities and industrial realities of the situation. These factors are heavily weighted towards the concerns of employers and include damage to industry and the undesirability of unprotected action.

The commission already makes interim orders on a regular basis. However, it only uses this power after conducting a hearing, during which it considers a wide range of evidence and argument, and after considering whether the action is protected action. Again, the government’s aim becomes transparent. Removing the requirement to hold a hearing or to form a view about whether the industrial action is protected would expose union-
ists and employees to financial penalties without an opportunity to be heard. It would also undermine the right of employees to take protected action during an enterprise bargaining period.

This amendment is like a red rag to a bull. At the first sign of any industrial action from employees, the intimidation machine—militant, anti-unionist employers—will roar into life. Lawyers will be sent into the commission to ask for interim orders to serve on employees and their union. Such an order would be enforceable in the Federal Court and backed by fines. How many times does this government have to go back to the future to find out that the full use of penalties is not the most effective way of conducting the industrial relations system? Instead of leaving the commission to make its decisions free from outside interference and in a measured and professional manner as it has always done, this bill thrusts the government’s bias towards employers onto its unwilling shoulders. The end result sees the commission boxed in by an indicative and, may I say, prescriptive time frame and a set of guidelines that force the organisation to become a de facto cheer squad for employers who do not like the idea that their employees may want to stand up for themselves.

The government talks about respecting the umpire and the importance of the Industrial Relations Commission. What this bill really does is strike at the heart of the commission’s discretion to make reasoned and considered judgments. The government considers the commission as nothing more than a potential weapon in its unrelenting war on the trade union movement. Looking back on the history of this bill, we see that the government has decided to escalate its campaign. A previous incarnation of this bill explicitly applied to lockouts as well as strikes. The recently departed minister removed any such mention from this legislation and made no mention of this practice in his second reading speech. This is a clear indication of the government’s mind-set. Not once does it stop to consider the effects lockouts have on working Australians and their families.

Senator Ian Campbell—I raise a point of order, Mr Acting Deputy President. I note that under standing order 187 it quite clearly says, ‘A senator shall not read a speech.’ It seems to me that Senator George Campbell is reading absolutely verbatim a speech from a lectern—word for word, not making any attempt to refer to copious notes or whatever. It is not just something that Senator George Campbell does; it is something that is creeping into the Senate. I genuinely say that if senators are not going to respect that standing order then sadly it may be time for the Senate to reconsider that standing order.

Senator GEORGE CAMPBELL—Mr Acting Deputy President, on the point of order: I am quite happy to give a copy of my notes—my copious notes, as Senator Ian Campbell has referred to them—to Senator Ian Campbell to compare with the Hansard. He may well see that, whilst I have used quotes from the notes, I have also been using comments all through the speech to point out to the Australian public just how negative and conservative this government is in its approach to dealing with industrial relations.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Yes, that is a debating point, Senator. Presidents have traditionally ruled that senators are able to use copious notes. You have given an assurance that you are using copious notes and I am sure Senator Ian Campbell will be very happy to receive copies of those copious notes to compare with the Hansard if he wishes to pursue the matter. Apart from that, there is no point of order.

Senator Ian Campbell—I would appreciate that, thank you.
Senator GEORGE CAMPBELL—Thank you, Mr Acting Deputy President. When I was interrupted by the point of order, I was talking about the fact that what this government is seeking to do is essentially hamstring the Industrial Relations Commission in its capacity to act as an independent arbitrator, act as an honest broker in the industrial relations system and ensure in that context that both workers and employers get a fair go from the system and are able to pursue genuinely negotiated agreements between themselves without the direct interference of government in that process. What this government is seeking to do, not only by this bill but by other bills it has introduced, is de facto put its hands up the back of the commission and use the commission as a puppet to deliver its industrial relations agenda.

The government’s industrial relations agenda has always had one particular aim: to destroy the trade union movement. They have made no secret of that. They said when they came to power in 1996 that four unions were their target. Those four unions were the maritime workers, whom they attacked in 1998; the building workers, who have been the subject of a royal commission and the greatest kangaroo court we have ever seen in this country, quite frankly; the metal workers, who presumably may be next on the list after they have gone through that process; and the transport workers. Why are those four unions singled out? Because historically in this country they have been the most effective unions in protecting the interests of their members and in promoting the interests of workers generally in our economy.

Senator Ian Campbell—Mr Acting Deputy President, I rise on a point of order. Unfortunately Senator George Campbell has now contravened standing order 193(3), which is quite explicit in saying that a senator shall not use offensive words against a judicial officer. I think he should be asked to withdraw references to the judicial officers involved in the royal commission into the building industry, the Cole royal commission, a judicial inquiry involving judicial officers. I think he should also be asked to withdraw any inferences against judicial officers at the Industrial Relations Commission.

The ACTING DEPUTY PRESIDENT—The officers are not executive officers as you are referring to them, Senator Ian Campbell, so there is no point of order.

Senator Mackay—Mr Acting Deputy President, I rise on a further point of order. I think Senator George Campbell is giving an excellent speech.

The ACTING DEPUTY PRESIDENT—What is your point of order?

Senator Mackay—I think it does deserve more attention. I hereby call your attention to the state of the chamber.

The ACTING DEPUTY PRESIDENT—There is no point of order but there is not a quorum.

(Quorum formed)

Senator GEORGE CAMPBELL—Thank you, Mr Acting Deputy President, and thank you to Senator Ian Campbell for providing us with an audience so that I can complete my comments. Before I was so rudely interrupted, I was talking about the fact that from this bill, unlike in other bills and a similar previous bill produced by this government on this issue, this government has deliberately excluded the issue of lockouts. We know how effectively lockouts are used against working Australians to deny them income in an industrial relations environment. Whilst this government considers strike action to be undesirable, it obviously does not consider lockouts by employers in the same category or as constituting strike action.
action. At the first hint of a strike the government’s attack dogs are all over the press demanding that industry take the strongest possible action to end the industrial action. However, when workers are locked out or when strike action is taken against workers or employees, it is remarkable how strangely silent this government is in its response to the actions of those employers. We have never heard previous ministers, whether Minister Andrews, Minister Abbott or Minister Reith, commenting on lockouts. Where were they when the recent lockout occurred at Geelong Wool? Where were they when the recent lockout occurred at the ACI Box Hill plant? Strangely silent, strangely not to be found. However, when there is industrial action taken by employees they cannot get into the press quickly enough to condemn it and to condemn their organisation.

It is just another clear demonstration of the blind ideological intransigence this government has when it is dealing with industrial relations issues. Every piece of legislation it brings into this parliament promotes confrontation and industrial unrest. All of its industrial relations agenda, its industrial relations approach, is predicated on conflict and destroying the other side. There has not been the slightest hint by this coalition or this government to put balance into the industrial relations system and to provide the platform upon which both parties are given a fair go. The government has never had any interest in providing for bargaining in good faith, and certainly nothing in this bill or in other bills that are currently before this chamber goes anywhere near demonstrating that it even understands what bargaining in good faith means.

If one wants to go and look for a classic example, it is the McMahon dispute in Sydney recently where women who had worked for a company for over 20 years without ever taking industrial action were locked out for something like 12 to 14 weeks. The minister eventually got himself cornered where he had to go down to the picket line and grudgingly admit that they were within their rights to do what they were doing, despite the fact that there had been consistent press statements and arguments made by speakers on behalf of this government condemning those workers in taking that industrial action.

Senator Ferris—What has happened on the waterfront? There are now 28 containers an hour on the waterfront.

Senator GEORGE CAMPBELL—We hear Senator Ferris chirping away in the background like a budgie. She wouldn’t know an industrial relations environment if she fell over it. She has probably never been in a factory in her life.

Senator Ferris—I’ve been to more factories than you, George.

Senator GEORGE CAMPBELL—Certainly she wouldn’t know where the arbitration commission was. It would probably do her good, it would expand her knowledge, if she went and sat in the Industrial Relations Commission for a few days or a few hours and actually observed how it works in practice. She might actually get the meaning of good faith bargaining. She might actually get the meaning of balance in industrial relations if she went and observed the system and how it works.

The reality is that Labor cannot support this bill. Nor can we support this government’s destructive agenda. Not only do we not support the bill but in fact we condemn the government for its failure to provide the Industrial Relations Commission, as the independent umpire, with adequate powers to settle industrial disputes and to ensure parties bargain in good faith. We condemn its inflammatory and confrontationist rhetoric during industrial disputes and its threats to withdraw car industry assistance unless em-
ployers implement its divisive industrial relations agenda. We all remember the demand it put on the auto industry: if you want the ACIS scheme you have to take a big stick to your employees. That was the proposition that it put on the table in negotiating the future support mechanisms for the auto industry—an absolute shame. It was almost as disgraceful as what Malcolm Fraser did in 1976 when he demanded that workers at Newcastle put up liabilities to get work in the shipbuilding industry so if the ship was delayed for any reason they would be directly subject to penalties for any delay. (Time expired)

Senator NETTLE (New South Wales) (12.57 p.m.)—I rise to speak on the Workplace Relations Amendment (Improved Remedies for Unprotected Action) Bill 2002. This is one of many bills currently before the Senate from this government to make significant changes to the Workplace Relations Act. Despite what the government says, all of these bills have a singular purpose. They are designed to undermine the capacity of workers and the unions to look after the legitimate needs of working Australians. Both this bill and subsequent bills should be rejected in their entirety, and the Greens intend to do that.

This bill seeks to repeal section 127(3) of the Workplace Relations Act 1996 and to replace it with a harsher and more complex regime. Section 127(3) of the act currently states in relation to the Australian Industrial Relations Commission:

The Commission must hear and determine an application for an order under this section as quickly as practicable.

The government seeks to replace this section with a requirement that applications must be heard within 48 hours, otherwise the employer can seek interim orders on the basis of a set of criteria—and later I will go into the skewed nature of that criteria in favour of the employer’s situation.

The Greens will not accept this legislation. We recognise that there is an imbalance, that the Howard government and some actions of the previous Labor government have skewed the industrial relations system so far in favour of the employer that a change is needed to take us back in a direction where the rights of working men and women are protected by our industrial relations system, rather than the industrial relations system continually being used to create more opportunities for employers to diminish the rights of working men and women in Australia.

The Greens do not support moves through amendments or deals—we saw one last night, and I am not quite sure what we are going to see today—that seek to find a middle ground in relation to the government’s industrial relations agenda. This government has skewed the balance so far in favour of the employers that there is a non-existent middle ground that some deals and amendments seek to find to put what it perceives as some balance back into this government’s industrial relations agenda. The government’s agenda is unambiguous. It cannot be mitigated with minor changes and amendments; it needs to be rejected.

There is a sense of deja vu in many pieces of industrial relations legislation that come before this parliament. We have seen many of the provisions in this bill in particular before. The government tried to enact these kinds of provisions in the Workplace Relations Legislation Amendment (More Jobs) Bill in 1999, and the Senate at that time rightly rejected the proposals. The government tried again to make similar changes with its Workplace Relations Amendment Bill 2000, and the Senate again knocked it back. They were rejected and they should be rejected again.
The Australian people do not want the kind of antiworker and anti-union legislation that the Howard government continually proposes. They look to their representatives in the Senate to ensure that their views are listened to, because the Howard government has not listened to the views of the Australian people in relation to industrial relations. The Greens will certainly listen, and we hope that all senators will, in rejecting this consistent agenda of industrial relations reforms from the government.

Let us make no mistake: this is another of the government’s tired attempts to attack workers and unions by enacting biased and draconian industrial relations legislation. It is part of their ideological attack against working people. They are running out of puff and they have run off course, but there is a federal election on the agenda so the Howard government are attempting to ramp up this attack on workers and on industrial relations. We know that recently the Liberal Party wrote to big business across the country warning of the industrial relations agenda of opposition parties and arguing that only a coalition government would defend and institute industrial relations laws that employers could use against employees. At the same time the Liberal Party asked these companies for big corporate donations to their Millennium Forum fund—their election war chest. The government may have the backing of big business when it comes to their crusade against the working men and women of Australia but they certainly do not have the backing of the Greens or any other people on this side of the chamber.

The government has sought in the past to whip up hysteria around these issues in the lead-up to an election. We saw that with the royal commission into the building industry which was instigated just before the last federal election. It did not work and yet the government is still trying to whip up hysteria around this particular issue. To start this first full week of parliament with six industrial relations amendments on the agenda is a clear indication that, in the lead-up to the election, the Howard government is again trying to whip up hysteria around industrial relations. Australians will not fall for it, the Senate will not fall for it and the Greens certainly will not fall for it. It needs to be seen for what it is: an unjustified, electorally motivated attack on Australian workers.

I want to look more closely at the provisions of the bill. This bill seeks to amend the Workplace Relations Act to require the Australian Industrial Relations Commission to hear and determine applications for orders under section 127 within 48 hours as far as practicable. It seeks to enable the commission to make an interim order if it is satisfied that the action is unprotected, if it has not formed a view and is unable to determine the application within 48 hours or if the action is likely to commence within 48 hours. It also seeks to amend the act to specify the matters the Australian Industrial Relations Commission must take into account when deciding whether or not to make an interim order.

At the outset let me say that there is clearly no need for this legislation. There is no difficulty, particularly for employers, in being able to seek section 127 orders from the Industrial Relations Commission. Most applications for section 127 orders are made by employers rather than by unions. This is despite the fact that industrial action such as lockouts by employers is on the rise. The University of Sydney looked at Australian Bureau of Statistics data in relation to this issue and concluded that industrial action such as lockouts is on the rise. They concluded that the proportion of industrial disputes which are lockouts is currently five times greater than it was in 1998. Previous changes to the Workplace Relations Act, such as allowing the use of lockouts to pres-
sure employees to sign individual contracts, have facilitated lockouts by employers, so it is not surprising that we are now seeing the results of the Sydney University study saying that lockouts are on the rise.

Employers will be the ones to benefit from changes to section 127 applications. The provisions contained in this bill have been rejected before, so it is fair that we ask the question: what has changed that the government believes we need to look at this again? Has there been increasing industrial action in this country? Has there been an increasing number of section 127 orders requested of the Australian Industrial Relations Commission? The answer to both of these questions is no. There has been no increase in industrial action in Australia. In fact, the opposite has occurred. According to the Australian Bureau of Statistics, the number of working days lost through industrial disputes continues to decline. In the 12 months to March 1996, 86 working days were lost per 1,000 employees and by March 2003 this fell to 31 days lost per 1000 employees.

Are the number of section 127 orders on the increase? According to uncontested evidence provided by the ACTU to the Senate inquiry into this bill, they are not. The ACTU looked at Industrial Relations Commission decisions over several years and found that 33 orders were issued in the year 2000, 26 in 2001, 35 in 2002 and, at the time of their evidence in September, only 25 in 2003. According to the ACTU’s submission to the Senate inquiry into this bill:

Many are concerned with reaction to employer unilateral action in the workplace, where workers take action on issues like termination or redundancy, roster changes, refusal to reemploy workers after a period on workers’ compensation, payment of entitlements, safety and the like.

Issues which affect their daily lives, or those of their fellow workers are likely to be felt deeply in the workplace, and workers often feel that it is only by taking action that they can get attention to the issues from their employer.

In other words, industrial action, whether legally protected or not, is usually a legitimate response to genuine workplace grievances. The figures of declining industrial action and the small number of section 127 orders show how successful the government has already been in removing the rights of workers and undermining unions’ ability to represent their members. No change as outlined by the government in this bill is needed. The change that is needed is for workers to be returned their full rights to organise and to strike. The industrial imbalance wreaked by the Howard government needs to be redressed in favour of the working women and men of this country.

I want to look now at the requirement in this bill to hold a hearing within 48 hours and whether this is necessary. The Australian Industrial Relations Commission’s annual report for 2002-03 shows that 85 per cent of section 127 applications are first heard within four days. According to people who regularly appear before the commission, a large proportion of these are heard within a day or two days. This is down from 2000-01, when 85 per cent of the first hearings were held within five days. The commission already endeavours to hold hearings as quick as possible, as it is required to do in the act. Section 127(3) of the act already requires the Industrial Relations Commission to hear and determine section 127 applications as soon as practicable.

If the government is really that concerned about increasing the speed with which applications get to a hearing, it should be increasing the resources of the Australian Industrial Relations Commission—not forcing through an unrealistic and unnecessary requirement of 48 hours. Hamstringing the Australian Industrial Relations Commission with a 48-hour requirement will only undermine the
effectiveness of the Industrial Relations Commission in resolving disputes by removing its discretion to prioritise its work and to address applications in the most appropriate manner in each circumstance.

It is when we look at the proposal for interim orders in this bill that the Howard government’s industrial relations agenda becomes clear. Changes to the act would effectively enable employers to seek an order immediately ending strike action or other industrial action before an adequate airing of the facts and reasons for the dispute has taken place. Employers would use this legislation to attack the right of workers to strike by obtaining interim injunctions and avoiding having to address the issues at the heart of the dispute. Section 127(3A) would allow the commission to make an order for industrial action to stop or not occur even if it had not yet formed a view on whether the action was protected and that an application cannot be heard within 48 hours.

The unbalanced criteria in this bill that the Australian Industrial Relations Commission would have to give consideration to when deciding to make an interim order favours employers and enables them to obtain immediate orders against their workers. Section 127(3C) would mean an employer could argue industrial action should stop if, for example, industrial action might damage their industry and the action was ongoing or a sequence of action.

Workers do not take industrial action because they think it will help the employer’s bottom line. In fact, that is the very point of taking industrial action—so that issues raised in a dispute are resolved in the heat of industrial action. Sections 127(3A) and (3C) would enable employers to stop industrial action before having a full hearing on all the relevant matters related to the application and would undermine workers’ capacity to effectively ensure the problem that caused the industrial action is addressed. Employers would be quite happy to discuss the issues under dispute forever as long as the industrial action is called off.

Employers will always try to get legal weapons to use against their workforce, but this does not mean the government or the Senate should support them in doing so. The agenda of this government, backed by big business, has already divided this country and entrenched inequality. Precarious and casual work is expanding while employment security and full-time work is declining. People are working harder for less as government services in the form of health and education services are starved of funds and decline in quality. Meanwhile, we see executive salaries skyrocketing and big business profits increasing.

The Greens recognise that we need to turn this around. Rejecting this legislation and the government’s ongoing campaign to increase industrial relations powers for employers is a significant first step in turning this around. We need a decent and fair industrial relations system that is centred on conciliation and arbitration—not the division and conflict that is becoming the signature of the Howard government. The Greens are the only party in this parliament that unequivocally support workers’ right to strike in our party policy platform. The withdrawal of one’s labour in protest is a fundamental human right. The Greens are proud of their support of workers’ rights and proud to have a policy that supports the rights of unions and unionists to take industrial action to protect and promote their legitimate industrial interests without legal impediment.

The lack of necessity for this bill reveals the government’s real agenda in putting it forward. The Australian Industrial Relations Commission already has the capacity to
make orders promptly and, if appropriate, to make interim orders. This bill is not about enabling the Industrial Relations Commission to work more effectively; rather, it is about removing its discretion and forcing it down a route favourable to employers at the expense of employees. The Australian Greens reject this bill. We see this, like so many attacks from the Howard government, as an attack on the rights of working women and men. It tips the scales of our industrial relations system even further in favour of employers. The Greens will not stand by and watch this happen. We will be opposing this bill.

**Senator ABETZ** (Tasmania—Special Minister of State) (1.15 p.m.)—I remind the Senate that we are debating the Workplace Relations Amendment (Improved Remedies for Unprotected Action) Bill 2002. In other words, we are dealing with activities which are deemed to be illegal. What we have just heard from the previous speaker is that the Australian ‘Extremes’ do not believe that there is such a thing as an illegal strike. We believe that there is. As a result, if a strike or industrial action is illegal then certain consequences need to flow.

This bill will strengthen the legislative intent of section 127 of the Workplace Relations Act 1996. Section 127 gives the Australian Industrial Relations Commission the power to order a return to work when unprotected and illegitimate industrial action is taking place. The bill will enhance this remedy by giving the commission another tool, interim orders, and by guiding the commission’s discretion. The bill will provide that the commission should deal with applications for orders to prevent unprotected industrial action within 48 hours. The bill will provide an express power to issue interim orders where a final decision is not possible within this ideal time frame. Interim orders would be made in accordance with guiding factors contained in the bill. Interim orders will provide a very useful short-term stopgap measure while the commission properly considers the application. The bill will provide factors for the commission to take into account in considering whether to make interim or final section 127 orders.

Senator Collins said that the effect of the bill would be that the consideration of the effect of a dispute on an employer would become paramount. Senator Buckland said that the government is hoping to stack the odds in favour of the employers. This is not the case. The same rules will apply whether a section 127 order is sought by an employer, an employee or a union. There is no uncertainty about that. The same rules will apply—

**Senator George Campbell**—Why did you exclude lockouts?

**Senator ABETZ**—Senator George Campbell, who has, according to former Prime Minister Paul Keating, 100,000 jobs around his neck because of his outrageous industrial disputations whilst he was a union leader, is of course interjecting. He does not want to be reminded of the fact that there were 100,000 Australians without a job who were unable to feed their families because of the sort of industrial thuggery that Senator Campbell personally undertook whilst he was a trade union leader. Then, of course, the Labor Party rewards that sort of thuggery by making him a senator and putting him on the front bench.

We make no apology for the fact that we believe there are such things as illegal industrial activities, illegal strikes and illegal lockouts. That is why under section 127 an order can be sought by an employer—let me make it very clear—an employee or even, as Senator Campbell will be very happy to hear, a union. What can be fairer than that? Certain ex-trade unionists in this place want eve-
rything to go in a particular direction. There is no inherent bias in the factors for the commission to consider when determining section 127 matters. They are factors that have previously arisen in section 127 cases and they are consistent with matters the commission already takes into account. Rather than restrict the commission’s discretion, the bill will give the commission a clear additional option when considering section 127 applications—that is, the option of making interim orders where the complexity of the case prevents a quick final decision. The bill emphasises the undesirability of unprotected action. The bill would reinforce the integrity of the agreement-making system.

Senator Collins said that the commission should be given power to settle disputes because that is what the commission was designed to do in 1904—some 100 years ago. A workplace relations solution that was appropriate in 1904 is not necessarily appropriate in 2004. This government has delivered a modern and effective workplace relations system for the 21st century that emphasises the importance of agreement in the workplace. It was interesting to listen to Senator Nettle’s contribution. She recognised that over the past eight years, during which this country has been under the stewardship of the Howard Liberal coalition government, industrial disputations have gone down.

Increasing the arbitral role of the commission would not be consistent with the system. Certified agreements already contain dispute resolution processes that suit the parties’ situation. This should be the way that parties resolve their disputes. Parties can and often do choose to give the commission a key role in resolving the matter. In any event, resorting to industrial action is not appropriate. The commission has sufficient powers to deal with disputes consistent with a workplace relations framework that is focused on the direct negotiation of terms and conditions of employment by the parties involved, with as little third party intervention as possible. The government’s proposed amendments to section 127 are consistent with this broad objective.

It is important to remember that this bill should not detract from the significant legal immunity granted to protected industrial action. Legitimate industrial action taken during the bargaining process will continue to be protected action. The measures will only affect industrial action that is taken outside the legitimate bargaining process. The bill does not explicitly apply to lockouts. Senator Campbell’s argument, which we heard in his interjections, is that the government system causes lockouts. The bill does not specifically mention lockouts, that is true, but what this ex-trade unionist fails to tell the Australian people is that the bill does not specifically mention strikes either. Of course, that is where all the rhetoric of Senators Campbell and Nettle becomes unravelled. It sounds very good to ask, ‘Why don’t you mention lockouts?’ but the fact is that we do not mention strikes either. All we talk about is unprotected action, and that is why it applies equally to the employer and the employee—and, of course, unions have a right to become involved in the process. The bill refers to industrial action and that means it will apply to all unprotected industrial action, whether unprotected strikes by employees or unprotected lockouts by employers. That is the case that needs to be made, given the misrepresentations made by Senators Nettle and Campbell earlier in this debate.

Earlier today I was walking in the corridors and came across my good friend and colleague Senator Rod Kemp, the Minister for the Arts and Sport. He provided me with a badge to recognise National Jockey Celebration Day, which is on 13 March. To those of them in Parliament House, I wish them well and all the best in their endeavours. It
made me think of the trifecta, and I suppose it is every jockey’s desire to win a few races. For those who put money on races—and I am not one of them, I must confess—I understand that to win the trifecta is something pretty special. I think the Howard government have in fact won the trifecta in relation to employment in this country. We have reduced unemployment. More and more Australian men and women are in jobs because of our policies. Unlike the situation under the Hawke-Keating government, under the Howard government real wages have increased above and beyond the rate of inflation. We have done that in a low inflationary environment. To achieve those three factors, I think, is like winning the trifecta, because it is great for our economy, it is great for the mums and dads of Australia and it is great for social unity within Australia. What the Australian Labor Party and the extreme elements that are represented by the Australian Greens cannot understand, cannot comprehend or do not want to admit is that our sound economic policy has delivered this country a low inflationary environment where real wages have in fact increased and unemployment has come down to historically low levels. Indeed, if you were to win four races that would be a quadrangle, I think, and we also have, in this total context, the lowest rate of industrial disputation since records were kept, beginning in the 1940s.

Those who assert that they look after the interests of workers are confronted with a government that actually does look after the interests of workers. Having been in government now for eight years, we have seen the unemployment rate come down, the industrial disputation rate come down, real wages increase and a low inflationary environment. That is the record of this government and we will continue to seek to reform the economic infrastructure of this country. We will seek to reform the industrial relations infrastructure of this country to ensure that these wonderful achievements continue to be built on. We are not happy that the unemployment rate is down to 5.6 per cent or thereabouts; we believe it should be driven down even further. So we want to achieve more for the workers of this country. We are not happy with the high inflation rates that the Labor Party presided over. We are not happy with the high unemployment rates that the Labor Party presided over. That is why we have taken the tough decisions in industrial relations and tax reform—you name it. We have taken the tough decisions, but we have taken them in a fair and even-handed way, as is shown by this legislation. It does not refer to lockouts. It does not refer to strikes. It simply refers to unprotected industrial action, and of course that applies equally to the employer and employee side of the equation.

I understand the Australian Democrats may have an amendment to move in the committee stage, and we as a government are of a mind to support that. I thank senators for their contributions in this debate and urge the passage of this bill.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator MURRAY (Western Australia) (1.28 p.m.)—I move Democrat amendment (1) on sheet 4126:

(1) Schedule 1, item 1, page 3 (line 6) to page 4 (line 25), omit the item, substitute:

1 After subsection 127(3)

insert:

(3A) The Commission may make an interim order under this section.

(3B) An interim order made under subsection (3A) ceases to have
The essence of the government’s bill, apart from the administrative sections, is that interim orders should apply and that orders should be determined within 48 hours. There are three essential components to the bill. The first is the 48-hour provision, the second is that interim orders do apply and the third is that the commission should have regard to a set of determinations or a list of criteria in coming to its view on these matters. The Democrats have had a careful look at the evidence. I must say again, as I said yesterday, that we were extremely careful about interfering with what is a very key procedure in the Workplace Relations Act governing the way in which industrial action may take place. We note that section 127(3), which the government seeks to withdraw, reads as follows:

The Commission must hear and determine an application for an order under this section as quickly as practicable.

In the evidence, again as I said yesterday, the department stated that section 127 has generally proved to be an effective mechanism and the government recognises that the majority of section 127 applications are handled reasonably expeditiously but, from time to time, there are cases where delays occur. Our view is that those times where delays occur are probably good delays, not necessarily bad delays. They tend to be in the minority and they tend to be in circumstances where some delay is justified. So, because we are very sensitive to the way in which this provision is operating and because we think it is operating effectively, as the government has acknowledged in evidence, we are not persuaded to change it to the 48-hour approach.

The second area of concern is the question of criteria which the commission must have regard to in determining whether or not to make an interim order. We as the Senate at times agree to the criteria that courts, commissions or tribunals should have regard to in legislation and at other times we leave it to their discretion. In our view, this is one of the circumstances where we should leave it to the commission’s discretion. There is good jurisprudence in this area, there is good case law and there is a great deal of experience. It is a developing area and we again suggest to the government that, whilst the commission should obviously have regard to the many items they have outlined and to others that we believe are relevant, it should be left relatively open ended.

We are then left with the nub of the government’s proposition, which is that interim orders should be confirmed as being applicable under this section and as being desirable instruments. As you know, again from our discussion yesterday, we are of the opinion that the act does indirectly permit access to interim orders. We do think it is appropriate for there to be interim orders. We do think it is appropriate for there to be no doubt that you can have interim orders. In those circumstances we support that central proposition. Accordingly, our amendment is very simple. It wipes out the government’s item 1 and replaces it with the words:

(3A) The Commission may make an interim order under this section.

(3B) An interim order made under subsection (3A) ceases to have effect if the application is determined.

This is straightforward procedural common-sense. We have kept it short and sweet, and with that motivation we recommend the amendment to the chamber.

Senator JACINTA COLLINS (Victoria)

(1.33 p.m.)—I will be short and sweet also. I indicated last night that Labor will not be supporting the Democrat amendment. We appreciate that their amendment eliminates...
the vast bulk of this bill whilst including a provision to state that the commission may make an interim order under section 127. We do not believe this change is required. As the Labor senators reported to the inquiry into this bill, the commission already has adequate powers to make interim orders and we see no need to encourage the commission to make more of them.

Senator ABETZ (Tasmania—Special Minister of State) (1.34 p.m.)—On behalf of the government, I express our disappointment that the opposition parties are not prepared to support this simple and quite modest bill in its current form. However, we are glad that the Australian Democrats see the benefits of interim orders which will help the commission deal with section 127 applications without the distraction of ongoing industrial action. The government’s approach is that the Democrat amendment will substantially negate a number of important elements in the bill but, unlike some other parties in this place, we do not live in a fantasy world. We accept the practicalities and realities of the numbers in the Senate and we are of the view that any improvement to the workplace infrastructure of this nation is beneficial.

I would classify this as an incremental step towards a position that we as a government would like to get to one day but, given the Democrat amendment, we as a government will at least get something. I suppose we have to be thankful for that, given the numbers in the Senate, so I will not bleat too loudly, Senator Murray. At least it will provide some assistance so that we can keep the wonderful environment in which we currently live. I simply add that the decrease in the unemployment rate, the increase in real wages, the sound inflation basis and the low level of industrial disputation that we have enjoyed over the past eight years have not happened by accident. They have happened by the sheer hard work and determination of this government to put in place the policy parameters on which the Australian Labor Party and the Australian Greens have opposed us each and every step of the way.

I take my hat off to the Democrats, although somewhat begrudgingly, because they do not always agree with us, but at least they are in the real world of politics and on occasions are willing to discuss these things with the government to see where the common ground is, as opposed to simply having opposition for opposition’s sake. That is something we were promised would cease with the new Leader of the Opposition, but unfortunately it has not happened, especially when it comes to the area of workplace relations. But I am aware of the numbers and we will therefore reluctantly accept the Democrat amendment.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendment; report adopted.

Third Reading

Senator ABETZ (Tasmania—Special Minister of State) (1.38 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

WORKPLACE RELATIONS AMENDMENT (CODIFYING CONTEMPT OFFENCES) BILL 2003

Second Reading

Debate resumed from 20 August 2003, on motion by Senator Alston:

That this bill be now read a second time.

Senator JACINTA COLLINS (Victoria) (1.38 p.m.)—The Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003 is much akin to the other bills we have dealt with this week. In fact, one thinks
of Senator Abetz’s trifecta when one considers this bill. The extent to which the government are prepared to relinquish what they are seeking to pursue in order to allow some matters to pass the Senate makes one ponder why we are exercising so much time on some of these bills. One obvious reason is that the government’s lack of preparedness in their business agenda is bringing forward bills of lesser priority that have been sitting on the Notice Paper for quite some time. The government have decided to progress what Senator Abetz referred to a moment ago as begrudging small changes that the Senate has allowed through. Senator Abetz may indeed get his trifecta, but the real content of them is very far from the government’s real agenda. But let us deal with this bill as it stands.

The stated aim of this bill is to amend section 299 of the Workplace Relations Act and to codify the contempt provisions as they apply to the Australian Industrial Relations Commission, but there are already provisions in the Workplace Relations Act which, in conjunction with the common law, ensure that any contempt of the commission is an offence and is subject to penalties. This is in existing section 299. The former Minister for Employment and Workplace Relations, the member for Warringah, Tony Abbott, acknowledged this when he said, ‘There is a law prohibiting contempt of the Industrial Relations Commission.’ These were the member for Warringah’s own words in an interview in a publication called Human Capital Australia, published in March last year. That the then minister could be acknowledging this but at the same time pursuing this type of legislation again makes one wonder about its worth.

In Labor’s view the Senate should not pass unnecessary legislation that has been introduced merely to progress an ideological agenda. There is no demonstrated or practical need for this bill. In light of the lack of policy basis for this bill, it seems clear that the real aim of the bill is to find another avenue for the government to spout anti-union rhetoric, some of which we have been hearing yet again from the minister today. This is most evident in the provisions of this bill that would have the effect of jailing participants in industrial action. As was noted at the Senate inquiry, threatening to imprison people because of their industrial activity is hardly the path to a cooperative industrial relations system. In the minority report of that inquiry we make precisely that point. What is wrong with this bill is that it uses imprisonment as a primary remedy for the taking of industrial action. Anyone who has any conception about how these things should operate would understand that a primary remedy of imprisonment is hardly appropriate.

Let us look at the government’s reasons for the bill. The stated reasons for this bill do not stand up to scrutiny. The explanatory memorandum suggests that we need this bill because of a 1987 Law Reform Commission report. However, the Law Reform Commission report did not recommend the introduction of the disobedience contempt that is proposed in this bill, and the contempt provisions in the industrial relations legislation in 1987 are not the same as the ones in section 299 today. They were substantially added to and changed in 1993 following the High Court case of Nationwide News v. Wills. For this government to prop up its case, it is going back to a 1987 Law Reform Commission report and takes no account of the changes that have occurred subsequently to deal with these issues.

Since the changes in 1993, no actions—and I stress no actions—have been brought under section 299. Not one witness to the Senate’s inquiry into this bill presented any evidence of the use of section 299. The only group that raised concerns about the operation of the current provisions was the Austra-
lian Industry Group. But the Australian Industry Group claims that there were delays in enforcing orders in the court which, even if valid, were not addressed by this bill. So it would be absurd for the government to suggest that actions have been brought and failed because of some problem with the current legislative provisions when in fact they are just not used at all. Instead there is one reason and one reason only for this bill: the consistent theme of the Prime Minister liking provocative, conflict-driven workplace relations bills. Even if there is not a problem that needs fixing, the government continues to bowl up legislation like this, which leads us to Senator Abetz’s trifecta we have today.

The Prime Minister continues to use bills such as this one to pursue his anti-union zealotry. He proudly told the Business Council of Australia in October last year that one of his greatest achievements was the de-unionisation of Australia’s work force. We are talking not about industrial disputation but about de-unionisation as his objective. Unfortunately, the Prime Minister must not realise that even in the face of anti-union legislation like this bill and many before it there are still 1.8 million proud union members in this country.

Bills such as this one and several others that have been debated in the chamber in past weeks, and will be debated this week and in future weeks by this government, are aimed squarely at reducing the bargaining rights of working Australians and the capacity of their unions to represent them. The point of difference here is that the government argues that it is implementing a bargaining system. Yet it continues to find way after way, means after means to tie workers’ hands behind their backs when they need to bargain. This government, going back to 1996, has never acknowledged that there is an unequal bargaining relationship between worker and employer. The only area where the government seeks to address that relationship is where the worker, through the characteristics of the industry, the sector or the time in which they are operating, has a glimpse of the industrial power that can address the imbalance in the relationship between the worker and their employer. It is then that we get the government wanting specific measures for the maritime dispute. It is then that we get the government wanting specific measures for the construction industry. It is then that the government wants to intervene and interfere. But it does not interfere when it needs to deal with the fundamental issue of having an adequate and fair bargaining system—that is, to understand and acknowledge that there will be a power imbalance between the employer and the worker and that the system should deal with that.

Many provisions in these bills may not be needed and they may never become law, but the Prime Minister is insisting that they continue to be bowled up. Almost none of the government’s workplace relations bills have passed the Senate and those that have have been severely modified to contain the agenda that this government keeps promoting. Why have these bills not passed the Senate? Because they are poorly conceived and poorly developed. For those very strong reasons we will continue to oppose such legislation.

Senator MURRAY (Western Australia) (1.47 p.m.)—I rise to speak to the Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003. According to the government, the aim of the bill is to modernise certain offences that relate to the proceedings of the Australian Industrial Relations Commission, to enhance certainty about, and accessibility of, criminal law that operates to protect the integrity of the commission’s proceedings. The Democrats strongly believe that the rule of law must apply in Australia. If the law is being flouted we support
stronger law, but increased powers are only justified where there is sufficient evidence that a real and significant problem exists. I might say that if a law is being flouted it is often not necessary to introduce stronger laws; it is necessary to enforce existing laws with the right resources and the right inspectors and the right regulators to do so.

The government argues that this bill’s codification of the general contempt provision implements the approach recommended by the Australian Law Reform Commission in its report on contempt. It argues that the recommendations included that ‘deemed contempt’ provisions like the current section 299(1)(e) should be replaced with specific statutory offences that identify contemptuous conduct. However, in their submission to the Senate inquiry into this bill, the ACTU argued that there is no indication that section 299 has ever been intended to include failure to comply with a court order or undertaking given to a court, which is disobedience contempt. The ACTU argued that there was nothing in the Australian Law Reform Commission report way back then which gave support to creating additional offences relating to contempt where these are already the subject of a specific statutory offence.

The ACTU further argued that, while recommending that deeming provisions should be removed, the Law Reform Commission specifically recommended:

No new offence covering false allegations of misconduct against tribunal or commission members for non-compliance with orders should be created unless there is a specific need for it to protect a particular tribunal or commission.

The ACTU correctly noted that the inquiry did not have evidence that there was specific need for a new offence. What we have actually seen with this bill and the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003, possibly to be discussed later this week, is evidence for an independent national workplace relations regulator, not new laws. What we have seen is a need for existing laws to be enforced.

Section 178 of the Workplace Relations Act, ‘Imposition and recovery of penalties’, already provides for a general offence of failing to comply with the terms of an order. A number of people can sue for a penalty for a breach of an order of the commission. They are an inspector, a party to the order, an employer who is a member of an organisation and is affected by the breach, and an organisation or an officer or employee of an organisation that is affected by the breach. We all know that ‘organisation’ means registered organisations under the act. Section 356 of the Workplace Relations Act provides that a monetary penalty imposed under the act may be paid into consolidated revenue or to a particular person or organisation. The court will often direct that the penalty it has imposed be paid to the applicant, with reference to the applicant’s costs and expenses in bringing the proceedings.

However, I understand that two problems exist. The first is that it can be costly for an employer and the employer organisation to pursue such cases, especially given that fines are paid into consolidated revenue. Secondly, once disputes have been settled, employers are reluctant to pursue offenders for fear of creating disharmony and further disputes. I do not think that those fears should be lightly dismissed. Like the ACCC and ASIC, an independent national workplace relations regulator would be responsible for pursuing such breaches. The minister, in a press release on 19 December 2002, referred to a list of 22 breaches of industrial court orders—including alleged breaches—since 1999 by four unions. This amounts to approximately five or six breaches a year. I understand that three of those cases, through the use of sec-
tition 178, actually resulted in significant pecuniary penalties.

I found the following extract from the Australian Commonwealth Director of Public Prosecution’s prosecution policy interesting:

Sir Hartley Shawcross QC, then Attorney-General, stated to the House of Commons [in the United Kingdom] on 29 January 1951:

“It has never been the rule in this country—I hope it never will be—that suspected criminal offences must automatically be the subject of prosecution. Indeed the very first Regulations under which the Director of Public Prosecutions worked provided that he should ‘whenever it appears that the offence or the circumstances of its commission is or are of such a nature that a prosecution in respect thereof is required in the public interest.‘ That is still the dominant consideration.”

This statement is equally applicable to the position in Australia. The resources available for prosecution action are finite and should not be wasted pursuing inappropriate cases, a corollary of which is that the available resources are employed to pursue with some vigour those cases worthy of prosecution.

Further, in Australian Paper Ltd v. Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia 1998, North J. in the Federal Court commented on the nature of the court’s power to issue injunctions to restrain breaches of section 127. His Honour stated that, although a Federal Court injunction often operates to enforce a section 127 order, the power to issue such an injunction is an independent power with particular ramifications, and the court will not automatically issue such injunctions just because there has been a breach of a section 127 order. Breach of the court’s order could result in a fine, sequestration or imprisonment, and it was important for the court to keep this in mind when considering whether to issue an injunction.

It seems that the government is trying to enforce an ideology of 100 per cent compliance that is just not supported by the tradition of common law, by the commission or by the courts. I should also note that the ideology of 100 per cent compliance on behalf of the government is, it seems, pursued primarily in terms of unions, not primarily in terms of employers—and I am referring to the construction industry specifically—where we have seen little effort made to address what we are told is massive undercompliance with awards. Of course, it is hard to know or be sure of the scale of this noncompliance but, if we just look at some of the evidence presented by unions at the Senate inquiry into the building and construction industry of the millions of dollars that they have recovered in underpayment of wages, we can assume that noncompliance is occurring without penalty. This is an important point. Some of the position taking in the parliament is very much political and dedicated to achieving a particular political perception, but the general view is that this government is not union friendly and is very employer friendly. Whether that is accurate or not, the government needs to be aware of that perception and therefore needs to attend with as much vigour and vigour employer noncompliance as employee noncompliance. It is just a question of being balanced and even-handed.

I do not want to get too far off track. Clearly, section 178 of the Workplace Relations Act addresses the problem of breach of commission orders and could be enhanced by a national workplace relations regulator. In addition, it is critical to note that section 178 is a civil offence and that the proposed new provision in this bill would create a criminal offence resulting in 12 months imprisonment. It is important to point out that the commission orders not only are orders that can be enforced by courts but also can
be fairly minor and deal with procedural and administrative matters. That has been a matter of concern in the committee deliberations.

With respect to the proposed new provision to make publishing a false allegation of misconduct affecting the commission a criminal offence, given the history of section 299 I have some doubts about its prospective usefulness. The Bills Digest notes that section 299 was amended in 1993, in the predecessor act, following a finding that a previous paragraph, which made it an offence to use words ‘calculated to bring a member of the Commission or the Commission itself into disrepute’, was invalid. That case was about whether the section covered too much, such as a genuine exercise of a right of criticism. I suspect the current provision would face a similar problem. For example, the Australian Chamber of Commerce and Industry, in their submission to the inquiry into this bill, have argued that maintaining confidence in the commission must be balanced with freedom of expression, public accountability and open justice. Those were very good opinions for them to put on the record. The Australian Chamber of Commerce and Industry sought a qualification to the proposed amendment that a person ‘held a genuine belief that was based on reasonable grounds that misconduct has occurred’. I think we would find that anyone could argue that they held a ‘genuine belief’ and therefore the provision would become redundant.

Of greatest concern for me was the fact that evidence presented at the inquiry found that section 299(1)(e) has never been used in prosecution. In fact, a search of the DPP database revealed no cases where action was brought under section 299. Further, there has been no evidence nor call from the AIRC that a new offence of disobeying an order is required. Of further concern is that the current section 299(1)(e) under discussion is based on the same provision then and now applying to tribunals under the Trade Practices Act 1974 and the Administrative Appeals Tribunal Act 1975. The government has not seen fit to change the contempt provisions applying to these tribunals. I think that is an important point. Where governments take a view as to what needs to be changed, generally speaking they make those changes across the whole of government and not just in one particular area of law.

I note the Department of Employment and Workplace Relations, in their submission to this bills inquiry, state that when the opportunity arises such provisions in other Commonwealth legislation will be drafted in a similar way to those being proposed in this bill. So perhaps the government is contemplating that avenue. Might I be so bold as to suggest that the government create the opportunities to amend all legislation and that, if the government were serious about redrafting the general contempt provisions to enhance certainty and accessibility of the criminal law to protect commission and tribunal proceedings, it would be simultaneously trying to amend all acts with this provision, based on a thorough review and the recommended wording which I think would be drafted by the Attorney-General’s Department.

The Democrats would definitely feel more confident in supporting more specifically defined contempt provisions, if the process I suggested above were undertaken. At the moment it appears that the two new suggested provisions are there to deal with matters concerning the government with respect to industrial relations and union behaviour. For example, there is no new provision to deal with dishonest conduct, conspiracy to defraud and bribery of Commonwealth public officials, which are also contempt provisions under the Criminal Code.

Debate interrupted.
QUESTIONS WITHOUT NOTICE
Intelligence: Weapons of Mass Destruction

Senator Faulkner (2.00 p.m.)—My question is directed to Senator Hill, the Minister for Defence. It is nice of him to join us. Does the minister agree with the conclusion of the joint intelligence committee that pre-emptive military action is:

... only sanctioned under international law where the danger is immediate, so the immediacy of the threat was crucial to the argument. The existence of programs alone does not meet that threshold.

Is the minister aware that, of the 19 separate ONA or DIO intelligence assessments outlined at paragraphs 4.80 and 4.81, not one appears to advance the view that weapons of mass destruction would be found in Iraq in sufficient quantities to pose a clear and immediate danger warranting pre-emptive action? Prior to the commencement of military action inside Iraq, did the Howard government receive any credible evidence from the Australian intelligence community that Iraq’s WMDs posed a clear and immediate threat? If not, why did Australia support pre-emptive action?

Senator Hill—I answered that question yesterday. Obviously Senator Faulkner was not listening so I will go through it all again.

Senator Chris Evans—It wasn’t the one that was asked.

Senator Hill—Yes, it was asked. It was in a slightly different form but basically the same question was asked. The Australian government did not rely on self-defence in terms of the UN charter to justify joining the coalition of the willing. The Australian government relied on the terms of UN Security Council resolutions, which are the alternative way of legitimately participating in such an action. The Australian government relied upon the resolutions of the Security Council that indicated that Saddam Hussein had failed to disarm in terms of previous resolutions and therefore was in breach of those resolutions and, to paraphrase the expression, would suffer the consequences if he did not comply. So Senator Faulkner is making a fundamental error when he looks at the basis of the justification.

If the government had relied on self-defence and, in terms of Senator Faulkner’s claim, taken pre-emptive action, then it would have had to show that there was sufficient immediacy. The argument as to what amounts to sufficient immediacy is part of an interesting international legal debate in terms of terrorism and threats associated with the proliferation of weapons of mass destruction, because the doctrine was developed when those particular types of threats were not under consideration and when there was a much longer period of build-up before a time of conflict. I am sorry that Senator Faulkner does not understand these things. I tried to help him in that regard yesterday, but if he wants to resort to the international law text I think he will find that I am right.

Senator Faulkner—Mr President, I ask a supplementary question. What action does the government propose to take to clarify with our allies, particularly the United States of America, just what circumstances will dictate whether Australia supports pre-emptive military action in the future? To be precise, will Australia only join in such action where there is clear intelligence advice about the immediate nature of threat as defined by the United Nations?

Senator Hill—We have never sought to define pre-emptive action other than in terms of self-defence. There are certain requirements that are necessary therefore to meet the criteria for self-defence, and some immediacy is one of those. We are not in dispute on the question of principle; the problem is that the legal basis for Australia’s action...
against Iraq is not the legal basis to which Senator Faulkner is referring.

Roads: Funding

Senator FERRIS (2.04 p.m.)—My question is to the Minister for Local Government, Territories and Roads, Senator Ian Campbell. Will the minister update the Senate on progress to deliver better roads as part of an integrated transport system? Is the minister aware of any alternative policies?

Senator IAN CAMPBELL—I thank Senator Ferris for a very important question. The government is committed to building not only better roads but also a better land transport system through the implementation of what we have called the national land transport plan. It has been given the marketing title of AusLink but it is the national land transport plan. What it is designed to do is ensure that there is more investment in an enlarged national road network and that the national road network integrates with other crucial parts of transport infrastructure, including rail. This government has an unsurpassed record of improving rail freight and also building historic links such as the Adelaide to Darwin link, which has already taken off with great success. We have invested more money in rail. With AusLink, or the national land transport plan, what we want to do is build a better road network and integrate it with sea transport, at our ports, with our airports and of course with rail. I noticed last night, while listening to a speech in another place, that the shadow minister talked about the government allegedly backing away from funding the national highway. Could I reinforce to all Australians that this government, under the national land transport plan, will in fact be investing more heavily in not only the national highway but also an expanded national road network. We currently fund the national highway 100 per cent and, as most senators would know, we fund a range of other programs—Roads of National Importance, for example, where we share funding with state governments.

What we want to do with the new national land transport plan is to get away from the buck-passing and the political game playing which goes on around this country day by day and to fund an expanded national highway network where the Commonwealth invests more heavily, but we also invite the states to share in that responsibility. With most of these roads, the states gain significant benefit from the improved investment, as does the Commonwealth from having a better integrated national plan. This will build enormous benefits for all Australians. It is a benefit for transport operators, which means that Australians, wherever they live, are going to get their goods delivered to them more quickly and more efficiently; it should also lower prices. It means that we can better integrate with the rest of the world so that when we are shipping product from our farms, from our regional areas and through our ports we can be more competitive. It ensures incredible benefits flowing from the free trade agreement—let us hope that it gets through the Senate. It ensures that the goods that are coming from our primary producers that can go to the American market through the assistance of the FTA can get there on time and on budget.

The senator asked me about alternative policies. I would need to expand on that somewhat. If the senator were to deign to ask a supplementary question then I could focus on alternative policies but the important thing is that the coalition government has an integrated national land transport plan. What Mr Ferguson made clear in the other place last night was that he wanted to stick to the old way, with the Commonwealth only funding the national highway—not expanding its horizons, just looking backwards. We want to look forward to a stronger Australia with
better roads and better transport, a place which is safer for motorists and, of course, better integrated with other freight modes. We have put our money on the table to do that. Already this year we have announced in excess of $2 billion of new investment—

(Time expired)

Senator FERRIS—Mr President, I ask a supplementary question. I would appreciate the minister updating the Senate about any alternative policies of which he is aware.

Senator IAN CAMPBELL—I think it is very important that the Australian people know that there are alternative ideas floating around. One of them was from Mr Ferguson last night when he said, ‘We will go back to the old way; we will just fund the national highway and we’ll ignore all the roads of national importance.’ I worry about the people in Bendigo, Ballarat, Geelong and Ipswich if that is, in fact, the approach of the opposition. We have seen the Labor Party in power in Victoria and their approach to roads. You have to be careful about any promise Labor makes on roads. Take Scoresby: Labor in power promised to build it and promised not to toll it. They were elected and what did they do? They put a toll on it and backed away from it. They have turned up their nose and pushed away $465 million worth of funding from the federal government. We keep our $465 million on the table in Scoresby. We call on the Victorian government, Labor in power, to build that road and to build it without a toll.

DISTINGUISHED VISITORS

The PRESIDENT—Order! Before I call Senator Conroy, I would like to draw the attention of honourable senators to the presence in the President’s gallery of a delegation from the parliament of the Republic of Slovenia led by their foreign minister, Dr Dimitrij Rupel. On behalf of honourable senators, I have pleasure in welcoming you to the Senate and I trust that your visit will be both informative and enjoyable.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Trade: Free Trade Agreement

Senator CONROY (2.11 p.m.)—My question is to Senator Hill representing the Minister for Trade. Minister, can you confirm as correct a report on ABC radio this morning that twice in the last week of negotiations in Washington Australia’s top trade negotiators told the Minister for Trade that he ‘would damage Australia’s long-term agricultural objectives, damage Australia’s long-term stand in the WTO and your leadership of the Cairns Group’, if the government signed such a poor trade deal with the US? Minister, in light of this advice by Australia’s top trade negotiators, why did the government agree to a trade deal with the US that has done so much damage to Australia’s longstanding reputation as a supporter of free trade in agriculture?

Senator HILL—That certainly does not sound right to me, because what has been achieved by Mr Vaile through his negotiation, with the help of the trade officials to which Senator Conroy refers, is a very good deal for Australia. It is an opportunity for further access to the largest market and economy in the world, and for Australia as a trade nation that has to be a very good outcome. The challenge now, of course, is to turn the opportunity into material benefit. That will be the challenge before the Australian business community.

In terms of a government responsibility to provide that access, this government can be very proud of its achievements. It can look to the new opportunities that it has provided through a free trade arrangement with Singapore, the new opportunities through a free trade arrangement with Thailand and now huge new opportunities through this agree-
ment with the United States. What was the alternative of Labor? ‘Multilateral or nothing’ was the cry of Labor and they are still saying it. Senator Cook, from the back bench now, continues to say it. He is the last adherent of putting all the eggs in the one basket. ‘Multilateral: take the benefits on the global scene or do not take any benefit at all.’

This government has a different approach. It wants to take the benefits of both methodologies. If we can get increased access through the multilateral round, we will do so; if we can do it bilaterally, we will do that as well. I know it is a harder task and it is more work, but Mr Vaile has been prepared to take up that challenge and has achieved a very fine outcome for Australia. The responsibility now, I would respectfully suggest, is for the parliament to as quickly as possible pass the enabling legislation, enable the agreement to be brought into effect as quickly as possible and get the benefits and opportunities flowing to Australian business.

Senator CONROY—Mr President, I ask a supplementary question. Minister, given Australia’s previous hard-fought reputation as the international driving force for agricultural liberalisation, why were Prime Minister Howard’s political interests allowed to ride roughshod over Australia’s national interest in agreeing to such a dud deal?

Senator HILL—Senator Conroy knows that in terms of agriculture this is a good deal. It is good for beef; it is good for dairy; it is good for my home state in relation to the tuna industry. It is good for many sectors within agriculture. We did not achieve everything we wanted. Senator Conroy, who is still learning this trade business, will one day realise that people never achieve everything they might like through a negotiation. But in terms of getting better and greater access for Australia to that massive US market, this has been a fine achievement. It is regrettable that the Labor Party will not support it.

Agriculture: Sugar Industry

Senator BRANDIS (2.15 p.m.)—My question is directed to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Ian Macdonald. Will the minister inform the Senate of further action by the Howard government to assist the sugar industry in Queensland and New South Wales? Is the minister aware of any alternative policies?

Senator IAN MACDONALD—Perhaps, if Senator Brandis would allow, I will answer the second part of the question first. Yes, I am aware of some other policy proposals, Senator Brandis. Mr Lindsay Tanner had a policy in relation to sugar. That was that you should not give the sugar growers anything because it was just a political pork barrel. He was opposed to giving assistance to the sugar industry. I have heard of another policy from a—

Senator Faulkner—Mr President, I rise on a point of order.

Senator IAN MACDONALD—Oh, very sensitive!

Senator Faulkner—I am not at all sensitive. My point of order, Mr President, is this: you made a ruling in relation to ministers commenting on alternative policies.

The PRESIDENT—I was just about to bring that to the attention of the minister.

Senator Faulkner—Are you now ruling that it is competent for a minister to deal with those matters before the substance of the question is dealt with, which is what this minister has indicated to the chamber he is doing? I was surprised that you did not call him to order. You may not have been listening. Could you please make a ruling.

The PRESIDENT—I was about to call the minister to order. Yesterday I did make a
ruling—and I draw Senator Ian Macdonald’s attention to that—that commenting on alternative policies is okay after you have commented on government policy. I remind the minister of that and I call Senator Ian Macdonald again.

Senator IAN MACDONALD—The opposition leader obviously did not want to hear about the conflict of policies from the ALP opposition. But, Mr President, I of course respect your ruling. As Senator Brandis would well know, the sugar industry is in a parlous state. It is the victim of a very corrupt world trading system. The world price for sugar is now below the cost of production for many in the industry. Substantial domestic reform is therefore needed if the industry is to make the necessary productivity improvements to return to profitability. I know that Senator Brandis, Senator Boswell, I and others on this side have met with industry representatives from the sugar areas. I know that the Prime Minister has, and he has also discussed this with Mr Beattie.

I am encouraged by yesterday’s announcement in Queensland that an agreement has been reached between the Queensland government, the Canegrowers organisation and the Australian Sugar Milling Council committing to comprehensive reform and restructure. The Australian government does recognise the difficulties facing the sugar industry, and the Prime Minister has on many occasions indicated his willingness to provide further assistance on the condition that the industry commits to significant restructuring. Cabinet yesterday discussed this matter, and we have decided that we will give it further consideration following discussions with the industry and with the Queensland government in the period ahead.

In the meantime, the government wants to help those in the most genuine need. The Prime Minister was pleased to announce today that the Australian government will provide up to $21 million in income support to sugar cane growers and harvesters experiencing financial hardship. From today the assistance will be available for 12 months and will help ease the financial position of those hardest hit by the current situation. Assistance will be paid at rates equivalent to the Newstart allowance. Cane growers or harvesters interested in applying for assistance can collect Centrelink forms from today to register their intent to claim. Eligible recipients will receive payments backdated to today. A further $5.6 million will be available for business planning support, so that growers who qualify to receive income support will also receive business planning support.

Senator Brandis, as I highlighted earlier, asked about alternative policies. I have mentioned a policy from Mr Lindsay Tanner, who does not want to give the growers anything. Then there is Mr Mark Latham, who went to Cairns in the company of Senator McLucas. He decided that the cane growers do need support and he will be supporting the government. What is the difference between those two policies? They both come from frontbench members of the Australian Labor Party. It clearly demonstrates that the Australian Labor Party will say something to the CPSU—Mr Tanner talking to Senator Mackay’s mates—when it suits them for that area but when Mr Latham goes up into the bush amongst the cane growers it has a completely different policy. It shows the absolute hypocrisy of the Australian Labor Party on the sugar industry, as with every other industry.

Intelligence: Weapons of Mass Destruction

Senator LUDWIG (2.20 p.m.)—My question is to Senator Hill, Minister for Defence and Minister representing the Prime Minister. Given the welcome news that the
government will accept the recommendation of the joint intelligence committee to establish a full and independent inquiry into Iraq intelligence failures, will the government now agree to consult with the opposition on the terms of reference and who should head this inquiry? Does the minister agree with the chairman of the joint intelligence committee, who said last night that the opposition should be consulted in the appointment, stating it was ‘a very good idea if those negotiations took place’? Wouldn’t the findings of such an inquiry be enhanced if the head of the inquiry was endorsed by both government and the opposition? Wouldn’t such a bipartisan approach reinforce the approach taken by the joint intelligence committee?

Senator HILL—I will pass that sentiment to the Prime Minister for his consideration. I note that it was not a suggestion of the joint committee that seemed to pass the responsibility to government, as you would normally expect in terms of executive responsibility. The inquiry that was recommended by the committee was one to be led by a former— I think the words were—‘senior intelligence officer’ to look at the institutions themselves, and it would normally be the responsibility of government therefore to select such a person to carry out that task. But now if as an afterthought the Labor Party is suggesting that it wants to in a bipartisan way share in this executive responsibility, I will pass that suggestion to the Prime Minister for his consideration.

Senator LUDWIG—Mr President, I ask a supplementary question, since that was a short answer. While he is consulting with the Prime Minister on that issue, he might also consider that it might be best to leave the reporting date of such an inquiry to the judgment of the person conducting the inquiry to determine rather than the government imposing a contrived date. It would be helpful to establish some ground rules, if an answer could be provided along those lines.

Senator HILL—There is no question of a contrived date. It would be the wish of the government that the matter be concluded as quickly as is reasonably possible, and that is in a way that is consistent with doing the job properly. I would have thought that it would be quite likely that the person tasked with conducting this inquiry would be consulted as to how long that might take.

Education: Funding

Senator ALLISON (2.24 p.m.)—My question is to the Minister representing the Minister for Education, Science and Training. I refer to the Prime Minister’s announcement at the weekend that the SES funding model will be extended to Catholic schools. Given the fact that funds will still be pooled and provided direct to the Catholic education system, what guarantees are there that the extra $364 million over four years will find its way to the needier schools?

Senator VANSTONE—I thank Senator Allison for the question. Senator, having confirmed that there is nothing particular to say in response to your question, can I thank you firstly for highlighting the very substantial increase in funding that will be going to Catholic schools under this government. We are very grateful for that free kick from you. Can I also thank you for highlighting the fact that the money will be given on the basis of the SES arrangements, which will mean a very substantial percentage of Australian schools will now be funded that way. I am sure that Senator Carr will have some questions on that issue at budget estimates. If you, Senator Allison, had been listening—as I am sure you were because you are interested in these areas—you will note that Senator Carr asked some questions about this last time. If he will forgive me, it did seem as though Senator Carr was wishing to make a
point that there was a smaller percentage of SES funding than might be liked. I look forward to Senator Carr asking the same questions at the next estimates committee, highlighting the very significant proportion of schools that will be funded in this way. Senator Allison, you are very brave because the implication of your question is that the Catholic schools will not in fact distribute the money in a fair way to the most needy schools. I, for one, would not be prepared to make that allegation.

Senator ALLISON—Mr President, I ask a supplementary question, although it is hardly a supplementary question; it is the same question. What guarantees are there that this extra money will go to the needier schools? I repeat that question because the minister did not answer it. When will we see details of which schools will receive the extra money? Isn’t it the case that the SES funding model will still not apply to 60 per cent of Catholic schools that already receive more than they would under the model? Will the minister provide a list of the 60 per cent of Catholic schools that are funding maintained?

Senator VANSTONE—There are two propositions contained in that question. One relates to the question of whether there are schools that will be no worse off, and that is the point you raise by asking, ‘Aren’t there some schools that are getting more?’ If you want to go out there and raise the proposition that there should be schools that are worse off than their current funding then, please, make my day. I hope you go and do it in a whole range of marginal seats, because we would be very happy to have that argument with you any day you choose.

Senator Allison—Mr President, I raise a point of order. The minister is debating something other than the question I raised. She is also making assumptions about what I said that I did not say, and I would ask you to ask her to answer the question.

The PRESIDENT—Senator, I do not believe there is a point of order. The minister has 24 seconds left to complete her answer.

Senator VANSTONE—Thank you, Mr President. Senator, as to any remaining parts of your question, I will refer them to Dr Nelson.

Asia Pacific Space Centre

Senator CARR (2.28 p.m.)—My question is to Senator Minchin, the Minister representing the Minister for Industry, Tourism and Resources. In regard to the government’s space program on Christmas Island, did the government approve a $100 million strategic investment coordination grant to the Asia Pacific Space Centre project and then appropriate this money from the Treasurer’s advance? What milestones does the contract with APSC have built into it? Has the company met these milestones? Can the minister now confirm that this company has not been paying wages, superannuation entitlements of its workers or its rent and may well be trading while insolvent?

Senator MINCHIN—We welcomed the then opposition’s support for the initiative that we took to try to ensure that Christmas Island could be the basis for a satellite launch project for Australia. We have no embarrassment whatsoever about trying to ensure that the government, sensibly and prudently, could facilitate the development of this project on Christmas Island. We welcome and acknowledge the efforts of APSC as a company prepared to take risks and engage with the Russians to acquire the relevant rockets to pursue a space project on Christmas Island which would be very good not only for the economy of that particular territory but also for Australia. It has been one of the lost opportunities for Australia to engage in the space industry.
It is a very difficult industry—there is no doubt about that—and APSC has constantly acknowledged the difficulties it has had in raising the requisite finance to ensure that it can proceed with this project. The government, through the industry department, did put in place very significant and stringent milestones before any resources were expended on this. The commitment by the government was very much on the basis of multi-user infrastructure on the island in the case of roads and things like that and upgrading the airport. No direct grants were proposed straight to the company or anything of that sort. My understanding is that very little of the total package has been spent because those milestones have not been achieved. Financial closure was the critical threshold requirement before any expenditure by the government on the multi-user infrastructure or upgrading of facilities on Christmas Island would be undertaken, and financial closure has not yet been completed.

I am advised, by virtue of this Industry brief, that a notification of the filing of an application for a wind-up order relating to APSC has been lodged with ASIC under the Corporations Act. I therefore do not want to make any comment on it until the outcome of that application—and I stress it is an application. I understand that APSC is continuing to work towards obtaining the investor funding. The brief confirms what I said before, that no strategic investment incentive funds have been paid directly to APSC because the preconditions for payment have not yet been met.

I say again that this is a very exciting project. I hope very much that it does occur. I think it is a disgrace that this opposition would seek to exploit the difficulty that this company has had in obtaining investor finance to make a mockery of what is a very exciting project for Australia and one that at least former senator Chris Schacht, who was dumped by his party, was a great supporter of on behalf of the then opposition at the time we entered into this agreement with APSC. I for one would love to see this project proceed, and I think it is pathetic of this opposition to try to exploit the company’s current difficulties.

Senator CARR—Mr President, I ask a supplementary question. I thank the minister for confirming that the wind-up notices have in fact been issued. Would he acknowledge that court proceedings are on Thursday?

Senator Hill interjecting—

Senator CARR—This is a serious matter. Senator Hill. Given that at Woomera, the other major site for a space industry, no projects are planned until 2007 and that the main company involved with that project is also facing serious liquidity problems and is involved in chapter 11 proceedings in the United States, can you now confirm that the whole space program undertaken and championed by you is in deep trouble?

Opposition senators interjecting—

The PRESIDENT—Order! Senator Carr, you have asked a question; can we have some quiet so we can hear the answer?

Senator CARR—I haven’t said a word.

The PRESIDENT—I am suggesting that your colleagues around you are making so much noise I cannot hear the answer.

Senator MINCHIN—It is not surprising that we see knocking, denigrating and attacking from Senator Carr: this senator in particular is an avowed opponent of capitalism and the private sector in this country. Every time someone in this country is prepared to take a risk and invest some money, who is out attacking them? Senator Carr. It is a disgrace that Senator Carr behaves in the way he does. We strongly support the space industry in this country. We want to see APSC succeed. Senator Carr obviously does not.
He is going to do everything he can to make sure it does not succeed. He is a disgrace to this Senate.

The PRESIDENT—Senator Minchin, that last remark is out of order. I ask you to withdraw it.

Senator Minchin—Under what standing order?

The PRESIDENT—Under my standing order, Minister. I ask that you withdraw.

Senator Minchin—I, of course, withdraw.

Environment: Water Management

Senator LEES (2.36 p.m.)—My question is to Senator Ian Macdonald, the Minister representing the ministers for agriculture and the environment. Can he tell the Senate how much water, if any, has been restored to the rivers of the Murray-Darling Basin in the last five years? Specifically, how much water that was previously allocated has now been left in any or all of the rivers to improve their health? Is it correct that the amount restored—the total—is zero?

Senator IAN MACDONALD—I thank Senator Lees for her question on the Murray-Darling Basin. It is an area in which the Howard government has shown real leadership and has worked very closely with the states and territories to advance environmental outcomes in the Murray-Darling Basin system. I know that Senator Lees follows this issue very well and would recall that it was only midway through last year—and I am just trying to find my notes with the actual date—that the Murray-Darling Basin Ministerial Council made the decision to return flows to the river to get environmental outcomes. From her gesticulations to me I think she is asking: how much of that has actually got there? I do not have the figures in front of me. I suspect that by this time it is probably not a lot, because a lot of work has to be done to go to those particular areas where we wanted the environmental flows to make a difference. We were not so much hung up on quantities as outcomes. We wanted to make sure that the five or six listed sites did get sufficient water to ensure that they were able to operate and regenerate.

Senator Lees will recall that the Howard government has committed some $200 million to address the issues of overallocation of the water in the basin and the states between them have committed an additional $300 million. I just remind Senator Lees that, while the Australian government has committed $200 million to that, Mr Latham, in a great announcement of what the Labor Party were going to do in the Murray-Darling Basin, actually committed a Latham government to a payment of $150 million—that is, $50 million less than the Howard government has already committed to the Murray-Darling Basin. So, Senator Lees, whilst you on that side—alone, I suspect—understand the importance of the Murray-Darling Basin, regrettably, the Labor Party have so little interest in the Murray-Darling Basin and the environmental flows there that they have promised a commitment of $50 million less than the Howard government has already committed.

Senator Lees will know that the states are actually responsible for specific water resources in the Murray-Darling Basin. The states in the basin are committed to the cap and have agreed to implement the Living Murray initiative. I would hope that all those particular initiatives—in fact, the best science we have indicates that it is more than a hope—will deliver environmental outcomes back into the Murray-Darling Basin in the future. It is going to be long, it is going to be hard and it is going to be a very complex operation, but we will get the health back into the Murray-Darling system and we will
do it in a way that does not destroy families, businesses and lives.

Senator LEES—Mr President, I ask a supplementary question. I was actually looking for the outcomes—not for the players or the promises—and at what we have actually achieved to date. I ask the minister to take the question on notice and come back with the details. I also specifically ask him: can he confirm the insidious practice of borrowing river environmental flows, with the agreement of state authorities, including water authorities, for agricultural and other purposes and then forgetting to repay those borrowings?

Senator IAN MACDONALD—There are allowances to be able to borrow forward. They do have to be repaid. You are expressing a concern, I think, that the South Australian government has borrowed forward but has not repaid. We at the ministerial council do keep a fairly strict eye on that and, whilst we have no punitive measures to take—we cannot throw South Australia in jail—we do discuss that openly. South Australia by and large has been responsible insofar as the operations of the Murray-Darling Basin system go. In relation to the particular detail that you are requiring, I will obtain further information from Mr Truss, who is Chairman—and I might say a very good chairman—of the Murray-Darling Basin Ministerial Council, and I will get back to you with those details.

Immigration: Omar Abdi Mohamed

Senator WONG (2.40 p.m.)—My question is to Senator Vanstone, the Minister for Immigration, Multicultural and Indigenous Affairs. My question concerns Omar Abdi Mohamed, a man who is accused of receiving funds from a terrorist organisation and who has entered Australia five times since December 2000. Is the minister aware of a report in today’s *Sydney Morning Herald* that Omar Abdi Mohamed was under investigation by United States authorities for several years prior to his final departure from Australia and that US authorities were aware of Mr Mohamed’s presence in Australia when they issued a warrant for his arrest on 19 December 2003, six days prior to his final departure from Australia? Will the minister now confirm or categorically deny that she or her department were informed of any contact with Australia by US authorities requesting information about a person going by the name of Omar Abdi Mohamed prior to 29 January 2003?

Senator VANSTONE—There are some aspects of your question that I might refer to the department and ask if there is anybody who wants to put a different answer than I am now aware of. I will come back to you in relation to that. But I can say this: audit checks on the movement records in relation to Mr Mohamed show that only DIMIA officers accessed his records prior to 29 January 2004 as part of processing his visa applications. That is the only information I have that goes directly to your question. I will take the rest of it on notice and come back to you.

Senator WONG—Mr President, I ask a supplementary question. Minister, I note that a senior DIMIA official did confirm in Senate estimates on 17 February that the US Embassy had contacted Australia some time prior to 29 January 2003. Given that you appear to have confirmed that contact, when was the contact made, with which Australian agency or agencies, what information was sought from and provided by the United States and what information was sought from and provided by Australia?

Senator VANSTONE—I was present at those estimates and those questions went over a considerable period of time. It is the oldest trick in the book to ask a question about estimates as if it is some new revelation and hope you can get yourself a head-
line. I will refer you back to the estimates. If there is any change in the answer other than those that were given at estimates, I will get back to you.

Insurance

Senator TCHEN (2.43 p.m.)—My question without notice is to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Would the minister inform the Senate of what the Australian government is doing to stabilise and reduce insurance premiums for Australian businesses and community groups? Mr President, keeping in mind your instruction to the Senate chamber, I very carefully ask: is the minister aware of any alternative policies?

Senator COONAN—Thank you to Senator Tchen for a question that deals with a very serious issue for business, community groups, doctors and indeed other professionals in Australia. The cost of premiums and the availability of public liability and professional indemnity insurance is an issue of great concern to the government. Last Friday I hosted the seventh ministerial meeting on insurance issues in Hobart. These meetings include representatives of state, territory and local governments and have of course resulted in significant reforms being undertaken by all jurisdictions over the last two years to help ease the insurance crisis in Australia and to stabilise and reduce premiums. The most recent ACCC monitoring report on insurance premiums did show a significant slowing of premium increases in large part due to the negligence law reforms that have been implemented. At the meeting last Friday the Australian government was urged to press ahead with amendments to the Trade Practices Act to support state and territory reforms. The Australian government is keen to do that but its attempts have been stymied on two occasions by the senators opposite, who have opposed the reforms. The government’s amendments to the Trade Practices Act are based on the expert recommendations of the Ipp report, they have the unanimous support of Labor state and territory governments, the support of industry groups, the support of the Insurance Council of Australia, community groups, businesses and all professionals struggling with higher premiums.

In fact, the New South Wales Treasurer, Mr Egan, in point has described the opposition to these reforms as the ‘biggest obstacle to negligence law reform’. The use of the Trade Practices Act as an alternative to recovering for personal injuries is very real. Cases are now coming to light where a claim is too small to succeed at state level but can still be brought under the Trade Practices Act. While this loophole remains open, claims costs will not come down and these reforms will remain incomplete.

Mr Latham has said that he will put the national interest ahead of political interest. This is exactly what he should do here. Mr Latham should speak to his Labor colleague Mr Adams, the member for Lyons, for instance, who has written about the difficulties the premium rises in public liability are causing in his communities in Tasmania. I have the letter here. He says: I believe this is something that should be above politics and should be dealt with in order to find insurance that covers community activities before all community organisations are forced to disband.

Mr Latham should listen to the Kempsey Country Music Club in New South Wales, who raise funds for charities and community groups. They now write: We feel that if the insurance rises much higher we will be forced to disband. If this happens we can no longer assist groups with donations. Mr Latham should also heed the calls from doctors, particularly doctors in rural commu-
nities. I have a letter from one faced with
dramatically increased insurance premiums
who is pleading for some balance to return to
the system. One doctor has indicated that she
will leave general practice because of premi-
ums. She says:

There is no longer such a thing as bad luck or an
accident. Someone must be held accountable for
every subzero outcome that happens in this world.
We are turning Australians into a race that lacks
responsibility.

The people who lack responsibility are those
sitting opposite, who oppose these sensible
reforms. They are out of step with every ex-
pert opinion; they are out of step with their
own colleagues in the state. Mr Latham now
has an opportunity to put populism aside and
do something that actually supports the na-
tional interest. Talk is cheap. Leadership is
much more difficult. I call on Mr Latham to
actually support these reforms. (Time ex-
pired)

Indigenous Affairs: Funding

Senator O’BRIEN (2.50 p.m.)—My
question is to Senator Vanstone, the Minister
for Immigration and Multicultural and In-
digenous Affairs. Is the minister aware of
legal advice to the board of ATSIC reported
in yesterday’s Australian that finds that
ATSIC cannot issue directions to ATSIS in
respect of the implementation of ATSIC’s
policies and priorities. Can the minister con-
firm that the advice questions the legality of
all ATSIS expenditure since its creation on
1 July last year? Can the minister also con-
firm that the advice contradicts assurances
from the government that ATSIC can deter-
mine indigenous spending priorities? When
did the government first seek legal advice, or
any advice, on the legality of the role it pro-
posed for ATSIS? Can the minister assure the
Senate that the government’s own advice
raised no question as to the legality of ATSIS
undertaking ATSIC functions?

Senator VANSTONE—I thank the sena-
tor for the question. I did see that report in
the paper yesterday and I asked for advice on
it. The advice I was given was this. Our legal
advice stands firm behind what we have
done. ATSIC has not provided the govern-
ment with the advice to which it refers. I
have subsequently said that, if ATSIC wants
to query the government’s advice and to
challenge it, the appropriate thing to do is
give us the advice that they say effectively
does that. I do not have the advice—I think it
is Mr Jackson’s advice—that was provided
to ATSIC, so I cannot say whether it does
what the journalist alleges it does or not. I
would have thought—I will chance my arm
here—that if that advice did say that then
ATSIC would have raised it before now.

Senator O’BRIEN—Mr President, I ask
a supplementary question. I ask again: can
the minister assure the Senate that the gov-
ernment’s own advice raised no question as
to the legality of ATSIS undertaking ATSIC
functions? Given that more than $1.1 billion
has been appropriated to ATSIS this financial
year, to provide certainty to recipients of
ATSIS funding will the minister guarantee
the legality of ATSIS expenditure? Given the
minister refers to other legal advice, which I
take it she is asking to see, will the minister
release all legal advice received by the gov-
ernment in relation to the functions and pow-
ers of ATSIS preceding and subsequent to its
creation?

Senator VANSTONE—it is an inter-
esting proposition as to whether Labor would
put ATSIS back into ATSIC to give ATSIC
control of the funding. Is that the proposition
that is being led here? I think it is the propos-
ition that is being hidden behind. That is
basically the case here. You do not want to
come out and say that would be your policy,
but that is where it is going. Senator, I made
it very clear to you: I do not have a copy of
the advice that ATSIC sought, which is re-
ferred to in the paper. I do not have that. If ATSIC chooses to give that to me or to make it public then I think we can have a sensible debate about it. But, without it being made public, without us having the opportunity to have a sensible debate about it, I have nothing to say about it. All I can say to you is that the government received advice, which was not hastily sought yesterday. I asked for the advice that was available in the department. Presumably, it was obtained some time ago when this move was made. I am assured that the government is confident of relying on that advice.

Political Parties: Donations

Senator MURRAY (2.53 p.m.)—My question is to the Special Minister of State, Senator Abetz. With the exception of small donations, does the minister accept that the fundamental principle that should govern the disclosure of political donations is that whoever makes a donation should be identifiable? Does the government recognise that keeping donors' identities secret has the potential to encourage corruption in politics? What steps does the government propose to take to ensure that those individuals, organisations or companies who donate secretly via trusts, foundations, clubs and fundraisers are disclosed?

Senator ABETZ—I thank Senator Murray for his question. The government believe that, in general terms, the framework that currently exists within the Commonwealth Electoral Act is appropriate. The question as to what a small or large donation might be, of course, varies. In respect of people opposite such as Senator Bolkus— and he is already smiling in anticipation that I will raise his raffle in the circumstances of this question—it does raise some very genuine and serious concerns when raffles are allegedly held without anybody actually winning the prize. Whether or not appropriate disclosure has been made is a matter that the Australian Electoral Commission is looking at, and I will not comment on that any further.

There are a number of issues that arise for public discussion in relation to donations to political parties. In fact on the adjournment debate the other night my colleague Senator Mason raised a very interesting circumstance where the Wilderness Society, which has tax deductibility status, has issued how-to-vote cards asserting that people ought to vote 1 the Greens and then 2 the Australian Labor Party—allegedly in contradiction to what the Greens actually wanted. So we have a whole host of circumstances in which moneys are made available to various causes. Of course, we have the trade union movement. The worst rort of all is Centenary House.

Senator Sherry interjecting—

Senator ABETZ—It is interesting that, when I say the worst rort of all, Senator Sherry gets the cue straightaway and acknowledges that it would be Centenary House—because even the Australian Labor Party know that Centenary House is the biggest fundraising rort that has ever been set upon the people of Australia. If Senator Murray has a particular plan of action in relation to donations to political parties—and he is nodding his head in agreement that he has such a plan—then we as a government, being a consultative government, would be willing to have a look at his proposals and consider them. The Joint Standing Committee on Electoral Matters may want to have a look at it, but that would be a matter for them.

Senator MURRAY—Mr President, I ask a supplementary question. I thank the minister for his answer, although I must say that it did not address the core issue of the importance of making donors' identities public. With respect to the Centenary House matter,
at least there is nothing secret about that. Just using one example, and there are many, the Australian Electoral Commission has recently revealed that the Cormack Foundation has poured $1.8 million into the Liberal Party. Does the government know who lies behind the foundation, the nature of the business of the foundation and whether the donations do indeed come with strings attached?

Senator ABETZ—In relation to the Cormack Foundation, it has been disclosed on a number of occasions at Senate estimates and in other places that the Electoral Commission considers that to be an associated entity and, as a result, it has to comply with the requirements of the Commonwealth Electoral Act. The importance of public disclosure has been in the statute books since about 1983.

Senator Robert Ray—When you voted against it.

Senator ABETZ—Senator Ray tells me that I voted against it, but I only got here in 1994. Senator Ray can keep on with that sort of nonsense.

The PRESIDENT—Order! Minister, ignore the interjections and address your remarks through the chair.

Senator ABETZ—Mr President, you are quite right that I should ignore the interjections but the problem is that, if the interjection happens to make it into Hansard, it is important for me to correct the public record. Nevertheless, I would be happy to engage in dialogue with Senator Murray and the Australian Democrats if they have any firm proposals in this area. (Time expired)

Industry: Strategic Incentives Investment Program

Senator GEORGE CAMPBELL (2.57 p.m.)—My question is addressed to Senator Minchin, the Minister representing the Minister for Industry, Tourism and Resources. Is the minister aware that the Department of Industry, Tourism and Resources admitted during estimates that the American Syntroleum Corporation earned $2.964 million in interest from grants held in escrow under the Strategic Incentives Investment Program despite the fact that the project that the grants were awarded for will not be proceeding? Can the minister explain how this happened? Can the minister advise the Senate of any other circumstances where grants have been held in escrow for major projects and the companies have received the interest payments?

Senator MINCHIN—As Senator Campbell notes, the government did offer a strategic investment incentive to Syntroleum in September 2002. Syntroleum announced that its Sweetwater gas deliverance project proposed for the Burrup peninsula would in fact not proceed. A $30 million purchase of a non-exclusive technology licence and $40 million conditional loan to support further research, development and demonstration were announced prior to that in February 2000. One of the conditional terms of the agreement was that Syntroleum could draw interest on any moneys held in escrow. Syntroleum is still working with the Australian government with a view to undertaking other GDL projects in Australia and securing a return for Australia on the government’s investment in this technology. The industry department is currently holding discussions with Syntroleum about the early return of funds advanced under the SIC process.

Senator GEORGE CAMPBELL—Mr President, I ask a supplementary question. With the AMC’s Stanwell magnesium project mothballed, can the minister advise the Senate as to what Commonwealth funds have been devoted to this project? Is the Australian Magnesium Corporation receiving interest from the Commonwealth funds held in
escrow? If so, how much? Is the Commonwealth able to recover the money held in escrow and the interest earned? What does the minister say to the thousands of families out there unable to find a bulk-billing doctor when they hear that this government has given a foreign company a gift of nearly $3 million or the equivalent of over 115,000 bulk-billed consultations?

Senator MINCHIN—Unlike the Labor Party, this government is actually interested in creating jobs. We are interested in attracting foreign investment into this country in order that working Australians can get jobs in exciting new technologies in exciting new projects. In every case where we have sought to attract foreign investment to this country, we have been ably supported at every step by the relevant state Labor government. I note that, in the case of AMC, strong support came from the Queensland Labor government. In the case of Western Australia, there was strong support from the Western Australian Labor government because they, unlike this opposition, understand the need to attract investment into these projects to create jobs for Australians. That is how we have been able to create 1.3 million jobs for this country since we have been in office and halve the unemployment rate that we inherited from this mob opposite.

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

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Trade: Free Trade Agreement

Senator CONROY (Victoria) (3.02 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Conroy today relating to the free trade agreement between Australia and the United States of America.

Once again we saw today this government not wanting to face up to or admit what it has actually done. It continues to try to misrepresent Labor’s position. It continues in the other place; it continues here. Labor have consistently said that we will examine this deal, that we will examine the detail and that we will use the Senate select committee which we have established to look at it. We are not just going to roll it through the Senate as Senator Hill would like us to do. The US Congress gets a minimum of three months to examine the deal but Senator Hill would be happy if we just rolled it on through the chamber, therefore having no chance to examine the detail. Labor have said, ‘If it’s a good deal, we will support it; if it’s a bad deal and it undermines the PBS then we will vote it down.’ Labor have taken a very consistent position on that.

I want to address another piece of hyperbole by Senator Hill and Senator ‘Big Bucks’ Macdonald—‘It is a once-in-a-lifetime opportunity’. How many times have you heard ‘it is a once-in-a-lifetime opportunity’? Let us just run through the record. In the past 20 years, on at least three occasions Australian governments have had discussions with US governments. In 1985 the US government approached the Hawke government to talk about a free trade agreement and it was decided that it was not in Australia’s interests then. George Bush Sr announced in his campaign speeches that he would pursue bilateral deals, including with Australia. In the event, he pushed ahead with the Uruguay Round and NAFTA. So George Bush Sr offered us a deal. And again in 1999 the Clinton administration raised the possibility of a trade deal with the Howard government. So let us stop with this pretence that is a once-in-a-lifetime unique opportunity and that only the Prime Minister, Mr Howard, could get a deal out of the US for us. Let us just put it away and start looking at the facts. When we finally
get the text released—hopefully today or overnight—we can put that to bed. On all of the previous occasions Australia did not proceed with the US FTA because it was not considered to be maximising Australia’s opportunity. It is a fiction that this government continues to maintain that it is a free trade agreement. As the NFF president, Peter Corish, said in a letter to the editor of the Australian on 13 February:

This is not a free trade agreement and it fails to secure open access for Australian agriculture, but it offers improvement in access for some farm products.

So there it is: ‘not a free trade agreement’. That was from one of the doyens of the organisations that campaigned for free trade in the world—the NFF.

As reported on the Australian on 25 February, it is now becoming clear—as the information is slowly seeping out about what happened in Washington in those last couple of weeks—that Australia’s senior trade officials, the hard-nosed negotiators, recommended the deal not be signed. That is right; they said: ‘This deal is not good enough. This deal will damage us in the WTO; it will damage our leadership of the Cairns Group,’ Australia has been the third force in world agricultural politics and world trade politics because of our leadership of the Cairns Group. What this deal does—and Mr Vaile did not deny it this morning—is damage Australia’s position. When we go to Japan and say, ‘Open up your rice market!’ they will say, ‘Yeah, just like you got the US to open up its sugar market.’ When we go to the EU and say, ‘Open up your dairy market!’ they will say, ‘Yeah, just like you got the US to open up the sugar market.’ This is a deal which does not deliver free trade in agriculture so let us stop the pretence—

Senator Ferris—What do you know about it?

Senator CONROY—We can hear the banshees on the other side! Let us stop the pretence that this is a deal that delivers free trade and simply have a look at the facts and use the Senate inquiry to get some information. Instead of baying from the other side of the chamber, Senator Ferris, you will get an opportunity to examine the facts. You will actually finally have the chance to read the document. (Time expired)

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (3.07 p.m.)—The trouble with Senator Conroy is that he cannot figure out whether he is a rooster or a dog. One day he is a rooster trainspotting at Sydney airport, plotting the re-emergence of the member for Brand, Mr Beazley, as the leader—

Senator Conroy—Trainpotting—at the airport?

Senator IAN CAMPBELL—Okay, planespotting. There is a train at Sydney airport, thank God. The next day he is being a dog in the manger on policy. The reality for Australia is that the FTA, the free trade agreement with the United States, is an absolutely outstanding and historic opportunity to increase trade—to increase the sale of goods and services to the biggest and most successful free enterprise economy in the history of mankind. Ninety-seven per cent of non-agricultural exports to the United States, which excludes textiles and clothing, worth $6.48 billion will be duty free from the first day of the agreement. A significant number of important agricultural products will be free of tariffs. Those that are not totally free of tariffs will be phased down—some, no doubt, at rates that we would have preferred to be shorter. There is no doubt that we would have liked to have got a better deal on beef. But for many other industries—very important industries with huge potential for
Australia—the access to that massive market is a phenomenal result.

I happen to think that many Australians sitting in their homes or going through their supermarkets are yet to understand the absolute opportunity that this agreement can deliver to this country. The dog in the manger approach of the opposition—the ‘because we did not do it we are not going to let you have it’ approach—is one that will be seen for what it is in the fullness of time as Australians begin to understand that the opportunity of opening up the market in the United States to our goods and services is just so good. It says to those parents who are taking their children along to grade 1 classes for the first time this year or to preschool or into high school that the economic and job opportunities for Australia are just phenomenal. For the mums and dads of Australia it means that there are more jobs. Just in your home state of South Australia, Senator Chapman, you have the Port Lincoln tuna cannery.

Senator Chapman—You are stealing my thunder!

Senator IAN CAMPBELL—I will let you expand on that. I will move to an area that I know a little bit more about—that is, the financial services marketplace. There has been virtually no attention paid to the tremendous gains this agreement, which was signed by the trade minister a few days ago in Washington, will achieve in financial services. When I was in that portfolio a few months ago I pushed very strongly for an Asia-Pacific free economic financial marketplace. In my speeches about the APFM, I said that the US FTA would provide a huge springboard to create a free market in financial services in our region and across the Pacific with the US. Countries could bring their corporate governance, corporate regulation and financial sector management regimes in line to bolt on economies such as Hong Kong, China, Korea and Indonesia to a free market in financial services, which would be of enormous benefit to Australia.

After watching the negotiations from the sidelines and keeping a close watch on the financial services side of the negotiations, my view is that what was achieved by Minister Vaile was far and away above the expectations that I had for financial services. Those who understand how closely kept the US financial services market is and how closely they like their own rules—for example, their accounting rules and US GAP—would know that what this incredible liberalisation to financial services means for Australian firms seeking to raise capital is just phenomenal. That area is yet to be focused on. It holds great hope. It would be a very sad day if the Australian Labor Party took their dog in the manger attitude all the way to the vote on this. I hope wiser minds, like Senator Peter Cook, who looks like he is about to leap to his feet and make a speech, overcome the eager young pups and roosters and ensure that the FTA does go through and that Australia can benefit from these enormous opportunities.

Senator COOK (Western Australia) (3.12 p.m.)—I wish the government would not praise me. It does me no good on my side to be praised by Senator Ian Campbell. Three weeks ago Mark Vaile, the Australian Minister for Trade, told the National Press Club that the government itself is guilty of over-selling the US free trade agreement, and that is true. A lot of nonsense has been said about the free trade agreement. We have just heard some now from Senator Ian Campbell. This thing is being sold as if it were the secret elixir for everything. It is not. In fact, on what we know—and we have not yet seen the text some three weeks after it has been negotiated—it is certainly a dud deal.
Australian trade officials, it was reported this week, advised the government not to accept the package. They did so because of concerns about agriculture. That is entirely understandable. The agricultural liberalisation elements of this package are at best pathetic. They are certainly miniscule. We know that they were overruled by the government because the government wants a deal. It wants a deal at any price and it wants a deal now. It insisted on having these negotiations conclude at this time when Australia was in the weakest bargaining position it would be in by virtue of the US presidential campaign and when the President of the United States had the smallest amount of latitude conceivable to make any concessions to Australia.

As we watch the unfolding of the US presidential campaign and the vying for the Democrat party nomination, trade protection has become an issue in the United States. We know that some of the key seats—particularly Florida, Minnesota and other seats where sugar is a major industry—are swing seats in this year’s presidential election. We know that at this moment the US President has virtually no latitude for making a trade concession that he may believe in. He has no latitude for political reasons. Therefore, he will not make the concession. We know that our Prime Minister, John Howard, agreed with the US President to complete these negotiations now, at the weakest possible time for Australia to succeed. This is a dud deal because John Howard wanted the negotiations completed when we had no leverage, when we had no bargaining power and when the political climate in the United States conspired against us to prevent the United States making any concessions that they may have believed in.

Therefore, this deal has to be hung around his neck. Every farmer, every fisherman and every small business man in this country who has missed out can blame the Prime Minister of Australia and his electoral vanity for it. Do not take my word for it. The respected Nelson Report, a newsletter on trade matters in the United States, says:

What no one expected was that Howard would direct his negotiators to accept the U.S. hard line on sugar, and to swallow very tiny U.S. concessions on beef and dairy.

That is American commentators talking to the American public about the quality of the deal. Let us go to a few other quotes. Mr Sherman Katz, an international business expert at the Centre for Strategic and International Studies in the United States, said:

... the just concluded U.S.-Australia FTA is so riddled with major exceptions to protect U.S. agriculture that it sends a gloomy signal about U.S. capacity to open our markets.

He is saying that the US made these exceptions because, whatever happened, they were going to protect their agricultural industry at this time. I will go further and read you a quote from Mr Dennis Olson of the Institute for Agriculture and Trade Policy in the key politically sensitive state of Minnesota. He said:

The Bush administration is worried about losing states, like Florida and Minnesota ... which are key swing states in the upcoming election. So, based purely on politics, they were unwilling to open the sugar market up. It’s a big issue here. That’s an example of the hypocrisy the U.S. trade and agricultural policy (follows). It’s ‘do what I say not what I do.’

By insisting that these negotiations conclude now, the Prime Minister guaranteed two things: a dud deal for Australia and a ‘peace in our time’ type paper he can wave around, pretending he has done a good deal for the Australian electorate. He hopes to gull everyone into believing it is a good deal and to try to roll this through without proper scrutiny. I can say this: the Senate will provide the scrutiny. (Time expired)
Senator CHAPMAN (South Australia) (3.17 p.m.)—It ill behoves the Labor Party, in the persons of Senator Conroy and Senator Cook, whose remarks we have just heard, to come in here and, as Senator Conroy did, condemn the government for being guilty of ‘hyper bowl’. I think he has got his games mixed up. I think he might have been referring to the Super Bowl. If anyone is guilty of hyperbole, it is the Labor Party in the remarks we have just heard from Senators Cook and Conroy about the free trade deal. Apart from the Labor Party, everyone else—the industry sector and the community generally—has hailed this as an exceptionally good deal that the government has achieved in negotiations with the United States government.

The Labor Party’s opposition to this deal, which they continue to express, shows how far backwards the Labor Party have gone in the last 20 years. Twenty years ago, or thereabouts, Alan Oxley was a senior adviser to ministers in a previous Labor government and was subsequently the Australian Ambassador to the GATT. What has he said about the free trade agreement? A former Labor ministerial adviser, he said:

... the impact of this FTA will be historic.

... ...

At first glance, it’s about expanding trade and investment with the US. But it will also underpin Australia’s economic security for the next half century.

Senator Cook—He’s just a sell-out.

Senator CHAPMAN—Anyone who disagrees with Labor now is a sell-out. He is a man who has developed particular expertise in trade issues and, as I said, was a senior adviser to a previous Labor government. Of course, it is not only Alan Oxley who has spoken favourably about this free trade agreement. The deputy chief executive of the Australian Industry Group, Heather Ridout, described the free trade agreement as a good deal. She said:

In terms of automotives, our utes will be able to go in there and be relieved of the 25 per cent tariff duty ...

I ask Senator Cook, who was wailing about the free trade agreement a few moments ago, to go to Elizabeth. Go to Elizabeth in my state of South Australia, in the new seat of Wakefield, and tell the people of Elizabeth, where Holden is located, that this is a bad deal for Australia and for them. Go to Port Lincoln and tell the fishing industry there that it is a bad deal for Australia.

Senator Ferris—What about the wine industry?

Senator CHAPMAN—Senator Ferris interjects about the wine industry. Again, tell them that it is a bad deal for Australia. Tell grain producers that it is a bad deal for Australia. Tell sheepmeat and lamb producers that it is a bad deal. Every one of those groups will derive enormous benefits from the free trade agreement. Over 97 per cent of Australia’s exports to the United States—which, it is worth noting, were worth $5.84 billion last year—will be duty free from day one of this agreement. As I said, that includes lamb and sheepmeat, where, in most cases, tariffs will be reduced to zero immediately and completely abolished within four years. The situation will be the same for wine producers. There is already a $1 billion market in America for Australian wine. The tariffs there will be reduced over an 11-year period. There will be no tariffs on cereal, flour mixes and wheat. Seafood, which is currently worth $140 million, will immediately become tariff free. That includes the removal of a 35 per cent tariff on canned tuna, giving Australian tuna producers access to a $650 million a year US market.

All of those groups are beneficiaries of this remarkable deal. It certainly was not a
cave-in on the part of the Australian government, as the Labor senators have suggested. Indeed, it was quite the contrary. This was probably the one window of opportunity in Australia’s history to successfully negotiate a free trade agreement with the United States. The governments and leaders on both sides of the Pacific were determined, because of the close relationship that they have had and the continuing close relationship between our two countries, to ensure that this was the year that this deal was achieved, to the benefit of both countries but in particular to the benefit of Australia. It is important to note that in the context of that deal our Pharmaceutical Benefits Scheme is entirely protected and our single desk arrangements for particular agricultural commodities—most notably wheat, rice, barley and sugar—are not detrimentally affected by this agreement. Again, the Australian government stood up for those producers in ensuring that those single desk arrangements were retained. We stood up for the Pharmaceutical Benefits Scheme by ensuring that that was not affected by this agreement. That gives the lie to the negative claims made by Labor senators in this debate. We have also ensured that we have the right to retain local content—

(Time expired)

Senator MARSHALL (Victoria) (3.22 p.m.)—Again we hear today government senator after government senator getting up and singing the praises of an agreement that they have not yet seen and have not yet read. It is an agreement that has not yet been released and it really beggars belief that the government senators are able so confidently to say what is in the national interest. What is happening is that they are confusing their political interest with the national interest, and we on this side of the chamber will not do that. Labor’s position is simple and clear. We will analyse the agreement and make a considered determination on whether or not this proposed free trade agreement is in the Australian national interest.

Government senators seem to be relying on an initial study done at the height of the free trade agreement negotiations that indicated that a full and free trade agreement—one that provided absolutely free and total and immediate access to all markets both ways—may deliver up to an extra $4 billion a year for the Australian economy. Of course, when that study was undertaken the Australian dollar was worth around 50-odd US cents, and that has changed considerably since then.

We have seen how quickly the government realised that they had oversold the benefits of this agreement, because we did not get anything like full and immediate free access to both markets. The author of the report, Dr Andy Stoeckel, said on ABC radio on 11 February:

There is a whole series of unders and overs that you have to look at and recalculate to get any sensible number on that U.S. agreement. We really should get away from that estimate.

He was referring to the estimate of $US4 billion. Even further, a significant proportion of the $US4 billion came from the elimination of the Foreign Investment Review Board, the abolition of restrictions on new investment in Telstra and Qantas, and the abolition of the four-pillars policy of our banking system—that did not occur. And 25 per cent of that $4 billion was derived from free access to sugar, and we all know that sugar was not included in the US free trade agreement.

The government is really just resorting to the spin that the deal will generate big bucks. That is the best they can come up with: big bucks. That is a nonsense. It is a nonsense for them to get up here and propose that the Senate should consider passing enabling legislation without even having seen the agree-
ment and without even having any real understanding of what the impacts of this agreement will be on this country.

We even see Mr Vaile now backing away from his earlier claims about the size of the benefits to this country. At the Press Club on 12 February Mr Vaile said:

I’ll put my hand up and maybe we, as a government, did that, maybe industry themselves in selling it to constituent members; that this was a good thing to pursue; maybe it was oversold.

Indeed this has been oversold but the government, rather than actually considering the benefits when they have seen the agreement, continue to want to push the agenda because they have been seduced by the notion of ‘free’. This government thinks that they are getting something for nothing, and without even reading the agreement they will tell us that a free trade agreement, which this is not, is going to be good for us. It is possible that at the end of the day the agreement could produce winners all around, but until we see the agreement we cannot determine that.

I just want to go to something that I consider very important. Being a senator from Victoria, where the manufacturing base of this country is located, I would like to go to what the Office of the United States Trade Representative say in their public information when they refer to the manufacturing industry. Their document, ‘An FTA for America’s manufacturing sector’, says:

More than 99 percent of U.S. manufactured exports to Australia will become duty-free immediately upon entry into force of the Agreement. This is the most significant immediate reduction of industrial tariffs ever achieved in a U.S. FTA, and will provide benefits for America’s manufacturing workers and companies; U.S. manufacturers estimate that the elimination of tariffs could result in $2 billion per year in increased U.S. exports of manufactured goods.

That is $US2 billion in extra exports into this country. How many jobs is that going to create? How many jobs is it going to potentially destroy? (Time expired)

Question agreed to.

Education: Funding

Senator ALLISON (Victoria) (3.27 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) to a question without notice asked by Senator Allison today relating to the socio-economic funding model and the Catholic school system.

I asked the minister, given that these funds would be pooled, as they have been for the last few years since the beginning of the SES funding model, what guarantees there would be that this money would go to neediest schools. This package has been sold on the basis of assisting Catholic schools, and nobody would argue with that, but I think we in this place deserve an answer to the question of how the government guarantees that, because as we know the SES model has delivered the best returns—the biggest increases—to schools that could not be said to be the neediest: the non-Catholic non-government schools that have a very high level of resources available to them.

The Catholic sector would receive $360 million extra over the next four years. As I said, that seems worth while and logical, but the Democrats have criticised the fact that the Catholic system was outside the SES model when it was introduced. It is the case that even under that previous model—that is, the ERI model—when there was a change-over to the SES funding model, the Catholic system received increases. It was based on the notional funding of all schools in the old ERI category 11—that is, the second highest level of funding. The 600,000 children educated in Catholic schools represent 60 per cent of the total non-government school population or thereabouts, so for them to be
not part of this new system was obviously an ongoing thorn in the government’s argument that the model was the best method of determining need.

A high proportion of schools in the non-Catholic sector did not have that model applied to them either. That was because, if they had had the model applied, they would be receiving less than they already were. They were the schools that became known as the ‘funding maintained’ schools. Now we discover in this new announcement that 60 per cent of Catholic schools will also be in this category; in other words, if the funding model were applied to them they would end up with less money than they currently have. So there are still probably more schools that are outside this model than are in it, in effect.

I remind the Senate that under the SES model the poorest schools received a 30 per cent increase in funds whereas, for instance, schools like Haileybury received 290 per cent of their funding and Trinity Grammar received 250 per cent. These are some of the schools that charge very high fees indeed—$15,000 or more is not unusual. Yet, as we know—this is why the SES is an anomalous formula—the SES has delivered increases. This is because the assessment of need has been made based on the income from neighbourhoods within which those students live, and very often they will be in the higher income category of people within that area. Neighbourhood is not necessarily a measure of wealth, and it is certainly not a measure of the income which is available to non-government schools. I think it is time that the government answered some very important questions.

I must say that I am amazed that when Minister Vanstone came in here she had no idea about this subject, given the Prime Minister’s announcement on the weekend. It has not been without some controversy; it has certainly been reported in the press many times and I am surprised that she was not expecting a question which would go to this central question of whether or not we are looking at needs funding or some other model. We need to know what is the baseline for determining which schools are ‘funding maintained’. For instance, do we go back to the level they were at under the old ERI system? Do we go back to the category 11 system for all schools? It is very hard to know what the government has negotiated with the Catholic sector. As with so much of the funding that has gone to non-government schools, there are real question marks in terms of accountability, particularly accountability about whether this is going to needs based schools or not. (Time expired)

Question agreed to.

PETITIONS

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

Immigration: Asylum Seekers

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

Whereas the 1998 Synod of the Anglican Diocese of Melbourne carried without dissent the following motion:

‘That this Synod regrets the Government’s adoption of procedures for certain people seeking political asylum in Australia which exclude them from all public income support while withholding permission to work, thereby creating a group of beggars dependent on the Churches and charities for food and the necessities of life;

and calls upon the Federal government to review such procedures immediately and remove all practices which are manifestly inhumane and in some cases in contravention of our national obligations as a signatory of the UN Covenant on Civil and Political Rights.’

We, therefore, the individual, undersigned attendees at All Souls’ Anglican Church, Sandringham Victoria 3191; The “Sunday at 6” forum at St Andrews Anglican Church, Somerville Victoria 3912; and St John’s Anglican Church, Upper...
Beaconsfield Victoria 3808 petition the Senate in support of the above mentioned Motion.

AND we, as in duty bound will ever pray.

by Senator McGauran (from 40 citizens).

Medicare: Bulk-Billing

To the Honourable the President and Senators in Parliament assembled:

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

by Senator McLucas (from 50 citizens).

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 Australian working women who currently lack any paid support on the birth of a child;
• Our strong support for the adoption of a national 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 security 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 earnings (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 26 citizens).

Education: Higher Education

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

The Petition of the undersigned draws to the attention 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 Government in the Higher Education at the Crossroads 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 six citizens).

**Medicare**

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

The petition of the undersigned citizens of Australia draws to the attention of the Senate:

The need to retain and extend the universal public health insurance system Medicare by:

- restoring bulk billing for all
- increasing financial support to the public hospital system
- switching to the public Medicare system the $3.6 billion currently used to prop up the private health insurance industry

We therefore pray that the Senate opposes the introduction of cuts to Medicare services limitations on its coverage and the introduction of up-front fees for GP visits.

by **Senator Stott Despoja** (from 57 citizens).

**Iraq**

To the Honourable the President and Members of the Senate in Parliament assembled. The Petition of the undersigned calls on the members of the Senate to support the Australian Democrats’ motion opposing Australia’s involvement in preemptive military action or a first strike, against Iraq.

We believe a first strike would undermine international law and create further regional and global insecurity.

We also call on the Government to pursue diplomatic initiatives towards disarmament in Iraq and worldwide.

by **Senator Stott Despoja** (from 102 citizens).

Petitions received.

**NOTICES**

**Presentation**

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


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

That the Community Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 4 March 2004, from 4 pm, to take evidence for the committee’s inquiry into the Truth in Food Labelling Bill 2003.

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

That the Senate—

(a) notes:

(i) the proposal currently before the New South Wales (NSW) State Government to provide publicly-funded midwife services for home birthing for healthy women without medical complications, and

(ii) that home deliveries are the norm for about 10 per cent of births in New Zealand where interventions in births are significantly lower than they are in Australia; and

(b) encourages the NSW Government and other state and territory governments to foster and fund midwife services for home births.

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


**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (3.33 p.m.)—I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:
Agricultural and Veterinary Chemicals (Administration) Amendment Bill 2004;
Extension of Sunset of Parliamentary Joint Committee on Native Title Bill 2004; and

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

Leave granted.

*The statements read as follows—*

**EXTENSION OF SUNSET OF PARLIAMENTARY JOINT COMMITTEE ON NATIVE TITLE BILL 2004**

**Purpose of the Bill**

The Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund (the PJC) was established by Part 12 of the Native Title Act 1993. Section 207 of the Act provides that Part 12 ceases to be in force on 23 March 2004. The Committee will therefore cease to exist on 23 March 2004. The Bill will extend the life of the Committee beyond 23 March 2004.

**Reasons for Urgency**

The existing sunset provision will take effect if the Bill does not commence on or before 23 March 2004.

(Circulated by authority of the Attorney-General)

**AGRICULTURAL AND VETERINARY CHEMICALS (ADMINISTRATION) AMENDMENT BILL 2004**

**Purpose of the Bill**


**Reasons for Urgency**

In August 2003, the government announced that it had initiated the process of ratification of two important treaties on management of chemicals—the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants.

Treaties are not ratified until all legislative amendments needed to implement Australia’s obligations under the conventions have been completed. The Rotterdam Convention will enter into force on 24 February 2004. Until ratification has been completed, Australia will not be able to attend any meetings of the convention as a Party and would only have observer status.

The first Conference of the Parties for the Rotterdam Convention will be held on 20-24 September 2004. This meeting will set the framework for the future operation of the convention, with final decisions taken on mechanisms for the future processes and procedures of the convention. It is imperative that Australia attend the first Conferences of the Parties as a Party to ensure participation in all the decision-making at this meeting. Australia’s ability to influence the outcomes of decisions will be severely limited if it only attends the meeting in an observer capacity.

This bill presents a number of legislative amendments that are necessary to effect ratification, primarily in order to fulfil Australia’s obligations under the Rotterdam Convention. The amendments detail the processes necessary to fulfil the obligations of the conventions. All the necessary decision-making to implement Australia’s obligations for agricultural and veterinary chemicals has only recently been finalised.

The amendments to the agricultural and veterinary chemicals legislation are critical in giving effect to the government’s public announcement to ratify the conventions.

(Circulated by authority of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry)
INDUSTRIAL CHEMICALS (NOTIFICATION AND ASSESSMENT) AMENDMENT (ROTTERDAM CONVENTION) BILL 2004

Purpose of the Bill
The Bill will enable Australia to give full effect to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the Convention) for industrial chemicals.

The amendments enhance the domestic information gathering powers of the Director of the National Industrial Chemicals Notification and Assessment Scheme and facilitate information exchange between the Parties to the Convention.

It is proposed that the Bill be considered cognately with the Agricultural and Veterinary Chemicals (Administration) Amendment Bill.

Reasons for Urgency
The Convention will come into force from 24 February 2004, as fifty countries have presently ratified it, and it will enter into force for Australia on the ninetieth day after the date of deposit of the instrument of ratification.

Ratification of the Rotterdam Convention is dependent on appropriate legislative measures being in place. Until ratification has been completed, Australia will not be able to attend any meetings of the convention as a Party and would only have observer status.

The first Conference of the Parties for the Convention is expected to be held in September 2004. This meeting will set the framework for the future operation of the convention, with final decisions taken on mechanisms for the future processes and procedures of the convention. It is imperative that Australia attend the first Conferences of the Parties as a Party to ensure participation in all the decision-making at this meeting. Australia’s ability to influence the outcomes of decisions will be severely limited if it only attends the meeting in an observer capacity.

Postponement
Items of business were postponed as follows:

Business of the Senate notice of motion no. 2 standing in the name of Senator Cherry for today, relating to the reference of matters to the Rural and Regional Affairs and Transport Legislation Committee, postponed till 3 March 2004.

General business notice of motion no. 770 standing in the name of Senator Allison for today, relating to Saharawi National Day and the anniversary of the proclamation of the Saharawi republic, postponed till 4 March 2004.

General business notice of motion no. 773 standing in the name of Senator Nettle for today, relating to the socio-economic status funding system, postponed till 3 March 2004.

General business notice of motion no. 774 standing in the name of Senator Nettle for today, relating to human rights in occupied Western Sahara, postponed till 3 March 2004.

General business notice of motion no. 778 standing in the name of Senators Brown and Nettle for today, relating to the introduction of bills.

COMMITTEES

Foreign Affairs, Defence and Trade Legislation Committee

Meeting

Senator FERRIS (South Australia) (3.35 p.m.)—by leave—At the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee, Senator Sandy Macdonald, I move:

That the Foreign Affairs, Defence and Trade Legislation Committee be authorised to hold a public meeting during the sitting of the Senate today, from 7 pm, to consider the 2003-04 additional estimates.

Question agreed to.

Community Affairs References Committee

Extension of Time

Senator HUTCHINS (New South Wales) (3.36 p.m.)—I move:

That the time for the presentation of the report of the Community Affairs References Committee on poverty and financial hardship be extended to 11 March 2004.

Question agreed to.

Legal and Constitutional References Committee

Extension of Time

Senator MACKAY (Tasmania) (3.35 p.m.)—By leave—At the request of the Chair of the Legal and Constitutional References Committee, Senator Bolkus, I move:

That the Legal and Constitutional References Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 10 March 2004, from 4 pm, to take evidence for the committee’s inquiry into the capacity of current legal aid and access to justice arrangements to meet the community need for legal assistance.

Question agreed to.

Corporations and Financial Services Committee

Meeting

Senator FERRIS (South Australia) (3.37 p.m.)—At the request of the Chair of the Parliamentary Joint Committee on Corporations and Financial Services, Senator Chapman, I move:

That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 3 March 2004, from 3.30 pm, to take evidence for the committee’s inquiry into Corporations Amendment Regulations.

Question agreed to.

Economics Legislation Committee

Report

Senator FERRIS (South Australia) (3.37 p.m.)—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I move:


Question agreed to.
Tuesday, 2 March 2004

FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE

EXTENSION OF TIME

Senator FERRIS (South Australia) (3.38 p.m.)—At the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee, Senator Sandy Macdonald, I move:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade Legislation Committee on the provisions of the Military Rehabilitation and Compensation Bill 2003 and a related bill be extended to 22 March 2004.

Question agreed to.

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

EXTENSION OF TIME

Senator FERRIS (South Australia) (3.38 p.m.)—At the request of the Chair of the Legal and Constitutional Legislation Committee, Senator Payne, I move:

That the time for the presentation of the report of the Legal and Constitutional Legislation Committee on the provisions of the Disability Discrimination Amendment Bill 2003 be extended to 7 April 2004.

Question agreed to.

JUVENILE DIABETES

Senator ALLISON (Victoria) (3.39 p.m.)—I move:

That the Senate—

(a) notes the comments by the Prime Minister (Mr Howard), reported in the Juvenile Diabetes Research Foundation (JDRF) publication of 20 August 2003, that ‘the Government [has] identified diabetes as one of the national health priority areas’; and

(b) calls on the Government to support the JDRF proposal to establish an islet transplant global centre of excellence and to provide research grants for islet transplantation.

Question agreed to.

HUMAN RIGHTS: CHILDREN

Senator STOTT DESPOJA (South Australia) (3.39 p.m.)—by leave—I move the motion as amended:

That the Senate—

(a) notes that:

(i) there are an estimated 300 000 children being used as soldiers in at least 20 countries around the world,

(ii) the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict prohibits:

(A) the compulsory recruitment of children under the age of 18 years into national armed forces, and

(B) any recruitment of children under the age of 18 years by non-state armed groups,

(iii) the United Nations (UN) Secretary-General’s Special Representative for Children and Armed Conflict:

(A) recently reported to the Security Council that the situation remains “grave and unacceptable” and the struggle to protect children from involvement in armed conflict “has reached a watershed moment”, and

(B) specifically called on the UN Commission on Human Rights to take action on this issue,

(iv) Australia will chair the sixtieth session of the Commission on Human Rights, which runs from 15 March to 23 April 2004, and

(v) the rights of children are being violated in Australia’s own immediate region, with the Special Representative highlighting Aceh as one of the areas where children have particularly suffered in the past year; and

(b) calls on the Australian Government to ensure that, during the sixtieth session of the Commission on Human Rights, consideration is given to utilising the
special procedures mechanism as a means of addressing the continued violation of children’s rights in conflict situations and, in particular, the recruitment and use of child soldiers.

Question agreed to.

MEMBERS OF PARLIAMENT: LIFE GOLD PASS

Senator MURRAY (Western Australia) (3.39 p.m.)—I ask that general business notice of motion No. 776 standing in my name for today, relating to the life gold pass retirement benefit, be taken as a formal motion.

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

Senator Mackay—Yes.

The DEPUTY PRESIDENT—There is an objection.

Suspension of Standing Orders

Senator MURRAY (Western Australia) (3.40 p.m.)—At the request of the Leader of the Australian Democrats, Senator Bartlett, and pursuant to contingent notice, I move:

That so much of the standing orders be suspended as would prevent Senator Bartlett moving a motion relating to the conduct of the business of the Senate, namely a motion to give precedence to general business notice of motion no. 776.

I have put this motion not to be smart but because it is something we feel strongly about. We felt that the recent changes to parliamentary superannuation agreed by the government, following a change of position by the opposition, made this an appropriate opportunity for this matter to be addressed. For well over a decade, the Democrats, a few Independents and a number of members of the major parties have recognised the need for, and have indeed called for, parliamentarians’ superannuation to more closely match community standards. The life gold pass is another anachronism whose time is up. All that my motion does is to ask the government to review it, although of course it does have a little bit of gratuitous politics in it as well.

The life gold pass is a taxpayer funded free air and rail travel perk for qualifying retired parliamentarians and their spouses costing, at the last time it was evaluated, up to $2 million a year. Apart from retired members of some private sector air or rail corporations and federal and some state politicians, retirement travel benefit schemes are non-existent in the Australian community. The Australian National Audit Office told a Senate inquiry that entitlements similar to the life gold pass retirement travel benefits had never been available to public servants either past or present. They confirmed that retirement benefits for bureaucrats were composed solely of superannuation. The Department of Finance and Administration told the committee that it understood that life gold pass entitlements were ahead of the field with regard to retirement benefits available for members of parliament internationally.

Some submitters to the Senate committee, including the Association of Former Members of Parliament, argued that retirement travel benefits are legitimate compensation for the lower rates of salary that sitting members receive while in office and for the difficulties and stresses associated with being a member of parliament. I do not agree that rates of salary are too low now and, if they were low in the past, the proposition we have put to the parliament and to the government is that this measure be prospective, not retrospective. Even if the argument about low pay were true for some ministerial posts, and many backbenchers are not paid badly for the work they do, instead of providing for compensation after their service, members of parliament should be paid an appropriate salary for the work they do while in office.
Except for transitional arrangements on leaving office, retirement benefits should be confined to superannuation at levels in accordance with community standards.

Former parliamentarians who wish to continue to provide public service or to perform official duties, if part of the functions of government, should be funded as such and not slip through via a parliamentary perks regime. The argument that the continuation of these retirement travel benefits is necessary to fund pro bono community or charity work is self-serving. Why is it acceptable for a former parliamentarian or spouse to select his or her own worthy cause on unknown criteria to be funded at public cost? Either the organisations themselves must fund such travel or government must decide in the public interest to make grants to charities for such services.

One of the good principles followed by both this coalition government and the previous Labor government is that hidden subsidies should be transparent. There should be, in our view, one exception: former prime ministers do have justifiable official engagements post retirement, and continued travel entitlements for them are appropriate. Their expenses, however, should be funded as an executive cost and not as a parliamentarian’s benefit.

There are, essentially, three categories of entitlements afforded to members and senators. These are their salary package, what they need to do their job and their retirement package. The first includes matters such as salary and fringe benefits, car and other benefits. The second includes electorate allowances, office expenses and staff allocations. The third includes superannuation and retirement and travel benefits, including entitlements available under the life gold pass. Great improvements have been made in accountability measures to better audit, control and manage what parliamentarians use and need to do their jobs. Now the long and justified public attack on excessively generous retirement benefits is at last bearing fruit, and we think that the life gold pass should be added to the redundancy list.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (3.45 p.m.)—I listened with interest to Senator Murray’s speech. He has indicated to the Senate—and I am pleased to hear it—that he has put this proposal up, to use his words, ‘not to be smart’. He then went on to tell us that the motion does ask the government to review the life gold pass, which in part it does. Then Senator Murray said that it contains some gratuitous politics as well. When I see the gratuitous politics I realise that Senator Murray really is not serious about this at all. I do not think these sorts of issues are appropriate for half smart general business notices of motion. That is my view. I do not think they are appropriate for that sort of political approach. I would commend a more thorough and professional approach to dealing with these sorts of issues. On more than the odd occasion Senator Murray has applied a different approach to these entitlements issues, which are always difficult for parliamentarians to grapple with, no matter which side of the chamber they come from. That is one of the reasons that I have consistently and repeatedly argued, as every senator in this chamber knows, that these issues of parliamentarians’ entitlements are best left out of the hands of the politicians. This motion we have before us at the moment tends to support that argument.

I know that there has been a lot of community concern in recent years about the entitlements of parliamentarians. There has been a particular concern, of course, about politicians’ superannuation arrangements. The Labor Party have consistently acknowledged that concern. I think any fair person
would acknowledge that the Leader of the Opposition, Mr Latham, has acted upon that concern in recent times. Is this the appropriate way to deal with this sort of issue—in this piecemeal fashion, through this half smart notice of motion? What we have got at the moment is an arms-length, independent tribunal which is responsible for scrutinising, deliberating on and determining a range of entitlements. That is the Remuneration Tribunal. I do accept that the question of this particular entitlement, the gold pass, needs to be considered in the context of the entire remuneration package of parliamentarians. I do accept that point; it is a valid point.

We have certainly made it clear, in relation to Labor’s proposal on superannuation reforms for parliamentarians—and not only parliamentarians but also judges and the Governor-General—that those schemes should be closed for future entrants. Of course eventually under our policy, when we all die out, the schemes are going to have no members at all. But the issue of other entitlements is important as well. It is important to bring entitlements into line with community standards. That is an important principle. Ensuring a reasonable mix of salary entitlements which reflect the proper working conditions of the parliamentary vocation is a real challenge for all concerned. But let us treat it seriously. Let us deal with this seriously. It will be misunderstood, I think, if this chamber votes for or against this particular motion. It deserves and warrants a more serious motion. It deserves and warrants a debate which does not include the gratuitous politics, and I commend that approach. (Time expired)

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.50 p.m.)—We will not be supporting Senator Murray’s motion to suspend standing orders. I support most of the remarks of the Leader of the Opposition in the Senate. My own perception is that there are two issues. Firstly, when politicians start debating and making decisions about their own remuneration and non-salary benefits—and perhaps Hansard could render that word in parentheses because most people travel a long way to get to this place, and I do not really think you could regard travel as a benefit; in fact it is probably a negative on both your health and your wellbeing—a very cynical public become even more cynical. It is very hard to get good policy emerging from those who have, by the nature of their position, a clear interest and therefore a potential conflict of interest in determining those issues. This government has indeed already reviewed and revised the approach to the life gold pass. It was in fact this government that restricted the use of the life gold pass. The truth about why that happened is that some former members—and you could probably count them on the three fingers of your left hand—abused it.

Senator Murray interjecting—

Senator IAN CAMPBELL—Four fingers, was it, Senator Murray. I forget who those characters were and it does not matter. The important point to make here as we discuss the suspension motion is that, if you have the time and inclination to go through the tabled documents which reveal all of the travel of retired members and prime ministers and senators with the life gold pass, you quickly see that most retired members never use the pass at all. Those who do use it would only use it very infrequently—sometimes once a year. Of course, some of the former prime ministers use it a bit more often. I think that is a special benefit for prime ministers, and I do not even know whether it is called a gold pass—I think they get it anyway. But the reality is that 99 per cent or thereabouts of retired members and senators use it very sparingly; only a few use it more often. Those people who have abused
it in the past have brought the whole scheme into disrepute in the public mind, and that is easy to do. That point needs to be made. With those remarks, I indicate that the coalition will vote against this motion.

Senator BROWN (Tasmania) (3.53 p.m.)—The Greens support the motion. You have to only look at the Constitution, section 48, to see that a lot of points that Senator Faulkner and then Senator Campbell put forward do not in fact have a leg to stand on. It says:

Until the Parliament otherwise provides, each senator and each member of the House of Representatives shall receive an allowance of four hundred pounds a year, to be reckoned from the day on which he takes his seat.

The Constitution was set up so that parliamentarians, if they were to go outside the £400 a year, were totally empowered under the Constitution to set the terms and conditions in which they did that. Of course, over the last hundred years that is what has happened. Processes were in place, when this came under scrutiny and criticism, for putting it at arm’s length through independent tribunals and so on. But none of us can say anything other than we are the ultimate arbiters of what the terms and conditions and the payment and remuneration—both while we are in office and after we have left it—will be, and we are totally responsible for it.

I for one do not want to be responsible for the gold pass system which provides travel expenses at the taxpayers’ expense that now come to more than $1 million a year. We do know that these are not equally used by members who have retired; some use them a great deal and others use them very little at all. I think that the very generous retirement benefits that parliamentarians get should cover it. I am very aware that my fellow Green in the House of Representatives, Michael Organ, the member for Cunningham, has introduced legislation to do what Senator Murray’s motion would do here in the Senate—that is, to get rid of the life gold pass system. I think we should be agreeing that it should go.

As far as this being a situation in which it is half smart for Senator Murray to bring this in—not at all. Nor do I think it was half smart for the Leader of the Opposition to raise the matter of parliamentary superannuation outside this parliamentary arena for public debate. It led to the cascading effect whereby the Prime Minister very quickly followed suit—within two days, as I remember—and that system is being drawn right in now. That was not half smart. That was responding to public concern. I think that is what Senator Murray’s motion does and that is what Mr Organ’s bill does in the other place.

I think we should debate this matter. I know the opposition has a policy which, in the main, has said that if we bring up matters of international significance there should not simply be a vote on them; there should be a debate. The process today of denying formality on this motion has put this particular issue of parliamentarians’ entitlements after retirement in the same category. Why on earth should we not be debating this? It is our constitutional responsibility to do so. Of course we should be debating it. If there is a better motion or a more seemly way of putting it than the way Senator Murray has presented it, where is it from the opposition?

Senator Faulkner interjecting—

Senator BROWN—But, Senator Faulkner, there have been years of opportunity to address this matter and the opposition has not done so. It is a bit too cute then, when somebody from the crossbench does move a motion of this variety, to say, ‘Wrong process.’ What is the right process? The right process is for it to be brought in and debated here. I congratulate Senator Murray. I con-
gratulate Michael Organ, and also Mr Andrew, who has supported the bill in the other place. It must be dealt with. We should be dealing with it. Let us have a debate and have it voted down if a majority of members do not like it, but I support this motion.

Senator ROBERT RAY (Victoria) (3.58 p.m.)—This morning when I saw this motion was on the Notice Paper I thought I would look up the patron saint of the day, and of course it was the patron saint of opportunism, Saint Andrew. I thought that was most apt, because what this debate is really about is: should we debate this issue now? Not the principles of the issue but: should we debate it now or should it go onto the normal general business list? That is what is at stake, and not one speaker has addressed that today. The fact is that this will go on the Notice Paper. If you want to give up your general business time when your turn comes around then by all means move it on that occasion. But we are not willing to carry a motion like this without the proper debate surrounding it so that we can put our point of view. We are not going to have it declared formal and we are not going to waste the rest of the day simply because minority parties can always rely on a bit of cheap-stunt publicity if they mention an emolument going to a member of parliament. It is a certain winner. I would love to be as certain of backing the Melbourne Cup winner as Senator Murray can be of getting a bit of cheap publicity out of this.

Of course, you do not have to take the gold pass, Senator Murray. Only one Democrat has ever qualified for it, and the reason I had to alter the scheme in 1988 was because he and two others were abusing it. They were using it to get on the speakers circuit, where they were paid. In fact, they used to get extra money for that because the person sponsoring them did not have to pay their airfares.

So where there is abuse it should be cut down. The fact is, ironically, that the gold pass is being used less now than it was 10 years go. The cost every year is now going down in real terms rather than going up. Senator Murray himself has said that it was part of the original salary package. So if you want to review it in any particular way—and I am talking out of self-interest here; I will put it straight on the table—then move it to the Remuneration Tribunal. It is appropriate for Senator Murray to put his submission to the Remuneration Tribunal and get their response. What I would like to at least say is that every time you cut back on some benefit, some remuneration, for parliamentarians you might expect the general public to give you some brownie points for it. Never. All they do is move on to the next territorial demand. We do not always do things to get credit—I admit that—but you will never get their support. Most of my constituents would like me to walk to Canberra with a cut lunch and a thermos of tea. That would suit them. That stretches credibility, I admit.

Senator Faulkner—I don’t think they’d want you to have that cut lunch.

Senator ROBERT RAY—They probably would not even want me to have the cut lunch. But if we are determined to adopt community standards, I look forward on Friday morning to Senator Murray travelling to Perth in economy class. Most of the community do. He can set the example and so can all his colleagues. Funnily enough, I usually sit next to him or behind him. I do not sit in front of him, generally. Why don’t you get out there and set the example? Why don’t you cut back on the amount of staffing you have? I think that would be a terrible idea—but set the example. Don’t just pick out one benefit that only one Democrat has ever
qualified for in their 27 years in this parliament, because that is basically what you have done. We did debate these issues last year. Senator Abetz brought in changes and we had a full debate then, so you cannot say we never debate these issues. If you want to bring it up in general business, bring it up.

But I congratulate Senator Murray; he is on an absolute winner. Anyone who is as stupid as I am to get up and say, ‘Maybe I would contemplate that there is some merit in the gold pass,’ just gets scarified in the media. I do not really care. I have nothing to lose in politics per se. I am willing to get up and say that the gold pass has been part of the salary package. Whether it was right or wrong at the time, other salary levels, other emoluments, were reduced because of it. It was part of the balance, and I believe it should continue into the future until the salary package is changed. The same thing applies to superannuation. It may well be that the salary of some parliamentarians will be adjusted because they no longer have a generous superannuation scheme. Not for me; I have a generous one. Anyway, congratulations to Senator Murray for another good, opportunistic move: you put this down in the Senate and you get a bit of publicity. Minor parties always thrive on these things when they have nothing else to say.

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

The Senate divided. [4.07 p.m.]
(The Acting Deputy President—Senator H.G.P. Chapman)

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

AYES
Allison, L.F.* Bartlett, A.J.J.
Brown, B.J. Cherry, J.C.

NOES
Greig, B. Harris, L.
Murray, A.J.M. Nettle, K.
Stott Despoja, N.

Barnett, G. Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Buckland, G. Campbell, G.
Campbell, I.G. Carr, K.J.
Chapman, H.G.P. Colbeck, R.
Collins, J.M.A. Conroy, S.M.
Cook, P.F.S. Crossin, P.M.
Dennan, K.I. Ferris, J.M.*
Forschaw, M.G. Hogg, J.J.
Humphries, G. Hutchins, S.P.
Johnston, D. Kirk, L.
Lightfoot, P.R. Ludwig, J.W.
Lundy, K.A. Mackay, S.M.
Marshall, G. McGauran, J.J.
McLucas, J.E. Minchin, N.H.
O’Brien, K.W.K. Patterson, K.C.
Payne, M.A. Ray, R.F.
Scullion, N.G. Sherry, N.J.
Stephens, U. Tchen, T.
Watson, J.O.W. Webber, R.

* denotes teller

Question negatived.

DOCUMENTS
Auditor-General’s Reports
Report No. 32 of 2003-04

The ACTING DEPUTY PRESIDENT
(Senator Chapman)—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 32 of 2003-04—Performance audit—’Wedgetail’ airborne early warning and control aircraft: project management: Department of Defence.

Tabling
Senator MINCHIN (South Australia—Minister for Finance and Administration) (4.10 p.m.)—I table the Statutory Review of Part IIIAAA of the Defence Act 1903 and seek leave to incorporate a statement in Hansard.

Leave granted.
The statement read as follows—

Part IIIAAA of the Defence Act 1903 deals with Defence Force Aid to the Civilian Authorities.

An independent review of the operation of the Part was initiated in September 2003 in accordance with the Act. No order has been made under the Part since its enactment in September 2000.

The review was undertaken by GEN John Baker (Rtd), former Chief of the Defence Force, Mr Anthony Blunn, former Secretary of the Attorney-General’s Department and Mr John Johnson, former Commissioner of Police for Tasmania. I would like to take this opportunity to thank the members of the review team for their work.

Part IIIAAA of the Defence Act underpins the deployment of the Defence Force to aid the civil authority. This review has identified a range of complex issues that arise from the Part.

Acts of terrorism have redefined our security environment since this legislation was first enacted in 2000. The review suggests that there is a need to look at the scope of the legislation in light of the changed threat environment.

The nature and role of the ADF Reservists has also evolved significantly since this legislation was developed. Reservists have become increasingly integrated into the regular work of the ADF. The review raises the question of whether the legislation adequately reflects that role and recognises the substantial contribution that Reservists make to ADF capability.

Clearly any question about the effectiveness, appropriateness or practicality of the legislation underpinning the call out of the ADF to assist the civil authority warrants particularly careful consideration. The Government will carefully examine the report and provide a detailed response in due course.

COMMITTEES

Privileges Committee

Report

Senator ROBERT RAY (Victoria) (4.11 p.m.)—I present the 116th report of the Committee of Privileges, entitled Possible improper interference with a witness before the Rural and Regional Affairs and Transport Legislation Committee.

Ordered that the report be printed.

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

Leave granted.

Senator ROBERT RAY—I move:

That the Senate endorse the finding at paragraph 28 of the 116th report of the Committee of Privileges.

On 2 December 2003, the Senate referred to the Committee of Privileges a matter arising from the inquiry of the Rural and Regional Affairs and Transport Legislation Committee into the administration of Australian Wool Innovation Ltd. The Committee of Privileges was required to investigate whether there was any attempt improperly to interfere with a witness before the RRAT committee and whether any contempt of the Senate was committed in that regard.

The facts of the matter are briefly as follows. Mr Alix Turner, a wool grower, made a submission to the RRAT committee in which he made certain remarks about Mr Colin Dorber, the inaugural CEO of Australian Wool Innovation. When Mr Dorber gave evidence before the committee on 26 June 2003 he had not yet seen Mr Turner’s submission. Mr Dorber also apparently indicated that he would be campaigning for a reduction in the levy paid by wool growers to support the research and development activities of AWI, thus, in Mr Turner’s view, threatening the demise of AWI.

The following week, Mr Turner brought the RRAT committee’s attention to this telephone conversation by way of a supplementary submission but stated that he was not
formally alleging any misconduct by Mr Dorber. Some two months later the RRAT committee received a letter from a wool growers organisation alleging that the telephone call did, indeed, constitute intimidation of Mr Turner and inviting the committee to investigate the matter.

The RRAT committee conducted preliminary inquiries and received further evidence from Mr Turner and Mr Dorber about the telephone conversation and any consequences. As Mr Turner was now of the view that Mr Dorber’s conduct amounted to an offence under subsection 12(1) of the Parliamentary Privileges Act, the chair of the RRAT committee wrote to the President raising it as a matter of privilege and the President gave precedence to a notice of motion referring the matter to this committee. Along with the reference, the Committee of Privileges received copies of the relevant submissions and correspondence with the parties involved. As is often the case, the committee was able to conduct its inquiry on the basis of the papers before it.

In cases of alleged interference with a witness, the Senate has a choice of prosecuting the alleged offender for a criminal offence under section 12 of the Parliamentary Privileges Act, or proceeding against the alleged offender for contempt of the Senate. Although the RRAT committee’s preliminary inquiries were directed at discovering whether there was a prima facie case against a person for an offence under section 12 of the act, the Senate, in referring the matter to this committee, determined to exercise its own jurisdiction to investigate whether a contempt of the Senate had occurred.

The committee found that the accounts of the telephone conversation given by Mr Turner and Mr Dorber did not conflict in any major respect. As there were no significant points of dispute between the two accounts, and it was unlikely that the committee would be able to independently substantiate either account, it chose not to pursue further evidence about the conversation.

The issue for the committee was whether Mr Dorber’s telephone call constituted an improper interference with Mr Turner. Paragraphs (10) and (11) of Senate Privilege Resolution No. 6 provide that actions relating to interference with and molestation of witnesses may be treated as contempts. There are at least two elements of interference with witnesses. The first is whether improper interference was exerted in respect of evidence given or to be given by a witness, and this includes any inducement for a witness not to give evidence. The second is whether any penalty was imposed on a person, not necessarily a witness, on account of evidence given.

The Committee of Privileges considered that Mr Dorber’s action did not interfere with Mr Turner’s evidence. Mr Turner did not alter or withdraw any part of his evidence. Indeed, following the telephone call, Mr Turner augmented his evidence, stating to the committee at the time that he did not wish to make any formal allegations against Mr Dorber. With respect to whether any penalty was imposed, the committee found no link between Mr Dorber’s position regarding the reduction in the wool levy and Mr Turner’s evidence. The committee noted that the apparently robust exchanges between various players in the wool industry were not an uncommon feature of Australian democracy and that the exchange between Mr Turner and Mr Dorber should be seen in that context.

The committee made two observations that I wish to highlight here. The first is that it is highly undesirable for any person to confront a witness about evidence given to a parliamentary committee. There is too great
a risk of committing a contempt, either wittingly or unwittingly, in these circumstances.

The second is that since 1988 the Senate has had procedures in place that require committees to invite responses from persons adversely commented upon in evidence. These provide for exchanges to occur under the committee’s supervision and the guarantee of procedural fairness. The Committee of Privileges takes this opportunity to remind all committees of the importance of these adverse reflection rules and their obligation to follow them.

On the basis of the evidence before it, the Committee of Privileges concluded that a contempt of the Senate should not be found. I commend the report to the Senate and seek leave to continue my remarks later.

Leave granted; debate adjourned.

ASSENT

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


National Residue Survey Excise Levy Rate Correction (Lamb Transactions) Act 2004 (Act No. 4, 2004)


FUEL QUALITY INFORMATION STANDARD (ETHANOL) DETERMINATION 2003

Motion for Disallowance

Quorum formed

Senator ALLISON (Victoria) (4.21 p.m.)—I move:


This disallowance motion seeks to disallow the Fuel Quality Standard (Ethanol) Determination 2003 under section 22A of the Fuel Quality Standards Act 2000. Section 22A, which was inserted into the act by way of an amendment bill passed by the Senate in November last year, allows the minister to make a determination requiring that a label be displayed at the point of sale where fuel blended with ethanol is sold. It also provides that the minister may determine the form that this label will take. When the fuel quality standards amendment bill was debated in the Senate last December, the government promised that the labelling scheme would be informative but would not further damage consumer confidence in ethanol. They promised that the label would not contain alarming warnings that would frighten motorists off this alternative fuel.

I have spoken at length in this place about the advantages of ethanol and done my bit to improve confidence in this fuel. It is fair to say that this fuel is able to reduce enormously the pollution that we currently see from petrol. It is an oxygenate—that means it allows the fuel to burn more thoroughly—and it reduces monoxide, nitrous oxide, and particulate and other pollution. That having been said, it was a surprise to discover that the label which the Commonwealth is now saying it requires at the point of sale of E10, or 10 per cent ethanol blended petrol, will
carry, effectively, a warning. I will later be seeking leave to incorporate two labels in Hansard. The first is the label which was recommended by the ministerial task force working group on ethanol—the working group set up for the purpose of looking at measures which would improve confidence in ethanol. That is figure one. Figure two shows the label as determined by the minister. As those who look at Hansard in the future will see, these are very different beasts. The recommended label says:

**ETHANOL BLEND PETROL**
Contains up to 10% ethanol
**For automotive use**
Check your handbook or contact your manufacturer regarding use of this fuel in non-automotive applications.
But the label which is now required to be applied to fuels says:

**ETHANOL BLEND PETROL**
Contains up to 10% ethanol
**For motor vehicle use**
Suitable for most post-1986 vehicles
Check with your manufacturer before using this fuel in your motor vehicle, motorcycle or in small engines such as chainsaws or outboards.
May cause a small increase in fuel consumption.
**DO NOT USE** in any aircraft.

The Democrats argued that, instead of a labelling system like this, we should have waited until we had some sort of rating system for all fuels so that we could warn the users of petrol that many of the ingredients in petrol are likely to be harmful to the atmosphere. We could compare, for instance, ethanol blended petrol with petrol which was not ethanol blended. Consumers could look at some of the new petrol products which are better for the environment and weigh up whether they are prepared to pay a little extra per litre for those fuels in return for knowing that their efforts in this respect would help improve air quality. But the government has taken a different view and some would guess, as I would, that this is the only label that we will ever see—we will not see the labels being required on fuel to tell consumers exactly what they are getting for their money. The fact that the minister has not taken the advice of the working group set up for this purpose is an indication that this government is not serious about improving confidence in this fuel. It is disappointing that the ALP will not join the Democrats today in disallowing this label because I think it is going to do a great deal of harm, if it has not already done so since the date by which this label needed to be applied was 1 March, which was yesterday.

Another document which I will table, not incorporate, is a reproduction of the label which was provided to us from Caltex. This is the one applied to the pilot E10 project, which has been under way in Queensland for some time. This label for E10 unleaded says:

The E10 unleaded labelled nozzles on this pump dispense unleaded petrol that contains 10 per cent ethanol which is a renewable fuel.

There we have it: a positive statement—"a renewable fuel". That will encourage those people who know that fossil fuels will eventually, in the not too distant future, run out. The label indicates to motorists that this is a renewable fuel so that they can do their bit in supporting an energy source which is not a fossil fuel and therefore does not add to our CO₂ from this source. The label continues:

The E10 unleaded sold at this site contains ethanol from a Queensland grown sugarcane.

So there again a promotion for Queensland sugar farmers. In this place we know, as we have said earlier today, that sugar is in deep trouble. The minister during question time today indicated that the world price for sugar is below the cost of production in this coun-
try. Ethanol offers some hope for sugar producers; their waste material can be turned into ethanol in order to provide another income stream for farmers. So consumers would know (a) it is a renewable fuel, so that is good, and (b) it comes from Queensland grown sugar cane. The label goes on to say:

By using E10 unleaded you will be helping to support regional Queensland.

Important: please read before purchasing this petrol. The fuel is not suitable for use in marine craft, aircraft, ultralites ... and Caltex recommends that you consult with your vehicle or equipment manufacturer.

That label will need to be taken off in favour of a label that looks like one you would find on a tobacco product. In other words, we are going from one which encourages use to one which is about warnings. In fact, it is probably more alarming to many people than even tobacco warning labels. This label says E10 may cause a small increase in fuel consumption and people are going to look at that and say, ‘Yes, this fuel is going to be more costly because I won’t get as much by way of energy out of it.’

The fact of the matter is that the difference in fuel consumption between petrol which does not have ethanol in it and petrol which does is so minimal as to be almost undetectable. Ethanol in fact adds to the fuel efficiency of petrol by making sure that all or most of the elements in it are burned. It is an oxygenate. That will mean that whatever loss there is in fuel consumption by virtue of its energy content will be more than likely made up for by the way in which the petrol will burn. It is a sad day and a great pity that we have come to this point where labels are going to be seen as warning labels, not as an indication to motorists to encourage them to use E10 blends. I seek leave to incorporate the two labels that I mentioned and to table the former Caltex E10 label.

Leave granted.

*The documents read as follows—*

**Figure 1.**
Label Recommended by the Ministerial Taskforce Working group on ethanol

**ETHANOL BLEND PETROL**
Contains up to 10% ethanol

**For automotive use**
Check your handbook or contact your manufacturer regarding use of this fuel in non-automotive applications.

**Figure 2.**
Label as determined by the Minister

**ETHANOL BLEND PETROL**
Contains up to 10% ethanol

**For motor vehicle use**
Suitable for most post-1986 vehicles

Check with your manufacturer before using this fuel in your motor vehicle, motorcycle or in small engines such as chainsaws or outboards.

May cause a small increase in fuel consumption.

**DO NOT USE** in any aircraft.

*Senator O’BRIEN (Tasmania) (4.30 p.m.)—*The fuel quality information standard ethanol determination 2003 sets new requirements for labelling petrol containing ethanol. The requirements are made under the Fuel Quality Standards Act 2000, which established a regulatory regime for activities involving fuel and fuel additives and, along with the Fuel Quality Standards Regulations 2001, provide the framework for making and enforcing national fuel quality standards and national fuel quality information—that is, labelling standards. Labor previously announced a policy that fuels containing ethanol must be appropriately labelled to enable consumers to be informed about what they are buying. Labor believes that consumers not only have a desire to know what they are putting in their cars but also have a right to know what they are putting in their cars. We
also see this aspect as being vital to restoring consumer confidence in the ethanol product and, therefore, vital to building a self-sustaining market for ethanol.

There is heightened consumer concern about ethanol in fuels, following extensive media coverage last year about the dangers of ethanol in some vehicles and which, I might say, was contributed to by the government’s delays in finalising the appropriate legislation. Although the Democrats contend the details required on the label are onerous, the proposed label is broadly consistent with Labor’s view on the rights of the consumer and the need for consumers to have confidence to build the ethanol market. We do not say that this label is perfect, but it does provide much of the key information required. It tells the consumer that the fuel contains ethanol. It tells the consumer that such blended fuel is predominantly for motor vehicle use. It tells the consumer that most post 1986 vehicles will not be adversely affected by the use of the blended fuel. It warns consumers that they may see a small increase in fuel consumption when they use blended fuels. It tells consumers to check with their manufacturer should they have concerns which, I might say, is a pathway providing consumers with confidence and ultimately a stronger market for ethanol.

Although I understand that the industry has undertaken voluntarily to introduce labelling for ethanol, should this motion be successful, and whilst new labels were negotiated, we believe the legislation provides consumers with the necessary surety and allows them to make an informed choice about their fuel usage. We do not support this motion because, if this disallowance motion were to be successful, labelling of ethanol would not be guaranteed and, therefore, consumers and ethanol producers would be back to square one—that is, consumers would not necessarily know if they were buying fuel containing ethanol. Whilst the Caltex example is no doubt quite a positive example for the ethanol industry, there have been many examples which are not so positive, and those examples have substantially affected the consumption of ethanol fuels. Until quite recently the limit on the content of ethanol in fuel to 10 per cent has been a great disincentive for consumers to buy fuel that they suspect might contain ethanol, because they have no legislative certainty that that component of the fuel which ethanol formed would not exceed what was generally accepted to be, for vehicles operating in Australia, the maximum which should be allowed.

I am certain that the industry, based on its experience of these labels in the market—and that will be the test—will reapproach the government, with modifications along the way if needed. That is an approach which ought to be acceptable to any government where there are unintended consequences of a labelling regime which could be demonstrated attributable to the regime and not to any inherent risk in the product. Modification would be, and quite clearly could be, contemplated by the appropriate minister at the appropriate time. In that regard, Labor will of course consider any changes the government brings, just as we will in government consider approaches from the industry with regard to matters which might be brought forward by the ethanol industry and by the fuel industry generally on merits of labelling.

I was somewhat disappointed that Senator Allison seemed to be implying that somehow the ethanol industry can be a saviour for the sugar industry in Queensland. The government has peddled that myth for some time. Sugar is a potential alternative fuel stock for ethanol, but we all know that the overwhelming majority of ethanol used as a fuel additive in this country is produced from grain.
Indeed, a number of the proposed new ethanol plants propose to use sorghum—another grain—as a feedstock. While there are some proposals in relation to sugar cane being used as a fuel stock, the reality is that, if we were to have a substantial industry based on sugar cane, we would not be using sugar cane—or very little—to produce the type of ethanol which might be targeted for widespread use throughout the motor vehicle fleet in this country. The ethanol industry would be a purchaser of cane, were it to substantially take up that opportunity, but it would be looking at the opportunity costs of that cane, as against alternative markets for the cane. It would make the sugar industry unviable if cane producers switched from being sugar producers to ethanol producers, because without cane the sugar mills in Queensland would shut and one suspects in the current environment would be unlikely to reopen any time soon.

This hoary old myth that the sugar industry can be saved by the ethanol industry is just that—a hoary old myth. There may be some minor benefits and opportunities at the margin for the industry to source product surplus to the needs of the mills in Queensland. It may be that the world price of sugar will be such that producers could do no worse than sell it to the ethanol industry, but I suspect that would mean the demise of the mills through the sugar belt in Queensland. We should be very careful about holding out ethanol production as a saviour to the cane growers and sugar communities in Queensland. It will not be. It may provide some minor assistance but I suspect the reality is that the majority of ethanol produced in this country for some time to come will be produced from feedstocks other than sugar cane. The history of production to date has shown that. Around 97 per cent of the ethanol produced for fuel consumption is produced from wheat. A significant number of the additional contemplated processing facilities in southern Queensland and in New South Wales, for example, are talking about producing fuel from grain, either wheat or sorghum. Indeed, investigations are being conducted into the establishment of a sugar beet industry for the purpose of producing ethanol in Tasmania. I am not saying that that will happen, but there are so many potential feedstocks for the ethanol industry that it is fanciful to suggest that suddenly sugar cane growers are going to get some magical benefit from the ethanol industry.

The government made some promises to the ethanol industry, and I am certain that the ethanol industry feels those promises have not been honoured in the proposed labelling regime. I am aware that there is significant disappointment as to the government’s approach on this issue. We are more than hopeful—we are confident—that the environmental benefits of ethanol can be sold by the ethanol industry. I do not understand there to be any limitation on additional signage which deals with issues such as the positive benefits of ethanol. It is incumbent upon the ethanol industry and those retailers who seek to sell product containing ethanol to extol its virtues and to compete in the marketplace with fuels not containing ethanol. As a consumer, I would be far more confident purchasing a fuel where I was made aware of the inherent risks and would be more likely to do it upon taking advice rather than, on the other hand, feeling that there were inherent risks, that things had gone bad, or that a neighbour or a friend who had purchased the fuel had found problems with a motor vehicle or a small engine which, according to mechanical advice, were due to the use of that fuel.

We now have labelling, which may not be absolutely perfect but it is a step in the right direction. We are not prepared, at the end of this debate, to see that labelling removed,
because we believe that would be a backward step for consumers and for the ethanol industry. We will need to revisit the argument again at some stage. It has been difficult enough to get the Minister for the Environment and Heritage, Dr Kemp, to promulgate this regulation. We certainly are not going to see it disappear and wait months or years for another one. The opposition will not be supporting this motion.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (4.43 p.m.)—Just as the opposition, we oppose this motion to disallow these regulations and are somewhat surprised that the Democrats would move a motion to disallow this determination. I concur with many but not all of the arguments put forward by Senator O’Brien. I particularly reject his unfair and unjustified criticism of the government, certainly of the Minister for the Environment and Heritage, Dr Kemp, and his proposition that we are peddling a myth about ethanol saving the sugar industry. They are diversions from the core issue—the core issue being that the government has issued this determination in relation to compulsory labelling for ethanol blended fuel.

I am surprised by Senator Allison’s motion, because this has been motivated by the government’s sincere and concerted attempt to restore confidence in ethanol blended fuels. That confidence had been shattered by scare campaigns deriving from a number of sources, and there had been a buyer strike in relation to ethanol blended fuels. For that reason, the government introduced the E10 limit, the 10 per cent limit. Consumers then knew that anything they bought with ethanol in it would contain no more than 10 per cent, which is the generally accepted upper limit for fuel used in most vehicles on Australian roads, and that they would not be subject to scare campaigns stating that it contained anything in excess of that because the government would require labelling to that effect. What a compulsory label should do is give consumers the essential information they need when buying a product of this kind.

I think the label does provide that essential consumer information, and it does so in a way which should restore confidence by making the point most clearly. The clear statement on the label is that the fuel is for motor vehicle use and that it is suitable for most post-1986 vehicles. That is the critical thing that consumers need to know to purchase the product with confidence. It is essential that the label goes on to advise consumers that they need to check with their manufacturer before using ethanol-blended fuel in a motor vehicle, particularly in motorcycles and in small engines like chainsaws and outboards, because ethanol is not necessarily safe in small engines, particularly in ultralight aircraft. These can use normal bowser fuel, but there is the severe risk that the engine can cut out if the fuel contains ethanol. The ACCC has advised the government that there must be such a warning on the label in relation to aircraft. Certainly it is critical for people who go to sea with a two-stroke outboard motor to know they need to check with their manufacturer before putting an E10 blend in it.

I think the government has done exactly what is required of it, both to restore confidence in this fuel and to ensure people have essential safety information. I thought Senator O’Brien made the point well—with one exception. There is nothing to stop the retailer or the fuel supplier providing additional information by way of additional labels as to the other benefits of this fuel. Of course, the limitation is that they must be consistent with the requirements of the Trade Practices Act and not mislead consumers in any way. As I understand it, what Caltex are doing would not run counter to that. If Caltex
or anybody else want to put a separate label on indicating the other benefits of the fuel then they are entitled to do so within the law as it regulates consumer information.

I think what the government has done is proper. I am surprised that the Democrats would move a motion to disallow this. As Senator O’Brien said, it is only going to cause more delay, more confusion and more difficulty for this industry and I think it is counter to the interests of the industry. I should say that I have taken a particular interest in this, both as industry minister and as finance minister. While we want to see ethanol have its opportunity, I would point out to Senator Allison that there are mixed views on the total environmental benefit of ethanol. I have done quite a bit of research on this. There is work in the United States which suggests that if you take the life cycle approach to ethanol—that is, from the very outset of production the tractor is required to plough the fields to grow the grain to produce the fuel; as Senator O’Brien says, ethanol is mostly made from grain in this country—then the net environmental benefit is not quite as clear cut as Senator Allison has suggested to this chamber. Nevertheless, we have said that fuel can contain up to 10 per cent and we have given consumers the essential information. It is up to those who now believe that this fuel has clear environmental benefits to make their case to consumers and convince them that they should buy the E10 blend, albeit they need to know that with certain uses there is a risk and they need to check with their manufacturer.

I totally support the minister’s determination and the label that has come out of that process. I think it is completely and utterly consistent with the government’s policy intent of ensuring this fuel is available, that we restore consumer confidence in the blend up to the limit that is, generally speaking, appropriate for most vehicles on Australian roads but that the essential safety information is there for consumers. I would suggest to Senator Allison that she rethink her position on this issue. Unless she is going to withdraw the motion, we will vote on it. I am pleased the opposition will support the government in this matter, but I think Senator Allison’s disallowance motion is unfortunate. If it were to succeed, it would cause more significant difficulty for those promoting the use of ethanol in our fuels.

Senator HARRIS (Queensland) (4.50 p.m.)—I indicate to the chamber that One Nation will support the Democrat disallowance motion. In supporting it, I would like to speak about several different aspects of ethanol. Firstly and primarily, we need to address the issue on which the industry participated in this process. From speaking to the ethanol producers in Australia, it is my understanding that there was an agreement between the industry and the government on the basic framework for the notice that would be attached to or displayed on the bowsers. You can inevitably predict the outcome if you put something to a committee. On lots of occasions if you are looking for a horse you will end up with a camel.

This is why we have an objection to this notice. If this disallowance motion is not successful, a very negatively focused notice will go onto each and every bowser that pumps fuel with an ethanol content. I want to put it very clearly on the record that One Nation’s support for the ethanol industry is 100 per cent. I will go into the reasons why we should do that, both health wise and in relation to the government’s clean air standards, which it is locked into achieving by 2010.

The primary objection to this notice is from the industry. When the ethanol industry signed off on what they believed would be the notice, it merely referred the person to
the manufacturer’s data on the vehicle into which it was going to be pumped. The proposed sticker says very clearly: ‘May cause a small increase in fuel consumption. Do not use in any aircraft’. I would like to bring it to the attention of the chamber that avgas is used in aircraft. Its equivalent in our normal, everyday use is unleaded petrol. So where is the sign on every unleaded bowser in this country saying: ‘Do not use this product in an aircraft’? The signs do not exist. They are not there. I apologise to senators—I cannot reproduce all of the examples that I have here—but in California, Chevron’s ethanol blend is 10 per cent, and there is absolutely no warning on its bowser. None whatsoever. In Nebraska, Mobil fuel is labelled ‘E10 with ethanol added’. British Petroleum’s service stations, again in Nebraska, advertise ‘E10 with 10 per cent ethanol’. We can go through as many as you like—Shell, British Petroleum. Right throughout the States there is no requirement for a label that cautions the use of E10. Where is the parallel with the oil companies? They have one set of rules for the US and a totally different set here in Australia.

Last year, over 10 per cent of all gasoline in the United States contained ethanol. Fuel with 10 per cent ethanol has been certified by the Environment Protection Agency as reducing carbon monoxide emissions by up to 30 per cent. Since 1981, over 152 billion gallons of ethanol blend have been used in the United States. In the United States, the only notification is that the fuel contains 10 per cent ethanol. Why does Australia have a totally different set of standards from those that are widely accepted in the United States?

Let us compare ethanol with the unleaded fuel that is sold within Australia today. Our normal unleaded fuel contains 42 per cent aromatics, and our premium unleaded fuel contains 48 per cent aromatics. It is my understanding that the Commonwealth government has made a commitment to reducing the content of aromatics to 40 per cent by 2010. If we are to continue to have premium unleaded in Australia, eight per cent of the octane rating has to be found from somewhere else. Clearly, ethanol is the only fuel that can provide this at this point in time. The structure of ethanol is such that each carbon molecule has attached to it two hydrogen molecules and an oxygen molecule. Ethanol is the product that will bring the octane rating of our unleaded fuel up to the clean air standards that the government has committed to.

So what is the government doing? Is the government going out and progressively encouraging people to fill their vehicles with ethanol? I do not believe that it is, because, when this sign is attached to every pump containing ethanol in this country, it is going to be a disincentive for people to use it. As senators well know, in the area where I live, up on the tablelands, Caltex is running a trial with ethanol. I definitely find that the vehicle I drive performs better with the 10 per cent ethanol blend in it. The clear indication is that the odour from that vehicle is considerably better. If you look at the kilometres that you get from a tank of fuel, it is most definitely better. One of the most dramatic examples of the benefits of ethanol came to light at the Mareeba go-kart facility—an international standard go-kart facility—where they ran a trial with the 10 per cent ethanol blend. Believe me, you would only want to do this on a closed track. It took the top speed of these vehicles from 150 to 180 kilometres an hour with absolutely no adjustments to them. It clearly showed that, on a high performance go-kart motor, the ethanol performed extremely well.

The problem that One Nation has with what the government is proposing is that the sign that has come out of this process is con-
Contrary to what the industry understood it was going to be. One Nation believes that the wording of this sign is negative. Rather than encourage people to use ethanol, it will act as a disincentive. If there is an industry that needs all of the assistance that it can obtain at present, it most definitely is our sugar industry. Ethanol can and would breathe new life into our sugar industry. We should be supporting it 100 per cent and not indicating to the Australian people that there are dangers in using it. With those few words, I indicate that One Nation will support the Democrats on this disallowance motion.

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

The Senate divided. [5.07 p.m.]
(The Acting Deputy President—Senator L.J. Kirk)

Ayes………… 9
Noes………… 39
Majority…….. 30

AYES

Allison, L.F. *  Bartlett, A.J.J.
Brown, B.J.  Cherry, J.C.
Grig, B.  Harris, L.
Murray, A.J.M.  Nettle, K.
Stott Despoja, N.

NOES

Barnett, G.  Bishop, T.M.
Brandis, G.H.  Backland, G.
Campbell, G.  Carr, K.J.
Colbeck, R.  Collins, J.M.A.
Conroy, S.M.  Cook, P.F.S.
Crossin, P.M.  Denman, K.J.
Eggleston, A.  Evans, C.V.
Ferguson, A.B.  Ferris, J.M.
Forsyth, M.G.  Hogg, J.J.
Humphries, G.  Hutchins, S.P.
Johnston, D.  Kirk, L.
Knowles, S.C.  Macdonald, J.A.L.
Mackay, S.M.  Marshall, G.
McGauran, J.J. *  McLucas, J.E.

* denotes teller

Question negatived.

WORKPLACE RELATIONS AMENDMENT (CODIFYING CONTEMPT OFFENCES) BILL 2003
Second Reading

Debate resumed.

Senator MURRAY (Western Australia) (5.11 p.m.)—I rise to continue my remarks on the Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003. The Democrats have less concern with the two new proposed offences, relating to witnesses giving false evidence and to inducing a person to give false evidence to the Industrial Relations Commission. There are currently no provisions in the Workplace Relations Act that cover these issues, and they reinforce offences under the Crimes Act 1914. Concerns were raised during the Senate’s inquiry that the proposed provision regarding false evidence, unlike section 35 of the Crimes Act, does not require that the false evidence touch on matters material to the proceedings. The offence also applies to all evidence regardless of whether it was given under oath, which again is contrary to the High Court’s interpretation of the Crimes Act. We will be moving amendments at the committee stage to address these issues. The Democrats support the government’s aim to ensure the integrity of the Industrial Relations Commission is maintained, but we perhaps differ from the government on how best to achieve that.

The Australian Democrats have a long tradition of supporting the commission having an independent discretion to determine industrial relations matters on their merits.
Discretion, of course, is never open-ended, but it has long been our view that wherever possible such discretion is a better guarantor of fairness and flexibility—which is a repeat of something I said earlier today with respect to another bill. The Democrats also believe that one of the weaknesses of the current system is the lack of powers of the Industrial Relations Commission to arbitrate and conciliate disputes. The Democrats argue that the capacity for the Industrial Relations Commission to resolve disputes on its own motion should be increased and that resources to the Industrial Relations Commission should be increased to ensure the timely resolution of disputes. With respect to increasing penalties, the Democrats support tougher civil penalties for those who purposely ignore commission and court orders, and we will be supporting those provisions in the bill. We have circulated a set of amendments on sheet 4132 and we look forward to debating them at the committee stage.

Senator SANTORO (Queensland) (5.13 p.m.)—On the face of it, codifying offences so that what constitutes an offence is always clear seems to be sensible policy. It is too often the case that you find that those who would argue against codification—say, on the grounds that it limits or is too prescriptive of judicial responses—are those who are seeking to find some excuse for people to continue to flout the law. No-one would want to limit judicial reasoning or trespass on the sound jurisprudence that almost always flows from learned judges applying their minds and their training to problems of the law, but in the Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003 no such action is proposed. Indeed, except at one remove, it does not even impinge on the freedom of thought of judges at all.

According to the opposition spokesman on workplace relations, the member for Rankin in the other place, this is ‘a vacuous piece of legislation’. He said that in his speech on the bill in the House of Representatives. It is not the legislation that is vacuous; the member for Rankin’s comments were in fact vacuous. The member for Rankin’s comments are often the very model of Labor Party vacuity when they are not just barefaced expositions of his and his party’s preference for a return to the union closed shop and special privilege for the union movement. Amongst the dross that the opposition spokesman delivers, there are sometimes little shafts of light that illuminate his thinking. He said in the same speech on this bill in the House of Representatives:

For 100 years Australia has supported an Industrial Relations Commission as an independent umpire being able to arbitrate on disputes. He can get 10 out of 10 for history there. Both sides of Australian politics have always supported the Australian Industrial Relations Commission. The essential difference, which is clear in this bill—and it is clear why Labor is opposing it—is that the side of politics that supports an independent Industrial Relations Commission is this side. We support an Industrial Relations Commission that is armed with effective weapons against union thuggery and provided with a clear mission statement by the legislature with regard to what it may order.

Labor prefer to keep things obscure. They use the smoke and mirrors method of hiding things. I talked about smoke and mirrors last night when debating another bill. They say they are all for independent arbitration but they really mean they are all for unions and their operatives being able to continue to get away with flouting the law. There is no intention in this bill or by this government to undermine the basic rights of anyone. The opposition suggest that doing so is the Prime Minister’s passion and the fixation of the
former minister, my friend and the present Minister for Health and Ageing.

**Senator George Campbell**—Madam Acting Deputy President, I rise on a point of order. I am reluctant to take this point of order but, given the precedent that was set this morning by Senator Ian Campbell, I have to take a point of order on Senator Santoro who appears to be reading his speech word for word contrary to the provisions of standing order 187.

The **ACTING DEPUTY PRESIDENT** (Senator Kirk)—There is no point of order.

**Senator Santoro**—Obviously, I am speaking—

**Senator George Campbell**—Madam Acting Deputy President, I do not want to take issue with the chair, but it is obvious to anyone who is sitting in this chamber that Senator Santoro is reading his speech word for word, which is contrary to the provisions of standing order 187, as was pointed out succinctly before lunch by Senator Ian Campbell.

**Senator McGauran**—Madam Acting Deputy President, I rise on the point of order. The second point to which Senator George Campbell rose was not a point of order; it was in fact a challenge to your initial ruling. It is quite obvious to all in the chamber that Senator Santoro is reading from copious notes, which is well within the standing orders.

**Senator Santoro**—I was about to say that, actually.

The **ACTING DEPUTY PRESIDENT**—There is no point of order, Senator Campbell. I understand that Senator Santoro is referring to copious notes.

**Senator Santoro**—This was going to be a considerably briefer speech than it is about to become, because I am quite happy to depart from my copious notes—as you quite correctly have determined they are—and take up a point that Senator Murray made in his speech. I was going to make this point anyway in the course of referring to my prepared copious notes. The point I wanted to make in response to Senator Murray is that this government, of which I am a member, are not anti-union.

**Senator George Campbell**—Absolute rubbish!

**Senator Santoro**—What we are is anti the irresponsible leadership of the party of the senator opposite me who seeks to frivolously interfere in the delivery of a contribution that is technical in nature and does require significant preparation and explanation—at least from my point of view. And we have people like Senator George Campbell—

**Senator George Campbell**—I didn’t kick the first ball.

**Senator Santoro**—Senator Campbell, you should be treating people the way that you would like to be treated. The point that I make in response to one of the points made by Senator Murray is that we are not anti-union. In fact, successive Liberal governments, including the Fraser government and the Howard government, have been elected by people who have abandoned you. Those non-Labor governments have been elected by voters who abandoned the union movement, who have been walking out on you in droves. Quite honestly they resent the ugly attitude and the ugly face of unionism that you represent in this place. They resent the fact that when you were a union leader, as one of my learned colleagues mentioned—I think it was Senator Abetz—close to 200,000 people associated with your union lost their jobs.

**Senator George Campbell**—Maybe you should go back into the history of your party.

**Senator Santoro**—I do not go back. I read union history and I lament the fact that...
people like you existed and you led the movement to the shameful situation that it is in at the moment, declining membership—

Senator George Campbell interjecting—

Senator SANTORO—You can laugh and you can smirk: ‘Yeah, we got Senator Santoro going.’ You just got what you deserved: a reminder, on the public record, of your absolute blind commitment to ideology that to the vast majority of Australians is worth absolutely nothing anymore. We are not anti-union; we represent more Australian workers than you ever will. When you come up with frivolous interventions such as the one you just did, you deserve to be treated with the contempt that you and your union movement are treated with. They just do not like people like you. That is why you are heading south in terms of union membership and votes.

The intention of this bill, and the policy position of this government, is to ensure that no-one can make a monkey out of the Industrial Relations Commission, as members opposite constantly seek to do. Codifying what constitutes contempt of the commission is a sensible step that makes it crystal clear to everyone exactly what constitutes contempt. It is not the Prime Minister’s hidden policy to decimate the union movement as the member for Rankin alleged in the other place. The union movement has decimated itself and is now belatedly waking up to the fact that to be useful and therefore attractive to Australian workers who want to pay union fees for service—service, Senator Campbell, not ravings and rantings and ideologically blinkered contributions—unions actually have to provide a service. The workplace is not a place for politics.

These days the union movement is trying to muscle into all sorts of things. It has failed in the area of industrial relations. Because Australian workers do not wish to be represented in the industrial relations arena, the ugly face of unionism—not the ugly face of union members, because the vast majority of those members have been good enough over successive elections to actually elect non-Labor governments—is now muscling in on workplace occupational health and safety issues and training areas. Again, it is trying to bring into all sorts of areas—

Senator George Campbell—What do you mean we’re muscling in? We’ve always been involved in the movement!

Senator SANTORO—Yes, but what you are doing—

Senator George Campbell—For 200 years we’ve been involved in the movement!

Senator SANTORO—There you go; you are not listening. I am talking about the politics of the workplace. You have lost the political battle in the area of industrial relations.

Senator George Campbell—You’re talking absolute rubbish!

Senator SANTORO—It is not absolute rubbish and you know that. You just do not like it.

The ACTING DEPUTY PRESIDENT (Senator Kirk)—Senator Santoro, your remarks must be addressed through the chair.

Senator SANTORO—Through you, Madam Acting Deputy President: the workplace, as I am trying to convince Senator Campbell—rather unsuccessfully, I must admit—is not a place for politics.

Senator Abetz—He’s a dinosaur.

Senator SANTORO—That is perhaps putting it a bit too kindly, Senator Abetz. It is not a place for politics; it is a place where employers and employees alike work to generate profit—another word that you do not like obviously. Australian industrial relations history is replete with examples of unions that have taken the law into their own hands,
which have manufactured disputes for political purposes and which have held the country to ransom. I believe and this government believes—and on all evidence the Australian people believe—that those days are gone. The Labor Party clearly does not, and we have heard here again this afternoon a clear manifestation of that belief. The Labor Party clearly believes that it can take this country back in time. It is a little surprising that the member for Rankin apparently wants to drive the bus that would take us there.

When the former Minister for Employment and Workplace Relations introduced this bill into the House of Representatives on 19 August last year he said:

The bill seeks to codify and strengthen provisions in the Workplace Relations Act regarding contempt of the commission. A number of members opposite pointed out in the course of debate: ‘As far as we are aware, contempt of the commission has been a dead-letter issue. There have been no prosecutions for contempt of the commission.’ But I regret to inform the House that there have indeed been plenty of contempts of the commission; it is just that there have been no prosecutions. The reason there have been no prosecutions is that the existing provisions are not entirely clear and do not contain sufficient penalties. I repeat: there have been numerous contempts of the commission over the years.

This takes up another point that was made by Senator Murray and other senators opposite—that is, there is nothing wrong with the law; it is simply not being enforced. The point the minister made in his second reading speech was that the reason the bill is back before us is that we want to make the law clearer so that contempts of the commission can be properly addressed. That is why the bill is back here. It is not a matter of its not being enforced because of deliberate intent; we are just simply trying to finetune and amend a law. It is not an anti-worker law; it is a very sensible law. Even the Labor Party, including the senator opposite who continues to interject, in full symbiosis with the union movement would have to concede the point. Do you concede the point?

Senator George Campbell—No. The law is already there; the provisions of the law are already there and they haven’t been used.

Senator SANTORO—I am glad you have gone on the record because—through you, Madam Acting Deputy President—you again prove not only your ignorance but also your political and ideological obstinacy. Those opposite may choose to argue that it is sometimes valid to be in contempt of the commission. There would indeed be some intellectual validity to their argument, no matter it is entirely wrong, were they to come clean on that point, but they cannot argue that no contempt has ever taken place, as they regularly do.

Without going back over the full history of the union movement—and I again want to make it clear at this point that it is only a minority of unions and union organisers and bosses who regularly and wilfully flout the law—for the record, we are not anti the union movement. I hope that Senator Murray is listening to this. We respect the vast majority of union members, shrinking though the number is. We have only to go back to the Cole report—the report of the Royal Commission into the Building and Construction Industry—to find evidence of numerous contempts of the Australian Industrial Relations Commission or numerous actions and events that would be in contempt of the commission if evaluated on any reasonable understanding of the law. The former minister made reference to one such instance reported by the royal commission: the Patricia Baleen industrial dispute in Victoria in late 2002, a strike that ran for almost two months, despite—indeed, in the face of—two section 127 return to work orders being issued by the commission. If that is not contempt, I just do
not know what in fact can be defined as contempt.

The bill before us has one objective: to ensure that the commission is respected. The Labor Party and others can only vote against this bill if they are prepared to countenance continued contempt of the commission. The argument the Labor Party put forward over this bill is a political argument. If they were genuinely arguing it on administrative grounds, or on grounds of support for the rights and duties of the commission, they would not be arguing at all. They would be rushing to pass the bill.

It would be instructive at this time to take the Labor Party through the actual provisions and intent of the bill. The bill amends section 299(1)(e) of the Workplace Relations Act which makes ‘contempt of the commission’ a criminal offence. The new offences clearly identify each type of conduct that constitutes contempt and the bill increases the level of penalties for such offences. There are three key elements to the government’s overall compliance policy in relation to breaches of the court and commission orders: contempt proceedings for breaches of Federal Court orders, which are to be initiated either by the Attorney-General or the Minister for Employment and Workplace Relations where there is evidence of defiance and where instituting the action is in the public interest; civil proceedings for breaches of commission orders under section 178 of the Workplace Relations Act, which will be investigated and enforced by inspectors appointed under the Workplace Relations Act; and criminal proceedings under the statutory contempt provisions in part XI of the Workplace Relations Act, which will be investigated by Workplace Relations Act inspectors and prosecuted by the Director of Public Prosecutions.

Senator George Campbell—He is reading from his copious notes.

Senator Santoro—If the honourable senator actually listened, he might learn something. This bill concerns criminal proceedings for contemptuous behaviour in relation to the commission. It clarifies the scope of the offence relating to conduct that amounts to contempt of the commission contained in existing section 299 of the Workplace Relations Act. In other words, while it does create new offences, it actually codifies what constitutes contempt on a basis that I believe most people would already clearly understand to be contempt and enforces action and appropriate penalties against such contempt. It means that union organisers would no longer be able to thumb their noses at the commission with impunity or, indeed, immunity.

The government believes this bill is necessary to ensure that the law, and in particular the application of criminal law, is clear; that it is accessible to those who believe they have a case; and, further, that it is capable of delivering legislated remedies for unlawful action. In this it is no different from any other bill that supports the criminal justice system. The industrial landscape is not one that should be quarantined from the force of the law, as senators opposite would want. Industrial disputes are not some sort of game, as the Labor Party apparently believes. They are not necessarily minor or momentarily diverting arguments between friends.

We should perhaps again go through all of the other reasons why this bill is necessary and should be passed. This bill amends Workplace Relations Act offences relating to contemptuous behaviour against the Australian Industrial Relations Commission so that it is clear and unambiguous. It codifies section 299(1)(e) of the Workplace Relations
Act, which is currently a catch-all provision, prohibiting any offence that would, if the commission were a court of record, be a contempt of that court. It deals with the problem that this kind of ‘deemed contempt’ provision imports the common law of contempt with all its uncertainties and complexities. As contempt of the commission is a criminal offence, it should be stated with certainty— with certainty that currently does not exist. It is the responsibility of the parliament, this Senate, to ensure that its laws are as clear as possible.

The bill clearly sets out specific forms of contemptuous behaviour which will attract criminal sanctions under the legislation. This implements the approach recommended by the Australian Law Reform Commission that ‘deemed contempt’ provisions—such as the current section 299(1)(e)—should be replaced by specific statutory offences that identify contemptuous conduct. Existing offences in generally-applying legislation such as the Crimes Act and the Criminal Code already prohibit some contemptuous conduct in relation to the commission. This bill only creates a new offence to prohibit conduct not already adequately covered by the existing offences. The bill also updates penalties for a range of offences under part XI of the Workplace Relations Act, many of which have not been substantively revised for more than 15 years, and of course the world has moved on considerably in those 15 years.

The proposed new offences are: engaging in conduct which contravenes an order of the commission, publishing a false allegation of misconduct affecting the commission, and inducing a person to give false evidence to the commission. These would, I am sure, be viewed by most Australians as offences against which the law should act rather than stand idly by while offenders treat it with contempt. It is this sort of contemptuous behaviour that has hitherto escaped penalty. I do not believe that there is any reasonable Australian out there who would not see the sense that exists in the provisions of this bill that we are debating here today.

Like most Australians, most union members and officials are sensible people who understand that the law must be obeyed. I did not need the prompting of the honourable senator opposite for me to have considered my contribution and included those comments in my prepared statement. I did not need you, or indeed Senator Murray or anybody else in this room, to force me to say what I said. You have no monopoly over caring for people and workers, Senator.

Senator Crossin—Oh, dear, dear!

Senator SANTORO—Don’t shake your head and give me a gentle clicking, because it just does not make sense. You have no monopoly; you are not the only politicians, senators and worker representatives with the hearts. You simply are not, and people are voting with their feet, as we have said before. This bill will prevent contempt of the commission and any reasonable Australian would be supporting that, as you should.

Senator GEORGE CAMPBELL (New South Wales) (5.33 p.m.)—Madam Acting Deputy President—

Senator Abetz—Chalk and cheese.

Senator GEORGE CAMPBELL—It is chalk and cheese, Senator Abetz, that is true. I was amazed at the character of the speech made by Senator Santoro, who I understand was a minister for industrial relations in the fine state of Queensland, to show such ignorance of the issues that the chamber has before it. The reality is that, if we were debating this issue on its merits, this debate would have been long over. We would not have wasted five minutes on it, because there is no merit in the legislation that is before the chamber—absolutely no merit whatsoever. The Workplace Relations Amendment (Cod-
fying Contempt Offences) Bill 2003 is just another piece of mischievous legislation designed to satisfy this government’s vitriolic hatred of the trade union movement and to vilify the achievements and proud history of an organisation that has looked after the rights and conditions of working Australians for well over 100 years. Anyone with any sense of fairness who reads history objectively would know that the living standards that we all enjoy in this country today—whether you be a worker in a factory, a senator sitting in this chamber or a high-flying business executive—go back to the role played by the union movement over the past 100 years in arguing for and promoting the rights of ordinary Australians to better working conditions, better standards of living, better wages and better conditions. We all know that—and, if there was any sense of fairness on the other side of the chamber, Senator Santoro would get up and admit it and Senator Abetz when he closes this debate would get up and admit it. But we know they will not, because they have never been able to bring themselves at any stage in history to admit that the trade union movement has played an effective role on behalf of workers in this country.

This legislation is just another piece of Orwellian doublespeak. If you look at the industrial legislation that the government have brought into this chamber since 1996 and compare the language used in the titles of those bills with the actual intent behind them, then you would have to say that the government studied well George Orwell’s Nineteen Eighty-Four. They understood clearly the message that was exposed in that piece of literature, because they have used it very effectively in all the industrial legislation they have been promoting. Those bills have been referred to, I think, as ‘the dirty dozen’ reform agenda—the dozen bills that are about trying to neuter the effectiveness of the trade union movement by pretending to promote the interests of ordinary Australian workers.

This bill is simply a part of this broader picture of industrial relations reform—part of a series of bills which have been developed on ideological grounds. We know where the ideology comes from. It was there in 1996, it was there in 1998 when Peter Reith ordered the men in balaclavas and the dogs onto the wharves to go after the Maritime Union of Australia, it was there in the royal commission into the building industry when they sought to get at the building workers; and it will be there in future actions undertaken by this government in its approach to dealing with the trade union movement. It is unfortunate that it has confused the concept of reform with the politics of regression. This legislation and many of the other bills that we have before us are based on nothing more, as I said, than bland ideological hatred of the trade union movement and the collective ideal.

If this legislation were to get through this chamber in the form that is being promoted by this government, what would it achieve? It would lead to the creation of industrial turmoil out in the workplace. Workers and unions would be driven into a position of having to take direct industrial action to defend their living standards against the attacks that are clearly designed in this legislation. The legislation is designed to ensure that Australian workers will suffer, that Australian businesses will suffer and that conflict in the workplace will be inflamed. We have seen the example in Victoria with Jeff Kennett—which I was reminded of last week—when over 100,000 workers marched up Bourke Street in protest at his industrial laws. That is a clear example of what happens when you overstep the mark. In the same way that Kennett overstepped the mark in Victoria, this government has been at-
tempting to overstep the mark since its election in 1996, but it has been prevented essentially by the actions of people in this chamber. It has been saved, some would say, from itself in its approach on industrial relations.

Let us look at some of the Orwellian titles of the dirty dozen. In many cases the intent of the bill is diametrically opposed to its title. Take the Workplace Relations Amendment (Fair Dismissal) Bill 2002, which allows small businesses to dismiss their employees with impunity and leaves sacked workers without recourse to unfair dismissal laws. Where is the fairness in that bill? Yet the government have deliberately used the term ‘fair dismissal bill’. What about the Workplace Relations (Award Simplification) Bill 2002? It simplifies the responsibilities of employers by removing matters such as limits on the minimum and maximum hours for part-time employees and payment of accident make-up pay, but it creates chaos and uncertainty in the lives of Australian families who find the safety net protecting their pay and conditions has been shredded to bits. The reality is that these ham-fisted class warriors of the Howard government are having themselves and working families on with this legislation—and this bill is no better.

On the surface, the bill sounds fairly innocent and fairly reasonable. It seeks to amend section 299 of the Workplace Relations Act relating to the Australian Industrial Relations Commission including the offence of contempt. The bill also increases fines for contempt and related offences. For some offences imprisonment terms will be increased. These are all provisions in the current act. They are not new; they are in the act and have been there since 1993. However, the reasons given by the former Minister for Employment and Workplace Relations, Mr Abbott, for introducing this bill that the Industrial Relations Commission is somehow not respected and that its judgments are regularly flouted just do not add up. Of course the decisions of the independent umpire should be respected, but what has this government sought to do since 1996? It has sought to take the whistle off the umpire. If you look at the legislation across the board, you can see that much of it has been targeted at gagging the umpire’s ability to blow the whistle and restricting the capacity of the umpire to play an effective role in running the industrial relations game. That is what the government has sought to do since 1996, yet it expresses concern that somehow or other the Industrial Relations Commission has not been respected.

If anybody holds the Industrial Relations Commission in disrespect, it is people on the other side this chamber—in fact, that is the very point. Issues of contempt in the commission are dealt with appropriately. As I have said, the act already contains numerous provisions which allow prosecutions for contempt of offences against the commission to be brought. Section 299 sets out a range of offences in relation to the commission, and they are very specific. In addition to section 229, there are other related provisions in the act, namely the Crimes Act and the Criminal Code that cover a wide range of offences, including the threatening, intimidation, coercion or prejudice of witnesses and non-compliance with commission requirements to appear, swear or make affirmation. These provisions also provide for significant penalties, including up to six months imprisonment for some offences.

The current system is clearly comprehensive, detailed and properly and effectively thought out. All parties operating under our industrial relations framework, whether they are unions or employer groups, understand their obligations to the commission. No-one in the industrial relations field is in doubt about what their commitment is to the commission and how they have to act within it.
and respond to it. The reality is that the current laws are working effectively, and the reality also is that the minister knows it. The minister knows the laws are working effectively.

So what is the government’s real agenda with this legislation? It cannot be that actions brought under the section are proving problematic or ineffectual because there has not been an action brought under the section since 1993 when the contempt provisions of the act were significantly added to and changed. You would have thought, having listened to Senator Santoro’s speech, that there was mayhem and chaos out there, that people were regularly holding the commission in contempt by ignoring its decisions.

Senator Jacinta Collins interjecting—

Senator GEORGE CAMPBELL—Senator Collins, I do not think they want to go as far as ‘tough love’. ‘Gentle love’ might be more appropriate in these circumstances. If the commission had been subjected to the type of activity you would have thought they were being subjected to were you to believe Senator Santoro’s speech, they would not have acted under the current provisions of the act to have protected their rights. The reality is that they did not. Non-compliance with commission orders are generally resolved in the Federal Court either directly between the parties involved in the dispute or with the assistance of the court.

We have to ask ourselves: why does the government feel it necessary to amend Section 299 when not one action has been brought under the section for over a decade? At the same time, you have to pose the more baffling question: why is the government not moving to make changes to the Administrative Appeals Tribunal Act 1975, which contains a number of provisions largely equivalent to section 299 of the Workplace Relations Act? The answer is that the government is not really concerned about the commission being held in contempt at all. It simply wants to create a set of circumstances in the public relations environment to try to demonstrate that somehow or other the trade union movement are being big baddies out there: ‘We are dealing with them. We are going to make them pay. We are going to send them to prison. We are going to fine them double what they used to be fined.’

This morning Senator Abetz, in berating a comment I made on another bill, trotted out the old line that Paul Keating once used about my having the jobs of 100,000 metal-workers around my neck as a millstone. Two hours later, Senator Santoro had doubled that amount to 200,000. We have a number of industrial relations bills listed for debate in this chamber this week. By Thursday, the number of jobs that I will be accused of having around my neck will be around a million. Again, the truth does not seem to have much relevance for the other side when we are debating industrial relations.

I want to take a couple of minutes to identify what I think is the real government agenda. That real agenda is to say to working families in Australia, ‘Either you will play it our way or you will pay.’ If you look at the evidence that was given to the Employment, Workplace Relations and Education Legislation Committee, which examined a number of the government’s proposed workplace relations bills, including this one, the Department of Employment and Workplace Relations themselves summed up the agenda. They said in short to the committee that the government considered that amendments to the act such as this one were necessary because they brought the law into line with government policy. The government use the term ‘policy’, but of course we use the term ‘ideology’. They said they brought the bills in line with government ideology. That is what this agenda has all been about. This
ideology, this hatred of the trade union movement, is not new to the Howard government. I have been in the industrial relations field for a long time and successive Liberal-National Party governments from Menzies right through have consistently put laws into the federal parliament aimed at attacking or restricting the capacity of the trade union movement to defend workers’ rights. You can go back and see them. The legislation of 1975, the Viner amendments of 1983 and the bills that have been put through this chamber over the last six or seven years by the Howard government are all consistent in their objective, which is to restrict the capacity of the trade union movement to work on behalf of ordinary working Australians to improve their working conditions, their living standards and their pay.

At the end of the day, that is what is truly shocking about this bill and the other bills that we have in front of us this week. They simply demonstrate, once again, the paranoid fantasy that this government has about its imagined ideological enemies—its preparedness to set aside the rights of ordinary Australians and what it sees as the big bogeyman in being able to attack the trade union movement. This bill, like the others, is sneaky, unnecessary and cynical. It demonstrates again the government’s fanatical hatred of trade unions. That has never, and will never, be a sensible approach to industrial relations reform. I simply take this opportunity to say that I condemn the bill. I trust the Senate will treat this bill with as much contempt as this government treats the Industrial Relations Commission.

Senator ABETZ (Tasmania—Special Minister of State) (5.52 p.m.)—Who said dinosaurs were extinct? We have just heard from one and it seems to be back to Jurassic Park days with Senator George Campbell’s contribution. I thank honourable senators for their contributions to this debate and, if I may, I will deal with some of the comments that have been made along the way and then remind the Senate of the legislation before us.

Despite all the rhetoric that we heard from the other side, there was one contribution that stood out—and that was from a former distinguished minister for industrial relations in the Queensland government, Senator Santoro. He made a very worthwhile contribution in this debate, and I thank him for his contribution and his commonsense approach to the issues. He set out the government’s position very well.

During the debate we heard the lament about the deunionised work force. If the work force is being deunionised it is because workers are deciding not to join trade unions. You may wonder why the workers are leaving the trade union movement in droves. But it is no wonder when we have to listen to the sorts of contributions that have just been made in this place by Senator George Campbell on the other side. It would be somewhat embarrassing to have somebody like Senator George Campbell represent you if you were a worker. Senator Campbell made sure that his job was so much easier by ensuring that 100,000 people in the industry that he was allegedly representing lost their jobs. That is not my statistic, that is not Howard government rhetoric; that is the accusation made against him by former Labor Prime Minister Paul Keating.

When people from your own side of politics accuse you of having lost 100,000 jobs in a particular industry whilst you were the head trade union official, there is merit in analysing and examining that allegation. Unfortunately, there are 100,000 Australians who know that to be a fact because they lost their jobs because of the activities of Senator George Campbell who, for his efforts, has now been promoted to the front bench of the
Australian Labor Party. The people of Australia need to realise that if later this year there is a change of government it would be the likes of Senator George Campbell who would be deciding the industrial relations policy of this country. At the end of the day, there is only one group to blame for the work force being deunionised, and that is the union leadership for driving away the workers. It was the workers—

Senator Jacinta Collins—Don’t contradict the Prime Minister.

Senator ABETZ—I am not contradicting the Prime Minister. Senator Collins, in her contribution, lamented the deunionised work force. The work force is being deunionised because of the sort of behaviour that we are witnessing now from a former trade union official. They are all former trade union officials over there, Madam Acting Deputy President Kirk, as you would well know. Workers nowadays, because of this government’s policies, actually have a choice about whether or not they want to be members of a union. And we believe that that is a very important choice that each and every individual Australian worker should have. Once they were given that choice they left in droves.

Another contributor to this debate suggested that every workplace relations bill that has come before the parliament from this government over the past eight years has been designed to be provocative towards unions and the workers. If that is the case they might like to explain to the Australian people why we have enjoyed the lowest rate of industrial disputation in this country, ever. If we were so provocative and if we were wrecking the industrial infrastructure within this country, one would imagine that the workers would be outraged and there would be industrial disputation every day of the week. The simple fact is that as a result of our policies the workers of this country are enjoying not only more job opportunities—because we now have more people in employment—but also an increase in real wages. We are still in a period of strong economic growth with employment growth and, as a result, employment opportunities.

A suggestion was also made that there was some sort of imbalance of power. If there were an imbalance of power, one would imagine people would be getting lower and lower wages. I remind those opposite of the proud boast of the former Labor Prime Minister that real wages had gone down. We in the Liberal-National Party government are proud of the fact that real wages have increased under our regime.

Senator Jacinta Collins—What about the social wage?

Senator ABETZ—I accept Senator Collins’s interjection. The greatest social wage we can give is an actual wage or an actual job—which the Labor Party were unable to deliver because of their policies. We have now delivered jobs not by the thousands or hundreds of thousands but by the million for the people of Australia. That is why the unemployment rate has come down to below six per cent. Sure, we have a long way to go. Whilst 5.6 per cent is a good figure, it should be even better—and we are working hard to achieve that. But when the people of Australia come to compare the Australian Labor Party with the Liberal and National parties in this area they will see that it has been our policies that have delivered these very exciting results for the working men and women of this country. People have jobs, their wages have increased in real terms, and that provides them with real and genuine security.

Senator George Campbell gave us a very interesting discussion. I will not seek to deal with everything that was mentioned by Senator Campbell. Suffice to say that his defence
of the building industry in the face of the findings of the royal commission that highlighted the corruption, the thuggery, the standover tactics is just beyond belief—and that remark comes from a frontbencher. I remind the Senate and the Australian people that, if the Labor Party were to win at the next election later this year, Senator Campbell would be serving as a minister in the Australian government and, by implication, condoning the sorts of activities that were found to be illegal by the royal commission. Of course, with those sorts of activities we would have a government that would be overseeing yet again an increase in unemployment and a decrease in real wages—and they claim to be the champions of the worker.

Of course, with those sorts of activities we would have a government that would be overseeing yet again an increase in unemployment and a decrease in real wages—and they claim to be the champions of the worker.

The workers of this country expect their government to have a regime in place whereby the rule of law does apply to industrial matters. That is exactly what this bill seeks to do. It seeks to codify the contempt offences in the Workplace Relations Act. It is as simple as that. The nearly hysterical opposition, put forward by the Australian extremists and the Australian Labor Party, is just mind-boggling. It goes to show what their ideology is and what their methodology would be should they ever be given the Treasury benches in this place.

The proposed amendments to this bill are essentially technical amendments that are necessary to ensure that the legislation operates effectively and that the obligations it imposes are clearly understood. The contempt provisions of the act are intended to protect the integrity of the commission and to support commission proceedings and orders. If you genuinely believe in the Industrial Relations Commission—as those opposite claim—one would imagine that they would therefore support provisions that ensure that people cannot act in contempt of its orders. The Workplace Relations Act already prohibits contempt of the commission, but it does so through a deemed contempt offence that imports the uncertainties and complexities of common law contempt. All we are seeking to do, as the bill says, is to clarify that. The average person does not necessarily understand what conduct amounts to contempt. The bill takes this broad and potentially confusing offence and converts it into a number of offences that clearly spell out what conduct breaches the law. It makes the law clear; it makes the law accessible.

The bill has four main components. Firstly, the bill sets out specific offences that are a contempt of the commission. These offences are already substantially covered by the current catch-all offence. Secondly, it draws attention to existing offences under the Crimes Act and the Criminal Code that apply to the commission. Thirdly, it provides for a new specific offence of giving false evidence to the commission. Fourthly, it updates the penalties to more accurately reflect the seriousness of conduct that would undermine the integrity of the commission, which is what those opposite are opposing.

The opposition has focused its criticisms on proposed new section 299(3), which provides for an offence to prohibit the contravention of an order of the commission. This is disobedience contempt at common law. Unlike the existing provision, the new offence is very clear about what sort of conduct can result in a court imposing criminal sanctions on a person. There is a penalty of imprisonment, which has been referred to by Senator Collins. But contrary to what she suggested, this bill does not use prison as a primary remedy against industrial action. That is an absolute misrepresentation of the amendments. No-one will be penalised for taking protected, legitimate industrial action which is allowed under the Workplace Relations Act.
Before a person is exposed to a penalty under this bill, in connection with taking industrial action, the person would need to have (a) taken the unprotected industrial action and (b) be the subject of an order by the commission that the industrial action cease or not occur and (c) have intentionally failed to comply with that order or been reckless as to whether they complied with the order. One wonders why the Australian Labor Party is so trenchant in its opposition of such a provision. There are three aspects that need to be satisfied. If all three are satisfied then it seems reasonable that in those circumstances a substantial penalty ought be applied.

The current act already includes a sentencing option of six months imprisonment for breaching section 299(1)(e), which could apply where a person breaches orders of the commission, but the current provision is not clear that this sort of conduct could result in such a sanction being applied. This bill makes it clear. It is appropriate that there are effective sanctions that can be imposed where a person who is bound by an order intentionally breaches that order. Courts are protected by criminal sanctions for contempt, as are other Commonwealth tribunals, and the government’s policy is that the commission warrants the same degree of protection. It is obvious that the Australian Labor Party does not believe that the commission warrants that degree of protection. We happen to disagree; we believe that the commission is worthy of that protection.

The opposition has asserted that there is no evidence that the incidence of industrial action or noncompliance with orders has increased or is so prevalent that systematic changes are required to deal with these issues. However, even the ACTU conceded in its submission to the Senate Employment, Workplace Relations and Education References committee that orders of the commission are sometimes breached. The ACTU submission referred to a number of excuses for such breaches. They were either minor or trivial or the industrial action did not continue for too long after the order was made, or the action ceased after the federal court followed up the commission’s order with an injunction. Responsible union officials, one would have thought, should always respect orders of the commission. The government’s view is that there are no excuses. If a union does not agree that the commission should have made an order, it should appeal against the order. The government agrees with the president of the commission, when he said:

The act provides for the manner in which decisions and orders are to be challenged and that process is to be preferred to a practice of selective observance based on a perceived interest.

Other commissioners have noted the seriousness of failing to comply with its orders. For example, Senior Deputy President Acton noted in the Calsonic case last year:

It is clear that the AMWU failed to comply with all the terms of the section 127 order I issued on 28 May 2003. The AMWU’s failure in this regard is a serious matter and is to be condemned, not the least because it undermines the rule of law and the objects of the act.

Can somebody remind me which union Senator George Campbell was associated with? It would not have been the AMWU, by any chance?

My friend and colleague from the Democrats Senator Murray was concerned that the government was seeking to prosecute every example of noncompliance. This is not the case. The Director of Public Prosecutions is an independent officeholder and he will decide if a case is to be prosecuted under the Commonwealth’s prosecution policy. Under this policy, a prosecution can occur only where the DPP decides that it is in the public interest, taking into account all the relevant facts. Knowing who the DPP is, might I say...
that Senator Murray should have no fear—the DPP is a Tasmanian.

The suggestion was made by a number of contributors that there was no evidence that section 299(1)(e) has ever been used. Senator Collins suggested that this meant there was no need for any amendment. There are a number of likely reasons for the existing offence not having been used to date: (a) the very low penalties that may be imposed; (b) the lack of clarity about which conduct amounts to contempt of the commission; and (c) that it has not previously been a key government priority to investigate possible breaches and seek compliance with orders. These are the very factors the government is trying to remedy through this bill. The bill would ensure that the sanctions for contempt of the commission are effective. It does this by replacing the existing offence, which is unclear and out of date, with offences that are clearly drafted and supported by adequate penalties.

There are other matters that I would like to pursue during the committee stage. While I thank all honourable senators for their contributions, I think the approach being taken, especially by the Australian Labor Party, is to be regretted. If they genuinely believed in the role of the Australian Industrial Relations Commission, they would want to see its orders being observed. If they genuinely believed in the commission being the umpire, it would be appropriate for both sides of the equation to abide by the decisions and there would not be selective observance of the commission’s orders. I commend the bill to the Senate.

However, the bill is not split, so let us begin. The Australian Democrats oppose schedule 1 in the following terms:

1. Schedule 1, item 1, page 3 (lines 5 and 6), TO BE OPPOSED.
2. Schedule 1, item 2, page 3 (lines 7 and 8), TO BE OPPOSED.
3. Schedule 1, item 3, page 3 (line 9) to page 4 (line 15), TO BE OPPOSED.
4. Schedule 1, item 4, page 4 (lines 16 to 24), TO BE OPPOSED.

Item 1 creates two new content offences. We outlined in the debate on the second reading why we are concerned about these and why we think they should not be introduced. I laid out in my speech in the second reading debate the concerns we have. We think section 178 already provides for a general offence of
failing to comply with the terms of an order and it has been utilised in the past. The ACTU submission to the Senate committee noted that the Australian Law Reform Commission said:

No new offence covering false allegations of misconduct against tribunal or commission members for non-compliance with orders should be created unless there is a specific need for it to protect a particular tribunal or commission.

We also said that the courts and the commission had cautioned against automatically pursuing cases that may not be in the public interest; other things do need to be considered. Section 178 is a civil offence and the proposed new provision would be a criminal offence. The commission deals not only with orders that can be enforced by courts but also with orders that can be fairly minor and deal with procedural and administrative matters. That area of concern I have just outlined is probably the core of our fears concerning these matters. The government has not made similar amendments to the same provisions which apply under the Trade Practices Act 1974 and the Administrative Appeals Tribunal Act 1975, which is a little inconsistent. We think the problem is of enforcement of existing provisions and we have remarked that we think a national regulator would do far better at enforcement than the current dispersed means of enforcement. Of course, if you raise the penalties and enforce them it gets far tougher out there, which is a good thing in some respects.

We believe the publishing of false allegations provision will have similar problems as the pre-1993 amendment, which was deleted because the section was deemed to cover too much, such as the genuine exercise of a right to criticism. The Australian Chamber of Commerce and Industry also argued in their submission that maintaining confidence in the commission must be balanced with freedom of expression, public accountability and open justice, which I agree with. The ACCI requested the qualification:

... held a genuine belief that was based on reasonable grounds that misconduct had occurred.

We believe anyone could argue this and so we do not support it. That is a summary of our views in that area and that is why we are not supporting schedule 1.

Senator ABETZ (Tasmania—Special Minister of State) (6.19 p.m.)—I thank Senator Murray for dealing with the items in schedule 1 together, which will of course assist in the time taken by the chamber to deal with them. The government does not support the first two items. Retaining the existing deemed contempt offence in the Workplace Relations Act goes against the entire purpose of the bill. The government is seeking to repeal the existing broad and potentially confusing offence and to convert it into a number of offences that clearly spell out what conduct breaches the law.

As I have said before, accepting this would defeat the entire purpose of the bill and the government’s policy that the elements of criminal law offences should be clear. Senator Murray has once again referred to the suggestion that minor or technical matters might get caught up in criminal proceedings. At the end of the day it is not going to be the government’s decision; it is going to be the Director of Public Prosecutions, who is an independent statutory office holder, who will have to exercise his mind as to whether or not it is within the public interest to prosecute a matter.

Just as the local police do not necessarily prosecute every speeding offence that is committed, similarly the Director of Public Prosecutions would have a look at each matter referred to him and determine whether it is in the public interest or appropriate to pursue a criminal charge. In those circumstances—I am sure that he would not say it
directly—the logic of what Senator Murray is saying by implication is that he does not have confidence in the Director of Public Prosecutions to exercise his mind in an appropriate fashion to ensure that frivolous criminal proceedings would not be brought where there have been simply technical breaches. That is a concern to the government, as we in fact have confidence in the Director of Public Prosecutions.

Removing item 3 of the bill would create new offences. It prohibits contemptuous conduct in relation to the commission. The offences prohibit contravening an order of the commission and publishing a false allegation of misconduct affecting the commission. The government believes it is appropriate that the commission is clearly and adequately protected from this sort of conduct. It is disappointing that the Australian Democrats do not believe that the commission should be protected from that sort of conduct. The government acknowledges that these amendments will be carried in the chamber with the support of the Labor Party.

Item 4 of the bill sets out the application provisions for the new offences. That, of course, is consequential on the other three. Having said that, let me indicate that we, the government, feel very strongly about this legislation. We oppose all the amendments being put forward by the Australian Democrats, but we are realistic enough to know that, if we were to divide the chamber on each and every one of them, or even groups of them, the Labor Party and the Democrat numbers combined would defeat the government. Therefore, we will simply record our opposition to the amendments on the voices. We will not bother dividing the chamber on what would be quite a number of occasions. That would just take up unnecessary time given that, unfortunately, the dye is cast on these amendments. But the mere fact that we are not dividing on them should not give anybody the impression that we are not very strongly supportive of our legislation and vehemently opposed to the amendments being put forward this evening.

The TEMPORARY CHAIRMAN (Senator Knowles)—The question is that items 1 to 4 stand as printed.

Question negatived.

Senator MURRAY (Western Australia) (6.24 p.m.)—I move Democrat amendment (5) on sheet 4132:
(5) Schedule 1, item 5, page 4 (line 29), after “false”, insert “sworn or affirmed”.

I have never appeared before the Industrial Relations Commission, but I have read a number of their proceedings over time. I am aware that there is a range of ways in which evidence is expressed. Testimony is given which is not sworn. I recognise that sometimes, when people are giving evidence—such as evidence to Senate committees, where Senate committees do not swear them in—people can be hyperbolic or a little exaggerated or express themselves more freely than when they are giving sworn evidence, which is an entirely different kettle of fish. Amendment (5) provides a penalty for giving false evidence of imprisonment for 12 months. Imprisonment for one day is pretty tough—12 months is very tough.

The Democrats happen to agree that this is a serious matter and we agree with the intent of amendment (5), but we certainly do not agree that it should apply to anything other than sworn testimony. I am a little surprised that the government have already signalled that they will automatically not agree to this amendment. I would have thought that the amendment we offer is a perfectly reasonable and protective amendment. We do not believe it is appropriate that unsworn testimony can result in people going to jail for 12 months. Our understanding is that unsworn testimony can include submissions to com-
missions and discussions not taken under oath.

Our amendment reflects findings of the High Court in Edwards v. Director of Public Prosecutions 1987, where the High Court found that it would be incorrect to interpret testimony in section 35(1) of the Crimes Act as including an unsworn testimony. The department, in its submission to the Senate inquiry, noted the High Court’s ruling but clearly stated that a decision had been made in this bill not to reflect that ruling. We would be interested to hear why the government believes that provisions in the Workplace Relations Act should not reflect the ruling of the High Court with respect to the Crimes Act. We support the government’s intention to punish people who give false evidence, but we do think it should attach to sworn evidence and not to the somewhat looser version which we would describe as testimony or unsworn evidence.

Senator JACINTA COLLINS (Victoria) (6.28 p.m.)—If it assists Senator Murray, we would be happy to deal with amendments (5) through to (11)—all of the matters you deal with in relation to schedule 1—in one group. I can indicate generally that these essentially deal with amending the government’s provisions that create a new contempt offence with respect to giving false evidence to the commission. Labor opposes these amendments because we oppose the principal provisions. There is simply no demonstrated need for them. The current section 299(1)(e) captures this issue. As with the other parts of section 299, it has never been tested, so why is there a need to change it?

The approach taken right through here—and Senator Murray just referred to further examples of it—reflects back to the principal point. If there is such a case for these changes, as the purposes indicated in this bill, why has the government never sought to deal with similar provisions such as those in the AAT? It is obvious that the government does not care about similar provisions in other areas. This is part of their core industrial agenda. There has been no meritorious case put. The current provisions under section 299 deal with giving false evidence in much the same way as Senator Abetz gave us a lecture in the previous bill. I sat here and listened to him arguing that lockouts were covered because they are encompassed in the definition of industrial action. These matters are currently encompassed under section 299 and there is no need for more specific provisions.

Senator ABETZ (Tasmania—Special Minister of State) (6.30 p.m.)—I indicate that we have no opposition to amendments (5) to (11) being debated together.

Senator Murray—I am just moving amendment (5) at this stage.

Senator ABETZ—We may be minded to support some of the Democrat amendments in that batch of (5) to (11). But, if we are just dealing with (5), I simply remind the chamber that the commission can take unsworn evidence. If the commission were to take unsworn evidence and that unsworn evidence is designed to mislead, is false, is full of lies—you name it—then I think it is appropriate that there be a penalty or a sanction associated with that—

Senator Murray—Not 12 months imprisonment.

Senator ABETZ—and Senator Murray says he agrees, which is interesting. If we believe that there should be an offence in the event that any evidence given before the commission is false, I suppose all we are really arguing about is the penalty and not the principle. As I understand it, what Senator Murray is doing with his amendment is knocking out the principle as opposed to seeking to amend the penalty in relation to
giving false unsworn evidence. Basically, to put it in a nutshell, we do not believe it is okay to lie to the Industrial Relations Commission, whether it be sworn or unsworn evidence. I think it sends a very bad message to the community that, if you are appearing before a body such as the industrial commission, it is okay to lie just because your evidence is unsworn. We do not think that is good enough. If the Australian Democrats believe that it is inappropriate to give false unsworn evidence before the commission then possibly we should get our heads together to see if we can talk about the issue of penalty, if that is the real concern of the Australian Democrats.

Senator MURRAY (Western Australia) (6.34 p.m.)—I can see your training as a solicitor coming to the fore there, Minister—taking someone’s argument and twisting it a little. As the minister knows, the punishment has to reflect the crime and penalties should be related to the offence. I said I agreed that there should be some sanction for anyone who deliberately misleads or lies to the commission. But I gave the example that people giving unsworn evidence, who give submissions or who trot along and are asked for their opinion, may be somewhat loose in their presentation and may thereafter be threatened, theoretically, with 12 months imprisonment. I get a bit concerned about this, because the process of swearing evidence requires you to be properly proofed. As the minister, as a former practising solicitor, knows better than I do, when you swear evidence the document is properly proofed. You are taken through it and made sure that what you are doing is accurate to the fullest knowledge you have.

So, if you were to say to me, ‘Does the act need to make sure that, regarding the giving of false evidence in any circumstance, the commission have some sanction available to it?’, I would say yes and we could discuss that. But, if you were to say, ‘Should there be a 12-month imprisonment penalty for somebody who is giving unsworn evidence which has not been properly proofed and prepared in the way that we understand it to be?’, I would say that is utterly inappropriate. That is my concern. I do not disagree with the principle at all. I am faced with what I have before me, and I cannot in all conscience support imprisonment for 12 months for unsworn evidence which is prepared in the way in which I know these things can be prepared. That is the only point I make, and that is why we have put forward this amendment.

Senator ABETZ (Tasmania—Special Minister of State) (6.36 p.m.)—Just quickly, the Democrats have moved a raft of amendments, so the Democrats are not left in this terribly helpless position of being confronted with what is before them. They have clearly shown that it is within their power to move amendments, and it is interesting that they have not done so in relation to the issue of penalty. It is good to see that there is common ground between us. I have a funny feeling that this bill may well be going back to the House of Representatives and then possibly coming back here. That may well give us the opportunity to tease out this issue a bit more, if the only issue that divides us is the issue of penalty.

In the Crimes Act, as I understand it, the maximum penalty for giving false sworn evidence is five years. To take up Senator Murray’s point, the government did consider that the punishment should fit the crime. That is a reasonable and longstanding proposition that has withstood the test of time. I think every reasonable person would accept that as a fundamental proposition. That is why the Crimes Act has a provision in it for a penalty of a maximum of five years imprisonment for giving false sworn evidence. The proposal here is that, given that the evi-
dence is unsworn, the maximum penalty be only 12 months. There is a substantial reduction in the proposed penalty for unsworn evidence. The basic situation remains that this is not a situation of giving wrong evidence, where sometimes people can be honestly mistaken; this is about lying and giving false evidence—albeit unsworn. For that to be a crime, you have to have the appropriate mens rea, the appropriate intent.

In effect, a person would be setting out deliberately to mislead or lie to the commission and we believe that it is not okay to lie in those circumstances and that there should be a penalty. The maximum penalty we have suggested is 12 months, and that is in contrast to the maximum of five years in a circumstance of false evidence being given in the sworn context. We believe that the penalty has been reduced so that it would fit the crime or the offence, but this area of penalty may be appropriate for further discussion between us when the bill undoubtedly bounces from the House of Representatives back here again.

Question negatived.

Senator MURRAY (Western Australia) (6.38 p.m.)—by leave—I move Democrat amendments (6) to (11) on sheet 4132:

(6) Schedule 1, item 5, page 4 (line 29), after “evidence”, insert “touching any matter material to that proceeding”.

(7) Schedule 1, item 5, page 5 (line 6), at the end of subsection (3), add:

Note: Section 10.2 of the Criminal Code Act 1995 states that a person is not criminally responsible for an offence if he or she carries out the conduct constituting the offence under duress.

(8) Schedule 1, item 5, page 5 (line 7), after “inducing”, insert “or coercing”.

(9) Schedule 1, item 5, page 5 (line 14), after “induces”, insert “, threatens or intimidates”.

(10) Schedule 1, item 6, page 5 (line 23), omit all words from and including “of that subsection” to the end of subsection (1).

(11) Schedule 1, item 6, page 5 (line 27), omit all words from and including “of that subsection” to the end of subsection (2).

With respect to Democrat amendment (6), as mentioned in my speech in the second reading debate, concerns were raised through the Senate inquiry that the proposed provision regarding false evidence—unlike section 35 of the Crimes Act—does not require that the false evidence touch matter material to the proceeding. I again note that the differences in the Crimes Act were noted in the department’s submission to the Senate inquiry into this bill. I think the requirement that false evidence touches on matter material to the proceeding should apply in the Workplace Relations Act, as it does in the Crimes Act.

Given the severe nature of the offence for giving false evidence, Democrat amendment (7) is a note simply to remind the commission and to reinforce what is in the Criminal Code Act 1995—that is, that a person is not criminally responsible for an offence if he or she carries out the conduct constituting the offence under duress. That is an important protection. Democrat amendments (8) and (9) are minor technical amendments to make it clear that the provision applies to coercion. On Democrat amendments (10) and (11), a number of submissions to the Senate inquiry into this bill argued that it is not reasonable to extend the operation of the new law to a statement made before commencement of the amending act. We take that view and seek to amend the bill accordingly.

Senator JACINTA COLLINS (Victoria) (6.40 p.m.)—I think I have already indicated Labor’s position on the full set of Democrat amendments (5) to (11). I state again: we are opposed to these amendments because we oppose the principal provisions, because
there has not been a demonstrated need and because section 299 captures this issue as far as we are concerned.

Senator ABETZ (Tasmania—Special Minister of State) (6.40 p.m.)—I indicate that the government are willing to accept Democrat amendment (6). The government note that some perjury offences contain the qualification referred to by Senator Murray and that others do not. The government maintain that there is no excuse for giving any false evidence to the commission. However, we are prepared to accept the qualification in order to ensure that there are appropriate offences for committing perjury in commission proceedings, so we are willing to accept amendment (6).

We will be opposing Democrat amendment (7). The Democrats are seeking to insert a note in the act after the false evidence offence referring to the availability of the duress defence in the Criminal Code. It is not quite clear why we would single out the particular defence of duress. There are, as I understand it, a number of defences set out in the Criminal Code that apply to all Commonwealth offences, and the government consider that it is not sensible or even good drafting to refer to just one of the range of possible defences that may be available to somebody who is charged with that offence. We are prepared to accept Democrat amendment (8). I will not delay the chamber any further on that. Similarly, we do not see any harm in the clarification in Democrat amendment (9).

We will oppose amendments (10) and (11). They are directed at the application provisions of the offence-creating amendments. The amendments seem predicated on some apprehension about retrospectivity, but that apprehension is misplaced as the conduct has to occur after the amendments commence for that conduct to be caught by the new offences. These amendments would make the application provisions at best unclear and at worst inoperative. The effect of the amendments would be that the application of the offences would be to the giving of false evidence after the commencement and the inducement after the commencement. This begs the question: after the commencement of what? The provisions of the bill will commence at various times. Some parts of the bill will commence on royal assent and some parts will commence later. Application provisions are meant to reduce doubt about how and when legislation applies and these amendments, with respect, will increase that doubt. As a result, the government will not support amendments (10) and (11).

The TEMPORARY CHAIRMAN (Senator Knowles) — The question is that amendments (6), (8) and (9) be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—I now put the question that amendments (7), (10) and (11) be agreed to.

Question negatived.

Senator MURRAY (Western Australia) (6.45 p.m.)—by leave—I move Democrat amendments (12) to (15) on sheet 4132:

(12) Schedule 2, page 6 (after line 20), after item 4, insert:

4A Section 178
Omit “$5,000” wherever occurring, substitute “$16,500”.

(13) Schedule 2, page 6 (after line 20), after item 4, insert:

4B Section 178
Omit “$1,000” wherever occurring, substitute “$3,300”.

(14) Schedule 2, page 6 (after line 20), after item 4, insert:

4C Section 178
Omit “$10,000” wherever occurring, substitute “$33,000”.

CHAMBER
(15) Schedule 2, page 6 (after line 20), after item 4, insert:

**4D Section 178**

Omit "$2,000" wherever occurring, substitute "$6,600".

As the government would recognise, we are supporting items 1 to 15 in schedule 2. We are surprised that the government itself has not moved to increase the penalties under section 178. If the government is concerned about breaches of commission orders by unions, section 178 is currently the appropriate avenue used to penalise unions and individuals. Surely an increase in penalties in that section would act as the deterrent it looks for against behaviour which is unacceptable. We would prefer to see an increase here rather than support the government’s proposal to criminalise contravening an order of the commission. Section 178 also applies to employers who breach awards, which is something we would like to see dealt with.

**Senator JACINTA COLLINS** (Victoria) (6.46 p.m.)—Democratic amendments (12) to (15) insert new increases to penalties for breaches of awards and agreements. We appreciate that Senator Murray is seeking to introduce some sense of balance into this bill by increasing the penalties for what are more likely to be employer initiated breaches of the industrial relations system. However, this attempt is futile given that the federal inspectors who enforce these provisions rarely, if ever, seek penalties. There were no prosecutions in the last quarter, for instance, according to the department at estimates just two weeks ago. Because these penalties are so rarely enforced it is also impossible to say whether they are an adequate deterrent or not. For any review of these penalties to be effective it would need to occur in the context of the resourcing of the enforcement and compliance parts of the Department of Employment and Workplace Relations. In the current enforcement context a review of penalties is meaningless, and therefore Labor will not support it.

**Senator MARSHALL** (Victoria) (6.47 p.m.)—In following the debate this evening in relation to these amendments it is worth reframing on one of the significant roles of the Industrial Relations Commission in resolving industrial disputes. The parties often go to the Industrial Relations Commission to assist them to find common ground in order to avoid escalation of industrial action. Part of the role of the commission is to enable the parties to engage in a full, frank and open dialogue in order that the commission can assist the parties in finding that common ground, to avoid the escalation of any dispute. The instigation of penalties and sanctions does nothing to assist that process; in fact, it will retard the process. Ultimately, if people are fearful of presenting their views of a potential dispute frankly and honestly as they see it before the commission, because of the inadvertent omission or the fact that they may not be fully aware of all the facts when they are presenting their case, they will be discouraged from using the commission to resolve those disputes. We will find that people will avoid it. When people are summoned to the commission, they will refuse to cooperate fully and frankly and the commission will be rendered useless.

The commission plays a positive role. As a former union official I have appeared before the Industrial Relations Commission on hundreds of occasions. I can say to the credit of many of the commissioners that they work tirelessly to assist the parties to come together. Often it is a matter of engaging in that full and frank debate so that all sides of an argument are put on the table; misunderstandings are then sorted out and solutions are found. More often than not, all parties are satisfied with the resolution of that dispute. But there is no way that the parties would be able to reach any such agreements if they felt
intimidated or fearful of engaging in full and frank discussion before the commission.

Progress reported.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Knowles)—Order! There being no consideration of government documents, I propose the question:

That the Senate do now adjourn.

Health: Services

Senator TIERNEY (New South Wales) (6.52 p.m.)—I rise tonight to report on a very worthwhile initiative in the area of GP services in my own region of the Hunter Valley which is now spreading state-wide. It has been recently announced that the after-hours GP service, which started with a seven-year pilot program in my area in the Hunter, is now to be expanded to cover the whole state of New South Wales. There are plans to open 48 new after-hours clinics in hospitals across the state, and it is a terrific step forward in relieving the pressure on hospital emergency waiting rooms. Late last year I reported to the Senate on the Hunter Urban Division of General Practice after-hours scheme, which has been operating in the Hunter for seven years.

When we came into government, general practitioners in the Hunter region identified what they termed a ‘rapid disintegration’ of the services available to help people who required urgent medical treatment out of hours. There was mounting pressure on hospital waiting rooms in the region and doctors were reporting that a great percentage of the cases filling hospital emergency waiting rooms could have been attended to by a general practitioner. To tackle this issue, the Hunter Urban Division of General Practice started working towards achieving an improved system of after-hours care for patients who live in the Hunter region. I would like to pay a special tribute to Dr Arn Sprogis, whose visionary leadership has brought about this scheme in the Hunter.

In July 2003 the Hunter Urban Division of General Practice expanded the service from the initial pilot in Maitland to a Hunter-wide service with five after-hours clinics across the valley. In its first six months of operation 20,000 patients have been seen in one of the five centres, and a further 20,000 patients have accessed telephone advice from a registered nurse. When the after-hours clinic opened near Maitland Hospital, demand for emergency room resources dropped by 60 per cent. When a similar clinic opened near the much larger John Hunter Hospital, the main hospital for the Hunter Valley, medical staff reported a 15 per cent drop in emergency demand.

The GP after-hours service benefits all patients, nurses and doctors. Medical providers are saved from having to be constantly on call. If there is an after-hours clinic available to the public, it dramatically reduces the amount of doctor call-outs. The scheme has also resulted in a massive reduction in pressure on hospital emergency rooms. During the Christmas period alone, after-hours clinics were catering for over 250 patients per day that would have otherwise clogged up precious emergency room resources. The after-hours GP service pools all funds from the federal and state governments and uses them from within existing infrastructure to ensure a sustainable, high-quality medical service. Most of the after-hours clinics are actually located within hospital walls.

A number of weeks ago I had cause to use the after-hours GP service. I entered the clinic on Hunter Street in Newcastle at about 10 o’clock at night. The first step in the process is that you are asked for details at the desk by a registered nurse, and then the nurse asks what the nature of the complaint is and
whether it is urgent enough for immediate medical help. This process is important as it prevents people stopping in for repeat scripts and small complaints that could be attended to during normal hours by GPs. I was then taken to an assessment room where the nurse assessed my ear infection. A GP then attended to me and an appropriate course of treatment was recommended. I was very impressed with the professionalism displayed by the staff in the after-hours clinic, and the whole process took under an hour. This was in marked contrast to my previous experience when I arrived at the outpatients of a hospital late at night, and by the time I had been through the process and left the sun had come up. This new after-hours service is far more efficient and provides for the people a much better service, particularly outside normal GP hours.

In addition to the clinical services, it runs a toll-free telephone line for people who live in remote areas or would rather self-treat in the privacy of their own homes. These call centres are serviced by registered nurses and they have proven to be very popular and inexpensive as a source of medical advice. Perhaps the most important factor in the GP after-hours service is that it is entirely bulk-billed. Patients are not charged any cash up-front, and in this way the general practice after-hours service is a working example of Medicare reform. The pooling of funds from the federal and state governments and the utilisation of existing infrastructure has enabled the establishment of a sustainable, high-quality after-hours medical service at little additional cost. This shows what can be done by utilising infrastructure and using better organisation and ingenuity.

The general practice after-hours service makes full use of the skills of registered nurses, and patients are only referred to a doctor if their illness is deemed urgent enough. Patients are charged nothing up-front; it is bulk-billed. If this scheme is adopted state-wide, we can expect the demand on emergency waiting rooms to drop considerably. This in turn will mean better access for cases that require emergency casualty care and more precious hospital beds for those who need them. It truly makes me proud that such an innovative scheme was born in my area of the Hunter. It goes to show what can be done with existing resources and infrastructure when the needs arise. The demand for such a service appears, at the moment, to be only on the increase.

I am very interested to see the outcomes that will stem from the state-wide implementation of this general practice after-hours service. It will diminish emergency waiting room times, it will reduce ambulance queues and the general demand on hospital and emergency room resources will drop. It will no doubt relieve much of the pressure that has been placed on our hospital system. The patient is also more comfortable with a quick service and a course of action that alleviates their discomfort. I anticipate that at some time in the near future, this initiative could be adopted nationwide. I believe the Australian medical system in general would greatly benefit by this introduction. It is a very simple, well-planned and well implemented scheme that has already revolutionised medical care in the Hunter region, and it holds the promise of doing this across all of New South Wales and eventually across Australia.

Torres Strait Islands

Senator O'BRIEN (Tasmania) (6.59 p.m.)—It gives me much pleasure to rise to address the Senate on my recent visit to the Torres Strait, which was ably assisted by you, Madam Acting Deputy President McLucas. It was the first opportunity that I had had to visit the Torres Strait. It was an opportunity in the context of my new role as the shadow minister for reconciliation and
Indigenous affairs and shadow minister for regional services, I propose to be an aggressive proponent of the interests of Torres Strait Islanders as shadow minister. I hope that before the year is out I might have the opportunity to serve their interests as minister. Certainly, the people of the Torres Strait deserve a minister willing to listen to their concerns and, where possible, act on them in a timely manner. I do not think that is what they have had under the Howard government.

First tonight I want to make what might seem an obvious point—the islands of the Torres Strait are a long way from this place and their residents get scant attention in the major policy debates in this chamber. Like other rural and remote communities, the adage ‘out of sight, out of mind’ all too often applies. I hope in the course of coming months to redress that situation in respect of not just the Torres Strait but other rural and remote Indigenous communities as well. I give fair warning to the Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone, that she will need to turn more of her attention to responding to the needs of the people of the Torres Strait.

The Torres Strait is a fascinating part of Australia. Its people face some challenges similar to residents of other remote communities, including an extraordinarily high cost of living. Other challenges are unique, not least those related to the region’s close proximity to Papua New Guinea. Over an area of 48,000 square kilometres, the Torres Strait comprises 17 inhabited islands and 20 distinct communities, including a community based on the northern tip of Cape York. At the last census, about 6,700 people living in the Torres Strait identified themselves as Torres Strait Islanders, out of a total of about 8,000 residents. Almost 37,000 people living in other parts of Australia, but predominantly in Queensland, identified themselves as Torres Strait Islanders.

Over the period 3 to 5 February—over three days—I had the opportunity to visit seven islands: Horn, Thursday, Moa, Mabuiag, Warraber, Yorke and Darnley. On Thursday Island I met with the General Manager of the Torres Strait Regional Authority, Mr Mike Fordham, and his senior officers. I am grateful for the briefing that I received on key administrative matters. I was fortunate to have the TSRA facilitate a meeting with the Chair of the Island Coordinating Council and Chair of Hammond Island Council, Mr Henry Garnier.

Mr Fordham and TSRA Manager of Economic Development Services, Ms Robin Maxwell, were kind enough to accompany me on a brief tour of the Torres Strait Cultural Centre site. The Commonwealth-state funded cultural centre is an important project for Thursday Island and the Torres Strait. I am hopeful of being able to attend the opening of the centre in the near future. I trust it will provide visitors to the region with a much deeper appreciation of the unique culture of the Torres Strait. I hope it will also act as a vehicle for the development of the arts economy in the region.

On Thursday Island I was also pleased to meet with the energetic Mayor of Torres Shire, Pedro Stephen, and his council. Three key issues were raised during my meeting with Torres Shire Council: first, the failure of the government to respond to demands for reform of the Torres Strait Regional Authority, principally in respect of the election of board members; second, the lack of resources devoted to the management of illegal fishers brought to the island by Commonwealth authorities; and, third, the failure to provide direct representation of the people of the Torres Strait in negotiations with Papua New Guinea over the shared use of regional
resources, including health services on Thursday Island.

I was also pleased to meet the publisher of the *Torres News*, Mr Mark Bousen, during my visit. The *Torres News* is a small, vibrant and fiercely independent publication that serves the Torres Strait community. Matters raised during my meeting with Mr Bousen, particularly improved regional services and transport links to support economic development, were raised time and time again during my meetings with island councils. I suspect the paper has a much firmer grip on regional affairs than the principal decision maker on Torres Strait Islander affairs, Minister Vanstone. I suggest that she visit the newspaper during her first visit to the Torres Strait as the responsible minister.

My recent visit coincided with the last week of the Queensland state election campaign and I was able to witness the operation of mobile polling stations on about half the islands I attended. The first polling station I witnessed in operation was in Kubin on Moa Island. I am pleased to note the work of the Queensland state electoral commission and acknowledge the professional job they did in the face of significant logistical challenges. On Moa Island, Senator McLucas and I met with the Chair and Deputy Chair of Kubin Council, Mr Saila Savage and Mr Roy Genai. Our discussion focused on Moa Island’s infrastructure needs, including a sealed road between Kubin and St Paul’s.

I also had the great pleasure of meeting Christine, the remote area nurse working at the Kubin health centre in what can only be described as difficult circumstances. I think the work that Christine does on Kubin reflects admirably the magnificent work done by nurses and other health professionals in remote locations elsewhere in the Torres Strait and around Australia.

On Mabuiag Island I met with the council CEO, Ms Flora Warria, and together with Senator McLucas discussed a range of economic and social development issues, including, but not limited to, the short runway on the island—an experience to behold—the demand for medical and dental services and the then current dengue fever outbreak. On Yorke Island I met the chair of the council, Mr Don Mosby, and discussed the fishing industry, the impediment high transport costs present to development of tourism opportunities, and TSRA reform.

On Darnley Island I had the great pleasure to meet and speak with the respected leader Mr George Mye about regional governance. Mr George Mye also raised the issue of TSRA reform. I also spoke with Darnley Island council officer Ms Shelly Houghton about issues that concerned the council, including the high cost of living for island residents. Finally, on Darnley Island I met with the Principal of the Darnley Island State School, Ms Diann Lui, who gave me a tour of a proposed cultural centre site on school grounds and showed me some of the work created by her students.

I have sought to canvass some of the issues I confronted during my short visit to the Torres Strait. I have done so because issues of this type get an all too rare airing in this parliament. As I said at the outset, I think that is in part due to the remote location of the Torres Strait and in part due to the quality of the Indigenous affairs ministers under this government. Having said that, I recognise that Senator Vanstone is new to the portfolio and I hope she will surprise me. I thank Senator McLucas for sharing with me her knowledge of the Torres Strait, which was critically important for my visit there in understanding and coming to grips with some of the issues and for introducing me to some of the people who were very helpful in making me aware of the issues in the region.
Defence: Darwin Wharf

Senator HILL (South Australia—Minister for Defence) (7.08 p.m.)—I want to say a few words tonight about a matter of national security significance, and that is the continuing access to Navy of the wharf facilities in the port of Darwin. A plan for the Northern Territory government to develop the Darwin wharf area for a convention centre and residential development was published in the Northern Territory News late last year. Thereafter, and I stress ‘thereafter’, the Northern Territory government said that it wanted to negotiate with Navy its—what is Navy’s—future birthing arrangements subject to the new development.

I indicated to the Chief Minister of the Northern Territory my disappointment that Defence had not been consulted prior to the public release of the plan—an approach which seemed to indicate a disinterest in the defence consequences of the plan. I further indicated that I would respond in detail as to Navy’s present and future requirements. I provided the detailed requirements to the Chief Minister on 24 December last year. On 18 February she responded that Navy’s operational requirements had been anticipated by Northern Territory officials and could be accommodated in the plan. The Chief Minister confirmed this to me personally on 19 February. On 25 February 2004 the Chief Minister answered a question in the Northern Territory parliament in which she reiterated that the Darwin city waterfront project team had anticipated Defence needs and that there are ‘essentially no problems meeting the operational needs of Navy within the development of the Darwin waterfront’. As I understand it, the bids from the three parties that had been invited to tender were on the basis of her satisfaction that Navy’s interests could be accommodated within that plan.

Commonwealth and Northern Territory officials will now commence a dialogue on this matter. However, I should say that there are significant issues of concern to Navy. The proposal includes intense urban development close to the wharf at which warships birth. It means a significant reduction in the fuel capabilities of Stokes Hill, in that fuel will no longer be able to be landed from the sea, and the option of trucking fuel to Stokes Hill can at best be regarded as short term. It also means major urban and cultural development adjacent to fuel lines. It therefore raises serious issues of the ability of Navy and visiting warships to be able to use the wharf facilities as in the past.

These matters are of serious concern to the federal government. Darwin is of strategic importance. Access to the wharf is important for operations, exercises and support. Honourable senators will remember the importance of the wharf facilities for the East Timor deployment not so long ago. Access is of course also important in the defence relationship with our allies. If Darwin were to win ship-swap work with the United States, it would be important for that as well.

It would have been better, of course, if the Commonwealth had been consulted before the plan was published, but the Northern Territory government instead put its urban and social development plans as its first priority. The Commonwealth government understands the desire of the Northern Territory government to develop its Darwin foreshore. However, it should also be reminded of its responsibility to Australia’s defence and of the economic benefits that it might forgo. Defence is a major contributor to the Northern Territory economy, with much greater potential for the future. Having said that, the Commonwealth will discuss these matters further with the Northern Territory in good faith—notwithstanding the political manoeuvrings of that government to date on this par-
ticular matter. We hope that a resolution of these issues can be found, but it is not going to be a straightforward matter.

**New South Wales: Redfern Protests**

Senator NETTLE (New South Wales) (7.14 p.m.)—At about 10.30 on the evening of 15 February this year, I was attempting to get to Redfern station. I encountered at that time an enormous police presence in the area. I have lived in the area of Redfern station for several years and I have regularly seen a large police presence in that area. Relations between the Aboriginal community and the police in Redfern have a long history. In the heart of the area known as ‘the Block’ is Pemulwuy Park. Pemulwuy was an Aboriginal warrior from the Eora nation, the traditional owners of the Block and of most of Sydney. He was a leader of the resistance against colonisation and fought in many battles in Parramatta and other parts of Sydney. He was shot and captured by police. He escaped from custody but was eventually shot and killed. He was decapitated and his head was sent to England as a gift to Sir Joseph Banks. In more recent history, instances of police abuse of Aboriginal people were documented by the Council for Civil Liberties and date back to the 1960s. In the early 1970s the first Aboriginal legal service in Australia was established in Redfern, because of police harassment of Aboriginal people in the area. By the mid- to late-1980s, riots between police and young Aboriginal people were relatively common.

I quote here from an unpublished opinion piece written by Associate Professor Chris Cunneen, the Director of the Institute of Criminology at University of Sydney law school. An investigation by the Federal Human Rights Commissioner in 1990 over the use of tactical response police in raids on Eveleigh Street and the surrounding area of the Block found that the police used excessive force and that the justifications for the raids exhibited institutional racism. At the same time an investigation by the Ombudsman’s office into the raids found that the search warrants were invalidly obtained by police. The previous year, in neighbouring Marrickville, tactical response police had shot dead in the doorway of his bedroom an innocent Aboriginal man by the name of David Gundy. The raid on David Gundy’s house also involved the use of illegally obtained search warrants by the police. The police raid was unlawful. Several years later the New South Wales Police paid compensation to Gundy’s widow and son.

The Royal Commission into Aboriginal Deaths in Custody that investigated 66 deaths in police custody reported in 1991. Hal Wootten, the Royal Commissioner for New South Wales, found that many of the deaths were preventable. The last decade has brought widespread disappointment with the royal commission among Aboriginal people. Police officers involved in specific deaths appear to have never faced any consequences for their action, while the implementation of the recommendations from the Royal Commission into Aboriginal Deaths in Custody has stalled. Fundamental to the findings of the royal commission was the need to reduce Aboriginal imprisonment rates. In reality, Aboriginal imprisonment has increased at a faster rate than non-Aboriginal imprisonment.

It would be wrong to assume that the New South Wales Police have not changed over the last decade. Events such as the conflict on Sunday, 15 February are relatively rare in New South Wales now. The use of police tactical response groups is less frequent in Aboriginal communities. The police force has now released its second three-year Aboriginal strategic plan, which has a central focus on improving Aboriginal and police relations. Yet, at the same time, there are still
constant complaints of police harassment, particularly from Aboriginal youth. There has also been a focus on zero tolerance style police operations and the use of public order legislation that clearly targets young people. For every step forward to improved relations, there has also been another step towards more criminal justice policies which inevitably target the most marginalised groups in society.

Although the relevance and memory of the history of events around Redfern are forgotten by most politicians and the public at large, they remain an important part of Aboriginal knowledge in the Redfern area. It goes a long way to explaining why many Indigenous people were ready to believe immediately that police were involved in the death of T.J. Hickey and why there is a depth of trauma in the community that can so easily spill over to a riot. My Greens colleague in the New South Wales parliament, Lee Rhiannon, has pursued a range of issues raised by the community at the Block about T.J.’s death and the role of the New South Wales Police. She has asked questions in parliament about why the officers moved T.J. from the fence without calling for appropriate emergency rescue services or an ambulance and why the police officers involved made their first radio call for back-up rather than for emergency services or an ambulance.

The Prime Minister last week jumped into the debate around T.J.’s death. He jumped in firmly on the side of the police. He did so whilst four inquiries into T.J.’s death are being carried out by the New South Wales parliament. It is entirely inappropriate for the Prime Minister to declare that there is no evidence of police involvement in the tragic death of T.J. Hickey. The Prime Minister is not conducting an inquiry, he is not collecting evidence and he is not hearing from witnesses, so he is not in a position to comment. There are legitimate concerns within the community that have been put to the police. The Prime Minister should recognise this and not jump to conclusions. The comments from the Prime Minister reveal an ignorance of the complexity of the situation for the Indigenous community in Redfern. The Prime Minister should visit the Block and speak to the community rather than trying to play populist politics with the tragic death of a young Aboriginal man. I hope that the recent comments by the Prime Minister are not the start of what an ATSIC commissioner has labelled ‘black bashing’. The acting ATSIC deputy chairman made comments last week that he believed the Prime Minister’s recent comments were a sign that black bashing is back on the agenda in the lead-up to the election.

One of the recommendations of the Royal Commission into Aboriginal Deaths in Custody was that all political leaders and their parties need to recognise that reconciliation between the Aboriginal and non-Aboriginal communities in Australia must be achieved if community division, discord and injustice to Aboriginal people are to be avoided. To this end, the royal commission recommended that political leaders use their best endeavours to ensure bipartisan public support for the process of reconciliation and that the urgency and necessity of the process be acknowledged.

We as a community must not fail our Aboriginal friends. Yet again, where our government appears to be failing on this front, the community needs to stand up for decency, understanding, compassion and justice. We must insist that our Aboriginal colleagues are acknowledged by the government as the original custodians and owners of this great land. The injustices perpetrated against Aboriginal Australians must be acknowledged and redressed. We must not further contribute to the problem by over-
policing communities such as Redfern that are suffering from the loss of a young Aboriginal boy.

As I attended the memorial service for T.J. Hickey at the Block some time ago, the sirens of the police cars could be heard echoing through the Block as they drove down Lawson Street past Redfern station. This did not help the mood of the community. But the community at the Block have come together to show tremendous strength and unity in standing up against the attacks that they have faced in the New South Wales parliament and in the media, particularly in Sydney. Consultation with the community is what is needed, to hear the voices of the Aboriginal people who have lived in Redfern for so long. It is their community and it is their voices that the Prime Minister in particular needs to be listening to before he makes such comments.

Child Abuse

Senator ALLISON (Victoria) (7.22 p.m.)—I rise tonight to speak about an issue of national importance. It is an issue which needs to be addressed comprehensively by governments of whatever political persuasion in Australia. It is an issue that has been prominent in the media over the past few years and it has impacted on various institutions and governments. Most importantly, it is an issue that has affected, and continues to affect, thousands of children. The human and economic costs are so great that we cannot afford to go on addressing this issue in the same manner as we are currently.

According to a recent study by the Kids First Foundation and the Abused Child Trust, child abuse and neglect costs Australians $5 billion every year—that is, $250 for each man, woman and child in this country. Furthermore, reports of abused and neglected children have gone up by 40 per cent in just the last 20 years. Total child protection notifications in Australia increased between 2001-02 and 2002-03 from 138,000 to 198,000—that is, an additional 60,000 children. As we might expect, Indigenous children were overrepresented in those abuse statistics.

In A history of child protection: Back to the future? by Adam M. Tomison, the author highlights the fragmented nature of the child protection system in Australia. He says:

The responsibility for Children’s Courts and child welfare legislation as it affects children subjected to child abuse and neglect, rests with the individual state and territory governments. As a consequence, there are major variations in child welfare laws governing children in need of care and protection, including how child abuse and neglect are defined, the structure of the child protection system and the child protection services that have been developed and consequently in the reporting, investigation and intervention in cases of suspected and/or substantiated child maltreatment.

It is also clear from recent reports into child abuse and neglect that the child protection systems across the states and territories are struggling to cope. The serious systematic faults uncovered in the recent Crime and Misconduct Commission report into the Department of Families in Queensland is a warning to the Commonwealth government and the states and territories on how seriously we should take our duty of care to Australia’s vulnerable children.

The picture Australia wide is pretty bleak. According to the ACT Minister for Education, Youth and Family Services, Katy Gallagher, reports of suspected child abuse have gone up 50 per cent nationally in the last year. In October 2003, the Adelaide Advertiser reported that 33 cases of child abuse—including cases of children exposed to prostitution and drug abuse—had been reported to Family and Youth Services in one week, but had not been investigated because of insuffi-
icient resources. Family and Youth Services in South Australia also failed to act on 38 reports of sex abuse of an eight-year-old girl because of a lack of resources.

In Victoria the system is overwhelmed with about 40,000 notifications in each year, more than 60 per cent of which are re-notifications, and only one in five of which is ‘substantiated’ as abuse or neglect. More than 60 per cent of children in out-of-home care in Victoria have had four or more previous placements. The Northern Territory News reported that figures released by the child protection team revealed that 197 children under the age of 14 contracted sexually transmitted infections in 2003. In October last year, Brisbane’s Courier-Mail reported that an investigation by child protection expert Gwen Murray had found that only 36 per cent of all notifications were investigated within the required 24 hours of being reported. Almost a quarter of the allegations had not been assessed two months after they were first reported.

New research has indicated that child abuse and neglect can have serious consequences on subsequent growth and development including retarded cognitive development, inability to form meaningful relationships, homelessness and depression, abuse of own children, adult crime and violence, substance abuse, youth suicide and violent or aggressive behaviour. So the lasting effect of abuse and neglect on vulnerable children cannot be overestimated. The 1994 Alternative Law Journal reports that 80 to 85 per cent of women in Australian prisons have been victims of incest or other forms of abuse. A study of 27 correctional centres in New South Wales found that 65 per cent of male and female prisoners were victims of child sexual and physical assault, and the New South Wales Child Protection Council reported in 1992 that the probability of future delinquency, adult criminality and arrest for violent crime, increased by around 40 per cent for people assaulted and neglected as children.

As instances of abuse and neglect rise and the states and territories struggle to cope, it is also clear that the contributing social and environmental factors within families are not being addressed. The Australian Institute of Health and Welfare has found that child abuse and neglect is associated with low socioeconomic status, alcohol and substance abuse, domestic violence and family disruption. Mental health issues are also a common factor. The Victorian Department of Human Services report into child abuse and neglect in 2003, found that the percentage of parents involved in child protection matters who had a mental illness, had an intellectual or physical disability, suffered from alcohol or substance abuse, or were involved in domestic violence incidents had increased significantly between 1996-97 and 2001-02. In 2001-02, in 40 per cent of cases parents had experienced domestic violence, in 25 per cent of cases parents had problems with substance abuse, in 21 per cent of cases there were problems with alcohol abuse, and in 15 per cent of cases parents had a mental illness. The greatest increase was in substance abuse, which doubled from 12.5 per cent of parents to 25.2 per cent.

So it is very clear to me that families involved in the child protection system face many difficulties and challenges. If we are going to stem the rising tide of child abuse and neglect then we have to realise that this is an Australia-wide problem and I think the Commonwealth government needs to take an Australia-wide approach. The Commonwealth government currently funds a number of projects and initiatives to tackle child abuse, including the Early Intervention Parenting and Good Beginnings prototype projects, but these are clearly local initiatives and only a drop in the ocean. We need a na-
tional strategy which removes the disparities between the states and territories. We now have a national framework for tackling bullying and abuse in schools but funds and determination, particularly at the state level, are essential for progress.

The Productivity Commission showed that the national average amount spent on child protection varies enormously from state to state—for example, $227 per child is spent in News South Wales compared with just $187 in South Australia. My colleague Kate Reynolds in the South Australian parliament pointed out as recently as last week that the Rann government still has not responded to a report made to it some 14 months ago. We need to educate parents by investing in and adopting an early intervention focus which works with families to help them overcome and deal more effectively with the social and environmental risk factors that are becoming so prevalent in our society.

According to the Australian Institute of Family Studies, centre based parent education has considerable benefits because it offers parents a chance to meet other parents, breaks down isolation, helps program participants find their own supports in the community and provides opportunities to share and normalise feelings. However, the institute concludes that there is very little information available regarding access to child abuse prevention services, including group based parent education.

I think it is time for action. The Commonwealth government and the state and territory governments have to start taking responsibility for education and protecting Australia’s children. Leadership needs to be shown otherwise we will never get to grips with the task of preventing the enormous damage that is currently being done to our children and young people.

**Australian Capital Territory**

**Senator HUMPHRIES** (Australian Capital Territory) (7.32 p.m.)—I rise tonight to reflect on the way in which the Australian Capital Territory has fared under the present federal coalition government. In the Canberra Times a few weeks ago the Chief Minister of the ACT, Jon Stanhope, was quoted as saying:

Canberra is in fine fettle. The town is lovely. I don’t think it has ever looked better ... people are essentially happy; they are contented; they think it is doing very well. The economy has never been stronger. The Budget position is really good. Unemployment is at an all-time low.

As a rule, I have little reason to quote and agree with the comments of the Labor Chief Minister of the ACT, but I do agree with his comments in that statement. Where I would part company from him is in the analysis of why Canberra at the present time is booming in economic and other terms. The answer lies in something that the Deputy Chief Minister said before the 2001 ACT election. He said:

It’s clear that a large slice of the ACT’s current favourable economic position is due to riding the crest of a national wave in growth. Importantly, there has been a significant increase in Commonwealth funding over the period of the current Assembly.

That statement is as true today as it was in 2001, but I doubt that Mr Quinlan would care to repeat it. The social dividends of running a strong growth economy are jobs and increased spending on services that are important to the citizens of this city, as they are to citizens of other parts of Australia—spending in health, education and so on. The Canberra experience demonstrates this very clearly. Unemployment in the ACT is now under four per cent from 7.8 per cent in June 1996.

We have benefited from the politically courageous decision of the federal government to introduce the GST, a growth tax
which of course goes to the states and territori-
ies. The last federal budget allocated $20
million in GST revenue to the ACT govern-
ment—$10 million above the guaranteed
amount that would have come to the ACT
prior to the new tax system being imple-
mented. This means that the money flowing
to Canberra since the inception of the GST
will have increased by 35 per cent. This is
the biggest percentage increase in any state
or territory in Australia. On top of this, in
2003 the ACT government received $32 mil-
lion from the Commonwealth in local gov-
ernment assistance grants, a boost of 3½
per cent on the previous year.

Canberra has a well-educated and adapt-
able work force. It is therefore no surprise
that the ACT is at the forefront of Australia’s
knowledge industries. The coalition govern-
ment has recognised this and in 2003 allo-
cated over $8 million to Canberra based IT
firms under the R&D Start program. That
money was almost a third of the national
total available under that program. That is
not bad for a community that the federal
government is supposed not to favour. Our
highly educated work force is surely linked
to the ACT having some of the best public
schools in the nation. The Commonwealth is
helping to consolidate this position. Last
year, the federal budget announced a six per
cent increase in funding for government
schools in the ACT, despite the fact that en-
rolments in government schools had fallen
by two per cent in the previous year.

Of course, increased inputs sometimes
does not equate to better outcomes in educa-
tion. When this government came to office, it
found that almost one in three primary
school students could not read or write to a
suitable standard. The coalition responded
to this by introducing its comprehensive plan
to test students against national literacy and
numeracy standards. We believe it is the
right of all parents to know whether their
child has gained these essential literacy
skills, which is why the Australian govern-
ment has secured the agreement of the ACT
government to provide this information in
years 3 and 5 student reports to all parents.

Child care is another issue of importance
to ACT parents. Late last year the coalition
government, I think, responded magnifi-
cently to concerns raised by me and other
people about the shortage of outside school
hours places in the ACT by allocating a na-
tionwide boost of 10,000 extra places to
child care of that kind. Of those 10,000
places, the ACT received 1,177, 12 per cent
of the total. Again, that is not bad for a city
which is supposed not to be favoured by the
federal government.

The coalition has also delivered on aged
care in the territory. Since 1996, the ACT has
been allocated 660 new aged care places. In
the most recent round of approvals the ACT
was allocated an extra 121 places, almost
double the number approved in 2002. The
Australian government’s planning fram-
ework for aged care aims to provide 100 aged
care places for every 1,000 people aged 70
years or over. As a result of those extra
places, the total in the ACT is now 107 per
1,000 people aged over 70.

This Commonwealth commitment to the
health of the ACT community does not stop
at aged care. The Australian health care
agreement, signed last year, will boost
Commonwealth funding for Canberra’s pub-
lic hospitals by $148 million over the next
five years, an increase of 17 per cent in real
terms. The low rate of bulk-billing in the
ACT has been addressed by the Common-
wealth’s decision to include the ACT as part
of the More Doctors for Outer Metropolitan
Areas scheme.

The key claim made by many on the other
side in this place about the Howard govern-
ment’s approach to Canberra is embodied in
the claim made by the shadow minister for
the arts that somehow the Howard govern-
ment engages in a war on culture and that
Canberra’s national institutions are in the
firing line. It never fails to bemuse me, when
I hear that claim, how those critics reconcile
that claim with the fact that it was the gov-
ernment of John Howard which, after a dec-
dade or more of dithering by successive Labor
governments, took the decision to build the
centre-piece of our national cultural institu-
tions a few years ago with the construction
of the National Museum of Australia at the
cost of $155 million. That was an achieve-
ment of the Howard government—the gov-
ernment which is supposed not to believe in
or support Australia’s and Canberra’s cultural
institutions. The Howard government dem-
onstrates its commitment to the National
Museum of Australia by maintaining funding
at around $40 million, almost doubling the
funding allocated in the 2000-01 budget.

Other institutions have similarly been
generously treated by this government. In the
last budget, for example, the National Ar-
chives received a $2.8 million boost, the Na-
tional Gallery an extra $1.3 million and the
National Library an additional $1.5 million.
Again, claims by Labor that there have been
cuts to those institutions simply are not true.
Screensound, over which Labor has made a
particularly big case in recent times, was
extended and extensively refurbished by this
very government, which supposedly is wag-
ing a war on culture. Disaster relief of $3
million was given to Canberra after the Janu-
ary 2003 bushfires; there has been very ex-
tensive jobs growth in the Australian Public
Service in Canberra as a result of the last
budget; $23 million in local roads grants,
Roads to Recovery funding and black spot
funding; 84 places at the new ANU Medical
School; and an additional $15 million over
the next three years for universities in Can-
berra. The list goes on.

If the coalition government has an anti-
Canberra agenda, its actions at least in the
last 12 months simply do not support that
claim. Perhaps its critics might believe that
somehow the federal government is trying to
kill Canberra with kindness. The Canberra
community has benefited very generously
from the actions of the federal Liberal coal-
tion government. Those actions have trans-
lated into enormous jobs growth and eco-
nomic growth in this city. That growth is not
attributable to other factors; it is attributable
primarily to the generosity of the federal
government.

Truth will be a casualty in any election
campaign, but I put Labor on notice that I
will be exposing any hyperbole, misrepre-
sentation or misinformation about the record
of this government in its treatment of this
city, which, after all, is the product of suc-
cessive Liberal-National governments over
many years.

**Liberal Party of Australia**

**Senator TCHEN (Victoria) (7.42 p.m.)—**

After the Senate adjourned at the end of the
2003 spring sittings, the Victorian division of
the Liberal Party conducted its preselection
process for candidates for the Senate at the
next election. There were a large number of
nominees—eight including me. The result of
the preselection was that I was unsuccessful
in my bid to be re-endorsed as a candidate.
Consequently, my term as a member of this
august forum will end in June 2005, barring
of course the unlikely event of a double dis-
solution of parliament.

Preselection by the party I represent is an
affair internal to the party that I represent.
Normally I would not speak in this chamber
on this topic and until today I have not.
However, two weeks ago, unbeknown to me
at that time, the member for Maribyrnong,
Mr Bob Sercombe, made a statement in the
other place on this matter—a premature
valedictory. Surely it would be churlish of me to ignore him and not respond. Thus I rise tonight to speak on this rather personal topic and I thank the Senate for its indulgence.

While I appreciate that Mr Sercombe regarded my performance so highly—‘an extraordinarily hard-working senator’ was the phrase he used, although presumably he did not use the performance of my Liberal colleagues as a benchmark because, if he had, he would have realised that my performance is just ordinary; obviously he was using other senators as a benchmark—as to make my affairs the subject of his statement, I would have been considerably more moved and gratified had he not used his statement as an opportunity to denigrate the Liberal Party. Even so, I do appreciate his kind words about me. I appreciate even more the interjection made by the member for Reid, Mr Laurie Ferguson, who confirmed that I was indeed a hard-working senator. I appreciate this especially because Mr Ferguson interjected when Mr Sercombe was commenting on my performance but remained silent when Mr Sercombe was attacking the Liberal Party. So we know Mr Ferguson’s opinion on which part of Mr Sercombe’s comments was correct.

There are two issues arising from Mr Sercombe’s statement which I particularly wish to comment on. The first one is about the Liberal Party. As I said earlier, preselection by the Liberal Party is an internal matter. I have the privilege of sitting in this chamber as the result of a gift from the Liberal Party. As my colleague Senator David Johnston said in his first speech, the personal vote he received in the election was something like 0.1 per cent of the quota to be elected and therefore he was here by virtue of the fact that he represented the Liberal Party. It is the same with me because when I was elected in 1998 I received a grand total personal vote of 125 votes. That is less than 0.001 per cent of the quota. I would not be here if it were not for the Liberal Party’s endorsement of me. So I am here as a member of the Liberal Party and I will remain a member of the Liberal Party.

However, perhaps Mr Sercombe failed to understand the nature of the Liberal Party, because the Liberal Party is a truly democratic party. We have a process where any members have a right to nominate for any position. It is up to the party and the people who represent the affairs of the party to make the best choice at the time of the candidates available to be endorsed representatives of the party. It should not surprise us that Mr Sercombe may not understand that because the Labor Party, although they also describe themselves as a democratic party, really practise a kind of guided democracy. It is not true democracy such as the Liberal Party practises. I am very proud to be and continue to be a member of the Liberal Party and remain in this place until 2005 to serve the Australian and particularly the Victorian people.

The second issue arising from Mr Sercombe’s comments is the general nature of his comments in that he felt it necessary to denigrate, as I said, the Liberal Party over this issue. Despite all this, I knew Mr Sercombe before I came to the parliament. As far as I am concerned, Mr Sercombe and 99 per cent of the members of both chambers who serve this parliament are good, hard-working people who are here to serve the people of Australia.

It is the nature of our political system that we draw a distinction between the individuals and the collective party that they represent. In this adversarial system that we have, it is necessary for us to attack the work of the other party. However, it is a very fine line and it is very easy to cross from criticising
the other party for what they believe in or what they propose to attacking them just because they are a different party. Generally speaking in Australia, for whatever historical or sociological reason, we have this adversarial system. We are one of the few truly democratic countries in the world and yet, in general, in our society we do not regard our politicians highly. We are ambivalent about them. It is an occupational hazard to be criticised for what we do and how we perform.

Yet, for a true democracy to work, we need people whose real aims and beliefs are to serve the people of the nation. We cannot have that if we continue to denigrate the people who practise that profession. It is particularly distressing when people who are in that profession themselves, through their actions or through their anxiety perhaps to show themselves different from the other party, criticise people for issues other than policies.

Earlier my colleague Senator Humphries was talking about the Howard government’s contribution to the development of cultural facilities in Canberra. These are facts, and yet the story out there, as he recounted it, was total, almost mindless criticism and denigration of the Howard government’s record in providing cultural facilities in Canberra—not just in Canberra but right across Australia. We speak of Australia as being a sporting nation. In fact, the figures will show that the Howard government has invested more in Australia’s culture than in our sports. That is something that nobody talks about or gives the Howard government credit for.

It is important for members and colleagues in this place when we speak about politics to make the distinction between what is actually true and what we believe should be true. We should not make it such that anything we do not believe in is therefore black and untrue. Denigrating and demeaning people who serve the nation, in the long term, does not actually serve the nation.

**Tasmania: Air Services**

**Senator BARNETT (Tasmania)** (7.51 p.m.)—On Monday, 1 March I hailed the decision by Airservices Australia to install a $10 million transportable radar at Launceston airport. Launceston won the right to have the radar ahead of other Australian locations, and I am thrilled that we have managed to secure the service. I now believe this will eliminate concerns that Tasmanians and the interstate travelling public may have held about Launceston airport as a result of previously publicised aviation incidents. I also understand that the radar will provide some coverage to north-western and southern airports. In that regard, I give credit to Senator Richard Colbeck for his hard work to improve air safety in Tasmania.

I wrote to and contacted executives of Airservices Australia some weeks ago to lobby for the radar to be considered for Launceston airport, given that Airservices Australia had mentioned Launceston when announcing its review of new air safety procedures. This tremendous news came just two weeks after the Bureau of Meteorology reversed a decision to fully automate the weather station at Launceston airport. It now has plans to retain staff at the northern bureau and to relocate it to a Launceston city shopfront. The opening of a weather shop in Launceston’s CBD is a first for Australia. If it is successful, and I believe it will be, the weather shop concept could be replicated around Australia. This initiative by the weather bureau will bring benefits to the farming and fishing industries and indeed to the local aviation industry. It will include a $350,000 upgrade of the facilities and services at the Launceston airport.
I want to now turn to a deeply disturbing concern regarding the proposed new Qantas and Jetstar services for Tasmania. These are vital because we, as a state, are surrounded by water and have few options in terms of travel to and from the mainland—it is either by air or by ship. Seventy per cent of all travel is by air. My office has been inundated with complaints about the new Jetstar luggage and ticketing plans and the new plans generally. I have urged Jetstar and its owner, Qantas, to seriously review its plans because elderly citizens, disabled people and families are angry about having to recheck their luggage on mainland connecting Qantas flights and about having to deal with multiple websites to make bookings online for connecting flights. On Sunday, my wife, Kate, and family attended the annual general meeting of the Motor Neurone Disease Association. Two of the members were in wheelchairs and others clearly were physically disabled. It will be diabolical for these people and their families to have to recheck their luggage in Melbourne. Is it right that air travel should only be for the fit and the healthy? Travellers are also upset about not being able to accrue Qantas frequent flyer points on Jetstar flights, even though the airline is wholly owned by Qantas. You can acquit points but you cannot accrue them on Jetstar.

I have organised a lunchtime public meeting at Launceston’s Doherty International Hotel on Friday, 5 March between 12.30 p.m. and 1.30 p.m. I have invited Qantas and Jetstar executives to the meeting to explain the changes and to gauge public feedback. Qantas state manager, Roch Van Delft, and Jetstar’s head of commercial division, Bruce Buchanan, plan to attend. I have also invited Airservices Australia to explain the air safety benefits of the new transportable radar. I have written to Qantas and Jetstar to express my concerns, and today I met with Qantas’s head of government and international relations, David Hawes. I have asked, on both occasions, for a review of the arrangements. I have said many times that I welcome the announcement by Qantas of a progressive increase in flights and seat capacity. There will be a 27 per cent increase by September 2004. There has been an assurance by Qantas that there will be no job losses and that, potentially, there will be an increase in jobs.

The low-cost fares have been well received. However, in addition to the inconvenience caused by the need to recheck one’s baggage and the inability to accrue frequent flyer points, other concerns have become apparent over the last few days. Firstly, people who fly through Melbourne to Sydney or Brisbane and who wish to gain a low-cost Jetstar fare will have to travel 40-odd minutes to Avalon airport on a bus or a taxi. You are also required to check in at the counter at least 30 minutes prior to your flight. If you are late, you will lose your money. Secondly, if you are flying through Melbourne to another destination, you have to collect your baggage. The minimum wait between arrival and departure is 90 minutes, much longer than the current arrangements.

On Jetstar there are no allocated seats, so it is first in best dressed—subject to children, families and the elderly, I understand. If the weight of your baggage is over the limit, you pay extra and, of course, there is no food or drinks. Those who have already booked on Qantas after 26 May, when Jetstar plans to commence in Tasmania, may be required to fly Jetstar. Lawyers other than me will no doubt look at the contractual arrangements for this and at the current and future arrangements for Qantas Club membership. Today the business community in Tasmania, through the Tasmanian Chamber of Commerce and Industry, have expressed their significant concerns. They have specified them in dot point format, in meetings with Qantas and through the media. Travel agents
have expressed their concerns directly to me and to others with regard to the proposed arrangements. I was advised today that pets are not allowed on these flights, but this has not yet been confirmed. I have also been advised that unaccompanied children will not be allowed.

What is the overall impact of these changes on our tourism industry? Who will benefit and who will be disadvantaged? These questions need to be answered. I am into solutions. I am prepared to work with Qantas and Jetstar to get to the solutions, but I believe Qantas and Jetstar representatives have not yet been fully apprised of the views of the Tasmanian community, including those with disabilities, older people, families and parents with young children. As I asked earlier, is air travel simply for the fit and healthy or is it for all Australians?

I accept that Qantas is attempting to create a low-cost airline—that is fine, we live in a free country and it is entitled to do that; it is based on experiences in Europe and on airlines like Ryanair—but, if there is not an adequate review, there is every chance that Tasmanians will vote with their feet and fly with another airline. That is what competition is all about, but in Tasmania we do not have that many options. We are an island state and 70 per cent of our travel is by air.

I pose one final question: what are the state Labor government doing about this? Their silence is deafening. They should be strongly advocating the views of the people of Tasmania—not sitting on their hands, but arguing for a review by Qantas and Jetstar and for better arrangements. I truly hope that the outcomes of the public meeting this Friday will deliver benefits in terms of much improved arrangements for air travel for the people of Tasmania. I have a particular concern for people with disabilities, and I am concerned that the bulk of this air travel as proposed by Qantas and Jetstar will cause enormous inconvenience to these people and their families. I am involved with a number of disability groups, and they have expressed their views to me in no uncertain terms. I implore and urge Qantas and Jetstar to review their arrangements and to see if they can be properly and fairly accommodated.

Finally, another view that has been put to me is that this is the beginning of the end of Qantas’s arrangements in terms of flying air travellers to and from Tasmania. We will have one flight from Launceston to Melbourne and one flight from Launceston to Sydney per day, and two from Hobart to Melbourne and one from Hobart to Sydney. Is this the precursor of Qantas pulling out? I do not know; I hope not. Can that guarantee be given? I do not know. We will be asking that question of Qantas and Jetstar. For the sake of the Tasmanian people, I hope that the arrangements can be concluded and improved markedly for the benefit of all Tasmanians.

**O’Farrell, Professor Patrick James**

*Senator STEPHENS (New South Wales)*

(8.03 p.m.)—I rise to speak of the recent loss to this country and to celebrate the life and contribution of Professor Patrick O’Farrell, who died last Christmas Day. Though he was born in New Zealand, he came to Australia as a young man with his wife, Deirdre. He went to the Australian National University in Canberra, where he was a graduate student with Bob Hawke, and he completed his PhD on labour history. In 1959 he moved to Sydney to take up a lectureship at the recently established University of New South Wales, an institution with which he remained involved as a highly esteemed teacher, historian and administrator for the rest of his life. All five of his children attended that university and, after his retirement, he published its official history.
Patrick O’Farrell’s name is synonymous with the history of the Irish and the history of the Catholic Church in this country. I would like to quote a little from his best-known book, *The Irish in Australia*. I have chosen this volume for a few reasons: first, to remind us of his lively mind and fresh way of seeing; also, to illustrate what a careful and meticulous thinker he was; and, most of all, perhaps, for the sheer pleasure of feeling his presence here in this place, because his style is utterly distinctive. Here is how he describes the early days of the colony:

To this distant tip for human garbage, this refuge for refuse, this utilitarian colonial experiment, came the archaic, melancholy, humorous, religious, contradictory and occasionally indomitable Irishry, maddeningly pre-modern, non-conformist, and volatile, dividing and hesitating in the face of possible destinies.

It is clear what his colleague Professor John Carmody meant when he described Professor O’Farrell’s style as ‘an enchanting blend of wit, lucid scrutiny and stylistic elegance’.

Since 40 per cent of Australians claim an Irish connection, it is worth focusing for a few moments on Professor O’Farrell’s argument that the Irish have been the dynamic factor in Australian history—what he called ‘the galvanising force at the centre of the evolution of our national character’. He boldly claimed that we owe the egalitarianism of which we are so rightly proud to the Irish, the biggest minority group in Australia from European settlement in 1788. He said:

The distinctive Australian identity was not born in the bush, nor at Anzac Cove: these were merely situations for its expression. No; it was born in Irishness protesting against the extremes of Englishness.

If this argument sounds a little extreme to some, Patrick would be delighted: he encouraged debate, celebrated questioning and loved the intellectual cut and thrust of a good argument.

I must point out that his sense of the Irish who shaped our identity is not that familiar, even clichéd, picture of sentimental ballad singers with an equal fondness for blarney and the bottle and a tendency to solve their problems by violent means. He had no time at all for clichés or clichéd, lazy thinking. He based his argument on studious research into the Irish involvement in such issues as education, conscription, immigration, sectarianism, labour and capital. From this knowledge base, he argued that what drove and inspired the Irish was their ‘faith in a structured, peaceful society as a cradle of civilisation and human values’. No small ambition! He went on to argue that the Irish fought for the right to be included in the opportunities and prosperity that this country offered, rather than to be kept marginalised as a peasant class under the continued domination of British influence. In other words, it is thanks to the Irish—and no doubt a great relief to us all—that Australia did not evolve into a mini-England.

While that, in a nutshell, is what he is principally remembered for, he was not Irish and he never wanted to be. It seems to me that Patrick O’Farrell’s interpretation of our history has an application far beyond our Anglo-Celtic beginnings. I think it catches something of what makes this such a wonderful country: the opportunities here for everyone, whatever their origin or background, to better themselves and to have a shaping influence on society.

Those of us who were fortunate enough to hear Gerry Adams speak last month at the National Press Club will be aware that the relationship between Ireland and its nearest offshore island has been one of colonialism and domination, and many members of this chamber will have in their time studied that troubled history. Our library shelves are full of accounts of British history and the problem referred to as ‘the Irish question’. In this
context, it is interesting to note the title of Professor O’Farrell’s 1971 book, *Ireland’s English Question*. It was this ability to literally turn an accustomed way of seeing on its head, to look at old problems in new ways, that made him such an exceptional historian. I think it is worth noting that, despite Ireland’s sorry history of violence over the past two centuries, the Irish in Australia achieved what they did without resorting to violence.

It is tempting to think of historians as being absorbed in the past, but the reason we value and encourage the study of history and the humanities is that it contributes to our understanding of the human character and helps us to improve our world. One of Professor O’Farrell’s students at the University of New South Wales, Elizabeth Malcolm—who herself went on to become Professor, Gerry Higgins Chair of Irish Studies, at the University of Melbourne—points out that O’Farrell’s insights into political violence were especially profound. His writing in the context of the troubles in Northern Ireland in the early seventies are pertinent to us today. He said:

Situations may develop in human affairs which eventually imprison men and events in some kind of historical trap from which they are unable to escape.

Having just returned from Israel, my thoughts fly to the complexities of the Arab-Israeli relations and to today’s exciting news that perhaps peace is finally a little closer. He continues, and here our thoughts might go to recent events in Iraq:

It is often claimed that once the gunman and the bomber have been caught, all will be well. But … a relatively low level of actual violence could sustain a really destructive, divisive force, a relatively high level of suspicion, fear and hatred. It would be possible to reduce greatly the incidence of violent acts, without any corresponding degree of immediate settlement of the problem.

These speculations about Ireland proved only too true and provide insights into what is happening today in other parts of the world. I have quoted enough of Patrick’s work for us all to hear the care and precision that were hallmarks of his thinking and therefore his prose. Everything he wrote was carefully considered. In the words of Michael McKernan:

O’Farrell has never been a comfortable historian. He is eminently readable but he believes that before all else the historian must question, doubt and worry.

This tendency to interrogate his subject matter gave rise to some insights into such subjects as the formative importance of our sense of community. He wrote that community:

... is more than a place, it is a proposition, to which people freely and unspeakingly adhere. That proposition is that such people acknowledge that they are involved, engaged, interdependent.

This is more than just a recording of the facts; it helps us to know who we are as a society and provides direction about how we can go about improving society for the community good. In his early work on the labour movement Professor O’Farrell noted the prominence of the Irish Catholic community and he went on to research the history of another community, the Catholic Church in Australia. This polished, persuasive and humane study received just acclaim, and the words of Father Edmund Campion are an example of this:

To him more than any other individual, we owe the fact that Catholic intellectual life in Australia is noticeably historical, rather than theological, philosophical or biblical.

His interests were always wider than the categories of the Irish or the Catholic Church in Australia might suggest to people who have no particular interest in either of those subjects. Here, for instance, are some of his thoughts inspired by his reading of a book...
edited by Chris McGillion called *A Long Way from Rome: Why the Australian Catholic Church is in Crisis.* I am quoting from Patrick’s review of last March in the *Sydney Morning Herald,* and again we can hear in the movement of his sentences his passion for accuracy and his disciplined pursuit of an idea:

What would be really surprising is if the Australian Catholic Church were not in crisis. … For the fact is that every other major western institution is in crisis: the family, political parties, trade unions, universities, law, medicine, the Anglican Church, bowling clubs. If it is an institution, or even merely an organisation, and particularly if it claims any kind of authority or sets out rules, today it has a problem, it is in crisis. Or, rather, multitudes of crises: structural crises, crises of confidence, support, attendance, enthusiasm, purpose, loyalty, unity, direction and, of course, leadership.

Basically, all authority is in crisis: this is the age of sovereign man, sufficient unto himself … The ethics of private life have become matters of individual choice rather than mass conformity to external guidelines and rules from on high … Pondering is what this case needs, and lots of it.

Patrick O’Farrell’s legacy is that he always refused settle for the quick or obvious idea. He spent his life pondering at great length and formidable depth who, what and why we are as we are. He is to be remembered not only for his enormous contribution to the study of Australian history but also for the way in which, through a dozen books and over a hundred articles on a wide range of subjects, his rigorous intellect has expanded our understanding of ourselves and our society.

It is the nature of an obituary to focus on the individual we have lost, to speak as if that life were separate and separable from others, and of course this is not so. In Patrick O’Farrell’s case, it is particularly distorting to present him in isolation because he was an extremely sociable person. Many people depended on him for guidance, support, insight and argument, and he depended on his wide circle of colleagues, students, friends and family to test and hone his ideas. His widow, Deirdre, was his partner in the richest sense, collaborating with him on much of his writing. Their children—Clare, Gerard, Virginia, Richard and Justin—also enriched his life and were enriched by him in return. His fierce belief in equality and his scholarly pursuit of that belief won him the love of many and the respect of all. Our thoughts and prayers go to the O’Farrell family, who I know are listening this evening and who of course miss him dearly. We as a society are all the better for having had the pleasure of Patrick O’Farrell’s fine mind and lively company.

**Ministerial Reply**

**Senator IAN MACDONALD** (Queensland—Minister for Fisheries, Forestry and Conservation) (8.15 p.m.)—In closing, I want to comment on two very different speeches that were made during this adjournment debate. One was generous and genuine; the other was full of invective, class and race hatred, ideology and hypocrisy reminiscent of the Stalinist speeches of the forties and fifties. The first speech, the generous and genuine one that I referred to, was from Senator Tsebin Tchen. It is not often you hear a speech that is so genuinely put and so generous in its application. I suggest it is the real stamp of the man, who has been a colleague of ours for some five years now, to see his high praise for the Liberal Party, a party which he is obviously very committed and attached to. It does show that the people of Victoria and the Liberal Party in Victoria were very right five years ago when they elected Senator Tchen to represent them in this parliament. It has certainly been our pleasure to work with Senator Tchen, and I know that we will all very cheerfully and
fruitfully work with Senator Tchen during the next year and a bit.

The other speech was from Senator Nettle and was about Redfern. I am never ceased to be amazed by the ultra left wing Greens party and the way they go on in this chamber. Senator Nettle had a problem with Redfern. I will not enter into that. I am from Queensland; I do not really understand the issues and I do not really want to comment on them. But I do know this much about it: it is a New South Wales problem. It is an issue for the New South Wales government. Senator Nettle continually blamed the police and various other authorities, and yet somehow it all became Mr Howard’s fault. It was all because of Mr Howard that these things happened. It was the federal government and Mr Howard that, it appeared from her speech, caused all these problems. Not a word of criticism about Mr Carr and the Labor government in New South Wales, because they are on the same side politically as Senator Nettle; although I have to say Senator Nettle is so far left of even the Labor Party that I suspect even they are embarrassed at some of her old style Stalinist approaches.

Why are all these things always the fault of the only non-Labor government in Australia, the federal government—a government that has done such a marvellous job for Australia and a marvellous job for the Indigenous people of Australia? We have done real things for the Indigenous people. If I had three hours I could not list all of the areas where we have given genuine help to a very great people: the Indigenous people of Australia. I can only talk about my areas in forestry and fisheries, where Indigenous people are doing real things, very ably and very happily, and where the Howard government is assisting in that matter. But all we get from the Greens all the time is this ultra left wing rhetoric, this ideological hatred and this class and race hatred that is more reminiscent of the forties and fifties in Stalinist Russia than it is in Australia. The Greens, as I have pointed out on many occasions, have no interest in the environment. They masquerade as an environmental party.

Senator Ferris—We saw that at estimates.

Senator IAN MACDONALD—You have reminded me, Senator Ferris, that there were some 20 hours of estimates committees that involved conservation or the environment. I know that because it was my pleasure to sit through all 20 hours. There were people there from the Labor Party—not a lot—and there were people there from the Democrats every now and again. But in the whole 20 hours of estimates committees on the environment and conservation, not one person from the Greens turned up to challenge the Howard government. I take that to mean they acknowledge that the Howard government is the best government for the environment that this country has ever had. You would think that if they were greens they would at least exercise the pretence of turning up and showing some interest in the environment and conservation, but not for one second of those 20 hours was either of the Greens senators there.

I am really appalled that there are many well-meaning Australians who believe in the environment—as I know you do, Madam Acting Deputy President, and as I am sure all of us in this chamber do—and that these well-meaning Australians, who like koalas and trees as we all do, are hoodwinked by the Greens into thinking that this is a party that will look after them. If only those well-meaning Australians could watch the Senate or read some of the Hansard reports, they would see that the Greens never mention the environment. They are not interested in the environment. All of their speeches and their questions at question time are about left wing
ideological social issues: hate the Americans, hate the British, hate the establishment, hate the business community—hate anything that I consider to be genuinely Australian. These people masquerade as environmentalists. I hope that at some time those well-meaning people of Australia who support these people for genuine environmental reasons will understand that the Greens are not a party of the environment.

If people want to vote for a party for the environment, they will vote for John Howard’s Liberal and National Party coalition because this government is genuine about the environment. We have put more money into it; we have done any number of great initiatives for the environment: the Natural Heritage Trust, the Great Barrier Reef, Green Corps—it goes on and on. This is the genuine party of the environment, but well-meaning people are hoodwinked into voting for the Greens because they think they are environmentalists. In fact, they are nothing more than a party that until recent times would have been called the Communist Party. I suspect there are many young people who do not really understand what the Communist Party was, but certainly people of my generation understand what the Communist Party was all about and they can see it reincarnated today in the Greens party. I urge those who have an interest in the environment to look carefully not at the rhetoric that you see on the grab on TV but at the real actions of the Greens party and understand that they are not a party of the environment.

**Senate adjourned at 8.23 p.m.**

**DOCUMENTS**

**Tabling**

The following government documents were tabled:

- Grape and Wine Research and Development Corporation—Report for 2002-03—Errata.
- Native Title Act—Native title representative bodies—Reports for 2002-03—
  - Aboriginal Legal Rights Movement Inc.
  - Central Queensland Land Council Aboriginal Corporation.
  - Goldfields Land and Sea Council Aboriginal Corporation.
  - Gurang Land Council (Aboriginal Corporation).
  - Ngaanyatjarra Council (Aboriginal Corporation).
  - South West Aboriginal Land and Sea Council Aboriginal Corporation.

- Stevedoring Industry Finance Committee—Report for 2002-03.

**Treaties**

- **Bilateral**—Text, together with national interest analysis and annexures—

- **Multilateral**—Text, together with national interest analysis and annexures—
  - Amendments, made at Marrakesh 2002, to the Constitution and Convention of the International Telecommunication Union (Geneva 1992) as amended by the Plenipotentiary Conference (Kyoto 1994) and by the Plenipotentiary Conference (Minneapolis 1998).

Tabling

The following documents were tabled by the Clerk:

- Corporations Act—Accounting Standard AASB 1046—Director and Executive Disclosures by Disclosing Entities.
- Export Control Act—Export Control (Orders) Regulations—Export Control (Fees) Amendment Orders 2003 (No. 2).
- Export Control (Fees) Amendment Orders 2003 (No. 3).
- Prescribed Goods (General) Amendment Orders 2004 (No. 1).
- Quarantine Act—Quarantine Service Fees Amendment Determinations 2003 (No. 1).
- Superannuation Industry (Supervision) Act—Requests from Minister to APRA, dated 28 October 2003 [2].
- Sydney Airport Curfew Act—Dispensations granted under section 20—Dispensation No. 3/04 [2].
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Immigration: Detainees
(Question No. 1609)

Senator Brown asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 10 July 2003:

(1) Was detainee Hammed Qhatani ever refused delivery of postcards handed to centre officers at Woomera by nursing staff or anyone else; if so, why.
(2) Was Mr Qhatani tortured as a child in Iraq.
(3) Did Mr Qhatani have a bullet in his body
(4) Did Mr Qhatani request (at Villawood or Woomera) for this bullet to be removed.
(5) Was a bullet removed from Mr Qhatani; if not, why not.
(6) (a) How long was Mr Qhatani under special surveillance in detention in Australia; and (b) why.

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

(1)-(6) Australia has strict privacy laws which limit the disclosure of information held on individuals by the Department of Immigration and Multicultural and Indigenous Affairs. As replies to questions on notice are published in Hansard, and as such placed on the public record, providing an answer to the question asked by Senator Brown would amount to a breach of the department’s obligations under the Privacy Act 1988. While the Privacy Act prevents me from discussing details relating to individuals in immigration detention I can however, provide information of a general nature regarding the care of persons in detention.

If Senator Brown was to obtain the permission of the person in question to have such information released, I would be happy to arrange a private briefing for this purpose.

The provision of detention services is set out in the Immigration Detention Standards (IDS), which have been developed by my Department in consultation with the Commonwealth Ombudsman’s office. Detention services are subject to both administrative and judicial review, and are subject to full parliamentary scrutiny and accountability. In fact, the immigration detention process is among the most closely scrutinised Government programs.

The IDS underpin the provision of the detention function and the standard of care to be provided and ensure that the individual care needs of detainees are met.

Departmental policy and the policy of our Detention Service Provider is that no detainee is refused mail. Once through the initial entry screening process, detainees are free to send and receive mail within Australia and overseas. No evidence has been found of detainees’ mail having been denied in the circumstances described. If Senator Brown can provide any further information regarding this alleged incident it will be investigated.

The health care needs of all detainees are identified by qualified medical personnel as soon as possible after they are taken into immigration detention. All detainees are provided with necessary medical or other health care, including psychiatric care and referral to specialists, when required.

Foreign Affairs: Zimbabwe
(Question No. 1921)

Senator Murray asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 8 September 2003:
With reference to the Government’s policy in relation to the Mugabe Zimbabwe African National Union-Patriotic Front (ZANU-PF) Government, can the Minister advise if there are any students attending Australian universities who are related to current ZANU-PF members of the Government or parliamentarians in Zimbabwe.

Senator Vanstone—The answer to the honourable senator’s question is as follows:
The Australian Government implemented a comprehensive package of “smart sanctions” against the Mugabe regime in October 2002. This included restrictions on travel to Australia by 77 Zimbabwean ministers and senior officials; a freeze on any assets they may hold in Australia; down-grading of cultural links; and suspension of non-humanitarian aid, defence links and sales of defence-related equipment, as well as bilateral ministerial contact. Like other smart sanctions, Australia did not include family members of Zimbabwean ministers and senior officials in its restrictions on travel to Australia.

In terms of student visa requirements, the Australian Government operates an overseas student program that is universal and open to all genuine students. To be eligible for grant of a student visa, all student visa applicants must satisfy a set of strict objective criteria, assessing their English language proficiency, financial capacity as well as other legislative requirements.

In accordance with Australia’s privacy laws, we are not able to disclose information about any individual student visa holder that might breach their privacy.

Fisheries: Illegal Fishing
(Question No. 1978)

Senator O’Brien asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 10 September 2003:

(1) Did the Minister authorise the release of the details about Operation ‘Rushcutter’ contained in his ministerial media statement AFFA03/86MJ, issued on 12 May, including detailed vessel specifications of the Aurora Australis, patrol duration incorporating departure and return dates, a detailed description of crew numbers, training and operational capacity, the area of operation and the operational command structure; if not, who authorised the release of this information.

(2) Did the Minister authorise the release of information about the sidearms carried by officers and larger calibre weapons available aboard the Aurora Australis during Operation ‘Rushcutter’, as reported in the Hobart Mercury on 13 May 2003; if not, who authorised the release of this information.

(3) With reference to the Minister’s media statement ‘$12 million Budget boost to fight illegal fishing in Southern Ocean’ issued on 13 May 2003, can details be provided of the Government’s new program of armed enforcement patrols, including the proposed patrol frequency and enhanced enforcement capacity.

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

(1) Yes; it was jointly authorised with Senator Ellison.

(2) No; the Australian Customs Service has advised that ministerial approval to release this information was not required and it was authorised at officials level.

(3) Operational details of future patrols are important tactical information and if made public could compromise future monitoring, surveillance and enforcement activity by Australia against illegal fishing activity at the Heard Island and McDonald Islands fishery.
Senator O’Brien asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 10 September 2003:

(1) What charges were laid against the master and crew of the vessel the *Aliza Glacial*, arising from its apprehension in October 1997, for alleged illegal fishing activity in Australian waters near the Heard and McDonald Islands.

(2) When did the master and crew depart Australia.

(3) Did the departure of the master and crew stall the prosecution for alleged illegal fishing activity; if so: (a) what conditions were placed on their departure; (b) what has the Government done to secure the return of the accused to Australia; (c) what is the current location of the accused; (d) what is the status of the outstanding charges; and (e) what future action is proposed by the Government in this matter.

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

(1) The Master and Fishing Master of the *Aliza Glacial* were charged under sections 100(1) and 101(1) of the Fisheries Management Act 1991. Section 100(1) relates to using a foreign boat for fishing in the Australian Fishing Zone (AFZ) without an authorisation. Section 101(1) relates to being in charge of a foreign fishing boat in the AFZ without an authorisation and the vessel is not transiting and the fishing equipment is not stored and secured.


(3) Yes.

(a) Prior to 11 December 1997 the bail comprised:

(1) a bail undertaking;

(2) a condition that the defendants were to remain in the Perth metropolitan area; and

(3) a condition that the defendants formally surrender their passports to the Australian Fisheries Management Authority.

On 11 December 1997 bail was varied by the court to allow the defendants to return home. Accordingly, conditions 2 and 3 (above) were removed. On that date, a written bail undertaking was also set that the defendants would appear at a specified time and place (section 28 Bail Act 1982); in the Perth Court of Petty Sessions on 5 February 1998. The defendants appeared on that date and signed a further bail undertaking that they would appear at the Perth Court of Petty Sessions on 6 July 1998. They failed to appear on that date.

(b) A warrant has been issued for the arrest of the Master and Fishing Master which will be effected should they return to Australian jurisdiction. There is no prospect of extradition being applied in this case, as the penalties available under international law are limited to fines.

(c) The current location of the accused is unknown.

(d) The charges still stand.

(e) Should the accused return to Australian jurisdiction they will be arrested to appear in Court to face the charges.
Fisheries: Illegal Fishing
(Question No. 1988)

Senator O’Brien asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 10 September 2003:

With reference to the Minister’s address to the National Press Club on 19 August 2003 concerning illegal toothfish fishing in Australian waters:

(1) What action has the Government taken to investigate and prosecute the 20 to 30 alleged regular illegal fishing operators known to the Government.

(2) (a) Is the Minister aware of allegations that the operator of the so-called ‘Alphabet Boats’ is a well known Hong Kong-based company with a wholly-owned Jakarta-based subsidiary that services the illegal fleet; (b) what action has the Government taken to investigate these allegations; (c) what representations has the Government made to Hong Kong SAR Government, the Government of the People’s Republic of China and the Indonesian Government, in relation to this company’s alleged involvement in the operation of the ‘Alphabet Boats’.

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

(1) When evidence of a breach of Australian fisheries law has been collected, action has been taken either through a prosecution or diplomatic representations.

(2) (a) Yes. (b) The company that is believed to manage the ‘Alphabet Boats’ is based in Hong Kong and therefore outside Australia’s jurisdiction. Attempts to interest Hong Kong authorities in investigations through Australian Federal Police liaison officers have not to date been successful.

(c) Illegal fishing issues were raised with Chinese officials during a departmental Deputy Secretary’s visit in March 2003 and by myself with the Chinese Vice Minister for Agriculture, Zhang Baowen, at the 23rd Food and Agriculture Organisation Meeting in November 2003. Illegal fishing issues have been raised with Indonesia on a number of occasions. Discussions on a bilateral arrangement aimed at stopping the trade of illegal toothfish through Indonesian ports have been initiated. I am hosting a visit from the Indonesian Minister for Marine Affairs and Fisheries in early 2004 where we will further discuss this issue.

Howard Government: Energy Policy
(Question No. 2193)

Senator Allison asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 9 October 2003:

(1) Is Mr Brian Hallwood, Managing Director of Rio Tinto, a member of a working group that the Minister has asked to provide advice to the Howard Government on Australia’s energy policy.

(2) Has the Government asked an employee of Rio Tinto or any other corporation in the energy or resources sector to provide advice to the Government on Australia’s energy policy; if so:

(a) who was asked;

(b) what was asked; and

(c) was the person offered payment for the advice.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) No. However, Mr Brian Horwood who is Managing Director of Rio Tinto Limited has recently been invited by Ministers Macfarlane and Kemp to participate in an independent industry CEO Low Emissions Technology Advisory Group. This group will advise the Government on priority areas for Australian energy technology development to encourage energy efficiencies and reduce
emissions. It is intended that this group will include representatives from other resources, manufacturing, automotive and energy (including renewable energy) sectors.

(2) The Government consults widely with industry on all energy related matters.

**Immigration: Refugees**

*Question No. 2313*

**Senator Webber** asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 16 October 2003:

1. Has any investigation been undertaken by the department of the economic and social effects of removing the Afghan refugees from Albany, Western Australia.
2. Has there been any consultation with the Albany community on the removal of the Afghan refugees.

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

1. No. Investigation of economic and social effects on local communities is not undertaken in relation to possible removal action, should this become necessary.
2. No, however MPs, employers and other members of the community have made representations to the Minister.

**Immigration: Detainees**

*Question No. 2330*

**Senator Marshall** asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 27 October 2003:

With reference to the Migration Act 1958:

1. In the past 2 years, how many people have been held, following the cancellation of a visa under section 501 or section 200 of the Act in: (a) detention centres; and (b) gaols.
2. How many people have been held in detention or gaol for more than 6 months following a visa cancellation under section 501 or section 200 of the Act.
3. What is the main reason, other than court appeals, for people whose visas have been cancelled under section 501 or section 200 of the Act, not being removed from Australia.
4. How many people have been removed from Australia in the past 12 months under section 501 or section 200 of the Act.
5. In the past 12 months, what percentage of visas cancelled under section 501 of the Act involved decisions recommended to the Minister by the department that were then subsequently endorsed by the Minister.
6. In the past 2 years, how many visa cancellations under section 501 of the Act have been personally signed by the Minister and are therefore unappealable.
7. What is the average cost per detainee, and the total cost to the Commonwealth, per year, of detaining people who have had their visas cancelled under section 501 or section 200 of the Act.
8. (a) In the past 12 months, how many appeals were made by the department against court orders to reinstate visas cancelled under section 501; and (b) why were these appeals made.
9. Is it departmental practice to ask immediate family members to identify people in order to remove them from Australia.
10. How many people who were prospective witnesses in cases have been deported.
(11) Is there a time limit on instigating removal proceedings under section 501 for people in detention.

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

(1) (a)-(b) Two hundred and thirty three for the period 1 July 2001 to 31 October 2003. As there is some overlap between those held in detention centres and gaols, a detailed break-up is provided in the tables below.

**Persons detained whose visas have been cancelled under Section 501**

<table>
<thead>
<tr>
<th>Detention Location Type</th>
<th>2001-2002</th>
<th>2002-2003</th>
<th>2003-31/10/03</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Both Prison and Detention Centres</td>
<td>6</td>
<td>11</td>
<td>0</td>
<td>17</td>
</tr>
<tr>
<td>Detention Centres</td>
<td>35</td>
<td>103</td>
<td>15</td>
<td>153</td>
</tr>
<tr>
<td>Prison</td>
<td>13</td>
<td>16</td>
<td>1</td>
<td>30</td>
</tr>
<tr>
<td>Other Facility</td>
<td>4</td>
<td>5</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>58</strong></td>
<td><strong>135</strong></td>
<td><strong>17</strong></td>
<td><strong>210</strong></td>
</tr>
</tbody>
</table>

**Persons detained who are subject to a deportation order**

<table>
<thead>
<tr>
<th>Detention Location Type</th>
<th>2001-2002</th>
<th>2002-2003</th>
<th>2003-31/10/03</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Both Prison and Detention Centres</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Detention Centres</td>
<td>5</td>
<td>5</td>
<td>1</td>
<td>11</td>
</tr>
<tr>
<td>Prison</td>
<td>3</td>
<td>3</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>Other Facility</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>13</strong></td>
<td><strong>9</strong></td>
<td><strong>1</strong></td>
<td><strong>23</strong></td>
</tr>
</tbody>
</table>

(2) Forty nine, of which 43 relate to Section 501 cancellations. In some cases, the period for which they were detained was a result of the person serving a custodial sentence, rather than visa cancellation. Removal did not occur until this sentence was completed.

(3) Individuals subject to visa cancellation under Section 501 and deportation under Section 200 of the Migration Act are removed as soon as reasonably practicable. However, when an individual is serving a prison term, removal will not take effect until their sentence has been served. Other circumstances that may delay removal include:
- difficulty in obtaining documentation for travel;
- lack of cooperation from removee/deportee in completing necessary documentation; and
- logistical difficulties with travel to destination country.

(4) Removals do not occur under either Section 501 or Section 200. Section 501 is the means by which a person becomes unlawful, whereas Section 200 refers to the separate process of deportation. Removals occur under Section 198.

The number of people removed from Australia during the period 1 July 2002 to 31 October 2003 as result of visa cancellation under Section 501 was 133. The number deported under Section 200 was 21.

(5) The Department does not make a recommendation in Section 501 submissions to the Minister. The submissions take the form of issues for consideration for possible visa cancellation under Section 501 of the Migration Act.

For the period 1 July 2002 to 30 June 2003, Ministerial cancellations were 189 visas under Section 501 of the Migration Act, or around 83% of total Section 501 cancellations.

For the period 1 July 2003 to 31 October 2003, Ministerial cancellations were 6 visas under Section 501 of the Migration Act, or around 23% of total Section 501 cancellations.
Year Visas personally cancelled by Minister under Section 501

<table>
<thead>
<tr>
<th>Year</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001 - 2002</td>
<td>137</td>
</tr>
<tr>
<td>2002 - 2003</td>
<td>189</td>
</tr>
<tr>
<td>2003 - 31 October 2003</td>
<td>6</td>
</tr>
</tbody>
</table>

These decisions are not appealable to the Administrative Appeals Tribunal but can be reviewed by the Courts.

For persons who are held in immigration detention facilities, the cost to the Commonwealth of payments to the detention services provider in 2002-03 is estimated at around $4m. A similar break-up is not available for correctional facilities, i.e. the costs are not always charged to the Commonwealth because the detainee may also be serving a custodial sentence.

(a) In the past 12 months, there were four appeal applications lodged by the Minister in relation to court orders to reinstate a visa cancelled under Section 501. All four appeal applications are still active.

(b) Of the four matters:

- Two matters relate to the Court’s interpretation of “sentence to imprisonment (whether on one or more occasions)”;
- One matter was appealed by the Minister against the court’s ruling ‘failure to provide a statement of reasons amounted to jurisdictional error’ and failure to take into account the child when the child had not been born at the time of decision; and
- One was appealed by the Minister against a Court order granting interrogatories requesting the Minister to answer a list of questions concerning Section 503A protected information.

No. However, where documents are not readily available or to clarify aspects of the documents provided, departmental staff may be required to ask family members for assistance in verifying identity.

The Department works very closely with law enforcement agencies and has never removed a person where a criminal justice stay certificate has been issued.

Removal of persons whose visas have been cancelled under Section 501 is to occur as soon as it is reasonably practicable, once there are no impediments such as other visa applications, review applications or a remaining custodial sentence. The Department’s capacity to remove a person can be constrained by delays in securing travel documentation or agreement from entry authorities.

**Immigration and Multicultural and Indigenous Affairs: Alternative Dispute Resolution (Question No. 2352)**

Senator Ludwig asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 3 November 2003:

(1) Does the department use Alternative Dispute Resolution (ADR) in an effort to avoid litigation; if not, why not; if so, are there specific guidelines for the Department to follow when using ADR.

(2) If the department is not using ADR provisions, what process is used in cases that require resolution.

(3) Has the department been advised of any development of guidelines for the use of ADR.

(4) Does any of the legislation for which the department has responsibility contain ADR procedures; if so, (a) can each relevant provision be identified (eg. by statute name and section number); and (b) are guidelines provided for the use of ADR provisions in these instances; if so, can a copy of the guidelines be provided.
Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) The Department is aware of its obligations under the Legal Services Directions issued by the Attorney General’s Department to avoid litigation wherever possible.

The standard contract used by the Department when purchasing or engaging services includes a clause covering dispute resolution. That clause provides for the use of mediation or other forms of alternative dispute resolution to resolve disputes.

The Department does not use Alternative Dispute Resolution (ADR) to avoid litigation that seeks to challenge decisions made under the Migration Act and Regulations. Litigation involving migration legislation is not amenable to ADR due to the prescriptive and objective nature of the criteria for the grant of a visa.

The Department does, however, review with its solicitors, each decision that is challenged in litigation. In those cases where the decision is not defensible the Department withdraws thereby avoiding further litigation. The effectiveness of this process is demonstrated by the department’s success rate in defended cases of over 90%.

Indigenous Affairs litigation is generally focussed on legislation and/or common law and normally involves the Commonwealth as a defendant eg separated children matters. The Office of Aboriginal and Torres Strait Islander Affairs takes legal advice about the proper manner of defence, often in consultation with the Office of Legal Services Coordination in the Attorney-General’s Department to ensure its legal obligations (including those under the Legal Services Directions) are met.

(2) Litigation by applicants seeking judicial review of visa related decisions and decisions made pursuant to certain Indigenous Affairs legislation is conducted in accordance with the normal processes required by the rules of the court in which the litigation is commenced.

(3) No.

(4) While there are provisions in some Indigenous Affairs legislation requiring the use of ADR, the only provision which may require the Commonwealth to use ADR is in the Aboriginal Land Rights (Northern Territory) Act 1976 Section 48E.

Section 58A of the Aboriginal Councils and Associations Act 1976 (ACA Act) provides for arbitration of disputes between members of Aboriginal corporations incorporated under that Act, these provisions are inoperative in the absence of regulations. The Office of the Registrar of Aboriginal Corporations nonetheless currently provides a range of informal services to members of corporations, which aim to assist with resolution of disputes related to corporations under the ACA Act. These services are carefully managed to avoid any potential for conflict of interest with the Registrar’s regulatory roles.

The ACA Act is also currently in the process of being amended, with a range of non-litigious dispute-resolution services to be offered to assist to resolve disputes related to Indigenous corporations. These will include provision for an expanded members’ complaint service, provision of independent information to disputants and a power to convene conferences of parties to clarify issues in dispute. All of the above will be supported by a mediation referral service (although note that the Registrar’s Office will not itself conduct mediations). Again, these functions will be carefully balanced to avoid potential for conflicts of interest.

No guidelines are provided.

Immigration: Detention Centres

(Question No. 2399)

Senator Webber asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 26 November 2003:
QUESTIONS ON NOTICE

(1) With reference to the eight recommendations contained in the report by Greg Chambers, Glen Milliner and Keith Hamburger of Knowledge Enterprises, commissioned on 18 October 2000: (a) in detail, what are the eight recommendations; and (b) what actions have been taken by the department in respect of these recommendations.

(2) Why has the department refused to release the body of the report.

(3) When will the department make the full report available

(4) What action, if any, was taken against the then departmental secretary, Mr Bill Farmer, for advising a parliamentary committee on 30 May 2001 that the department had not received the report, when it had received the report some three months previously.

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

(1) The Senate was advised on 16 October 2003 in response to a Senate order to produce documents that the report would not be produced as to do so might compromise the good order and security of the centre. The offer of a confidential briefing to interested Senators was made.

My Department does not comment on operational matters that have the potential to compromise the good order and security of a detention centre. I can, however, indicate that recommendations of such reports are analysed by my Department, and inform the Department’s monitoring of service provision. Where substantiated breaches of contractual requirements are evinced, these are taken up between the parties appropriately using the corporate governance arrangements in place. Recommendations which go to policy, infrastructure or other such matters are considered appropriately by my Department.

(2) See (1) above.

(3) See (1) above.

(4) No action was or will be taken against the Secretary. The response to the issue by the Secretary referred to him not having the report in his possession at the hearing itself, which was correct, not that the report had not been received by the Department.

Immigration: Asylum Seekers

(Question No. 2402)

Senator Brown asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 27 November 2003:

Can the Minister confirm that one or two Afghans sent back to Afghanistan from Nauru are now dead; if so, can details be provided.

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

I am advised that one Afghani died in October 2003, almost 12 months after his voluntary return to Afghanistan. The UNHCR has indicated that there was no evidence of any Refugees Convention connection with the death of this person. The person was killed while in a majority Hazara area and the motivation appeared to be solely to steal his motorbike.

An unconfirmed report from one of the residents of the offshore processing centre suggested that a second Afghan returnee may have died. Information is being sought from UNHCR and IOM in Afghanistan to substantiate the report.

Communications: Local Content Broadcasting

(Question No. 2423)

Senator Mackay asked the Minister representing the Minister for Communications, Information Technology and the Arts, upon notice, on 28 November 2003:

QUESTIONS ON NOTICE
Has the review of the adequacy of local news and information programs in regional Australia been completed; if so: (a) has the board of the Australian Broadcasting Authority considered any report arising from the review; if so, what were the main findings of the review; and can details be provided of any recommendations and how these recommendations will be implemented; if not, when is this review expected to be completed; and can details of the review’s findings and recommendations be provided.

Senator Kemp—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable senator’s question:

The review has not yet been completed.

The inquiry into the adequacy of local content broadcast in regional areas covered all regional areas of Australia. After gathering information from these areas, the ABA focussed its initial investigation on the mainland aggregated markets. In March 2003, the ABA imposed an additional licence condition on commercial television licensees in the four mainland aggregated markets.

In addition, the ABA is undertaking investigations into the adequacy of local news and information broadcast in the remaining areas, which include remote and regional Western Australia, Darwin and remote central and eastern Australia (including Mt Isa), Tasmania, Mildura/Sunraysia, Griffith and the four solus markets of Renmark/Loxton, Mt Gambier, Broken Hill and Spencer Gulf.

(a) I am advised that the ABA Board has not considered any report arising from the review.

As the review has not yet been finalised, it is not possible to provide details of the main findings or recommendations of the review.

The timeframe for completing the review is uncertain, however, I am advised that ABA staff are currently preparing a paper for the ABA members on this matter.

Roads: Albury-Wodonga Bypass
(Question No. 2434)

Senator Allison asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 2 December 2003:

(1) What is the current estimate of cost for Stage 1 of the internal bypass at Albury Wodonga.

(2) Can a schedule be provided of the cost estimate changes over the past 3 years, together with the factors that have caused those changes.

(3) Is it the case that there has been a recent change in the design of the bypass to reduce the central median divider between the dual carriageways from 15 metres to 11 metres; if so: (a) was this change made in order to reduce costs; (b) how much is saved by this change; (c) what advice was sought with regard to the safety implications of the change and can a copy of the advice be provided; and (d) is it the case that there is no intention to construct a central crash barrier, despite the narrowing of the median divider; if not, what advice is available to indicate that the design change will not seriously affect safety on the roadway and contribute to more head-on accidents.

(4) Can the Minister confirm that the 1995 Environmental Impact Statement (EIS)/Energy Efficient Strategies (EES) used rural freeway accident statistics from 1994, which involved a section of the Hume Freeway with approximately 2 000 vehicles per day.

(5) Does the Minister agree that most of these vehicles would have been driven by professional drivers and yet the EIS applied this accident rate to both the external bypass and the internal bypass, which has very close interchanges, with many more vehicles than the external bypass.

(6) Can the Minister confirm that this deficiency was recognised in the Granherne March 2001 hazardous goods report, which pointed to the experience from the F6 freeway at Wollongong, where the urban section had an accident rate 5.6 times higher than the rural section of the freeway.
(7) Is the Minister aware of any expert reports which suggest that the situation at Albury will be significantly worse than that of the F6 freeway due to the closeness of the interchanges, the large amount of traffic mixing and the intention to operate the portion adjacent to the CBD at 80 to 90 kph instead of 110 kph; if so, will a full audited investigation of the accident risks, to be conducted by the NSW Roads and Traffic Authority before the project is put out to tender, be required; if not, why not.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) and (2) The 2001 Albury Bypass Review estimated the cost of the current route would be $335m in year 2000 prices. In early 2003, following the Australian Government’s December 2002 announcement of the selection of this route, the Roads and Traffic Authority (RTA) recalculated the 2001 estimate to produce an “out-turn” estimate. This estimate took into account inflation since 2001 and included an adjustment to take into account future inflation on works to be carried out in future years. The 2003 out-turn estimate amounted to $395m. Following the recent inclusion of an Australian Government’s contribution to the Bandiana Link in the project, this estimate has now risen to $408m, including an Australian Government contribution of $402.2m.

(3) The RTA’s concept design for the NSW section includes an 11 metres wide median, except where squirrel glider movements are expected, where the median would be 20 metres wide. The RTA considers these changes to be consistent with existing planning approvals and in keeping with its design guidelines. It considers that the proposed reduction in median width will reduce construction costs and contribute to lower environmental costs, although it has not costed the potential savings. The concept design has some raised median. Before construction commences, the tenderer for the project will be required to prepare a detailed design concept, which will address safety issues among other things. This design may vary from the median widths in the concept design and may include central crash barriers. The design will be assessed by the RTA and subjected to a safety audit before construction can start.

(4) and (5) The 1995 Environmental Impact Statement/Environmental Effects Statement calculated the likely impact of building proposed route options on accident rates in Albury-Wodonga both on and off route. It used statistics based on overall accident rates on four categories of Victorian roads (local roads, undivided roads, divided roads and freeways) during the previous three years. No comparison was made with accident rates on rural section of the Hume Highway. The road will be built to achieve a high level of safety for users, similar to other new roads. The spacing of proposed interchanges in central Albury comply with RTA road design guidelines. Before construction commences, the tenderer for the project will prepare a detailed design concept, which will be assessed by the RTA and subjected to a safety audit before construction can start.

(6) The Hazard and Risk Assessment Update carried out by Granherne in March 2001 dealt with possible accidents in relation to the transport of hazardous goods made no comment on the design of the proposed Albury upgrade or the spacing of its intersections. It included no comparison of the safety of urban and rural sections of the F6.

(7) I understand that a number of reports commissioned by a local community interest group have been forwarded to the Australian Government. The Department of Transport and Regional Services has sent copies of these reports to the RTA for its consideration. As noted earlier, before construction commences, the tenderer for the project will prepare a detailed design concept, which will be assessed by the RTA and subjected to a safety audit before construction can start. I expect that the safety audit will consider the matters raised in the previously mentioned reports.
**Immigration: Asylum Seekers**  
(Question No. 2435)

**Senator Marshall** asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 1 December 2003:

1. Does Australia currently have a Memorandum of Understanding (MOU) with Cambodia in relation to immigration matters and/or the repatriation of failed asylum seekers; if so: (a) when was it negotiated and signed; and (b) can a copy of the MOU be provided; if so, when; if not, why not.

2. If there is not a current MOU between Australia and Cambodia regarding immigration matters: (a) has the Government sought to negotiate one; if so, when; and (b) what has prevented the signing of such an agreement or understanding.

3. (a) Does Australia currently have a MOU with Vietnam in relation to immigration matters and/or the repatriation of failed asylum seekers; if so, when was it negotiated and signed; and (b) can a copy of the MOU be provided; if so, when; if not, why not.

4. If there is not a current MOU between Australia and Vietnam regarding immigration matters: (a) has the Government sought to negotiate one; if so, when; and (b) what has prevented the signing of such an agreement or understanding.

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

1. Australia currently has an MOU with Cambodia Concerning Mutual Cooperation in Combating Irregular Migration, People Smuggling and Trafficking.  
   (a) The MOU was negotiated and signed on 4 March 2002.  
   (b) A copy of the MOU cannot be provided as it is a confidential bilateral agreement between the Government of Cambodia and the Government of Australia that was entered into on the understanding that it would not be released without the agreement of both parties.

2. Not applicable.

3. (a) Australia currently has a Joint Ministerial Statement (JMS) with Vietnam on Support of Mutual Cooperation in Combating Illegal Immigration, signed on 14 September 2000.  
   Australia also has an MOU with Vietnam on the return of Vietnamese Citizens Whose Deportation Has Been Ordered Due to Breaches of Australian Laws, signed on 15 June 2001.  
   (b) Copies of the JMS and MOU cannot be provided as they are confidential bilateral agreements between the Government of Vietnam and the Government of Australia that were entered into on the understanding that they would not be released without the agreement of both parties.

4. Not applicable.

**Veterans**  
(Question No. 2462)

**Senator Mark Bishop** asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 9 December 2003:

When will answers to questions on notice 1441 and 2368 be provided.

**Senator Coonan**—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

The answer to question on notice 1441 was sent to the Table Office on Thursday, 18 December 2003 and the answer to question on notice 2368 was sent to the Table Office on Monday, 2 February 2004.
Veterans: Footwear  
(Question No. 2498)

Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 13 January 2004:

1. Is there a current tender on issue for the supply of orthopaedic footwear; if so: (a) when was the tender issued; and (b) what was the closing date.

2. When were the specifications for such footwear last reviewed for their relevance with respect to modern materials and manufacturing techniques.

3. Is allowance made for the provision of custom-made shoes; if not, why not.

4. Is provision made for the provision of imported custom-made shoes; if not, why not.

5. (a) Are dual density soles specified; if not, why not; and (b) what specific advice has been relied upon in such a conclusion.

6. Has a tender been invited from the Daisy Shoe Company; if not, why not.

Senator Coonan—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

1. Yes there is a current tender for the provision of medical grade footwear to eligible veterans, war widow/widowers and dependants.
   (a) The tender was issued on Saturday 25 October 2003.
   (b) The closing date for the tender was Monday 24 November 2003.

2. The specifications for medical grade footwear were reviewed prior to the release of the tender. The revised specification reflects the Department of Veterans’ Affairs requirement for high quality medical grade footwear that is appropriate to the clinical needs of veterans and war widows. The development of the specification involved significant input from the panel of technical advisers who have both technical (including industry) expertise and an understanding of veterans and war widows’ treatment needs in relation to medical grade footwear. The use of modern materials and manufacturing techniques were taken into account by the technical panel.

3. The tender includes both custom and ready-made depth/width medical grade footwear.

4. The tender invited submissions from manufacturers and suppliers of custom medical grade footwear and does not exclude the provision of imported custom shoes.

5. (a) Dual density soles are generally considered unsuitable for use in medical grade footwear for veterans and war widows. The Department of Veterans’ Affairs specification has been developed to accommodate a range of clinical conditions based on the treatment needs and incorporates a number of requirements. The overall requirements are for high quality, long lasting footwear with adequate strength and support in order to correct or alleviate clinical conditions. Specific requirements include the need for footwear to be readily modifiable and repairable and have sufficient depth and/or width to be able to accommodate orthotics. Footwear with dual density soles may not meet these requirements. Additionally many shoes that contain dual density soles are considered to be sports style shoes, which are excluded under the Department’s policy on the provision of medical grade footwear to veterans and war widows.
   (b) The advice of the Department of Veterans’ Affairs technical advisers, which is based on both their extensive technical knowledge of medical grade footwear and the clinical needs of veterans and war widows, as well as existing Departmental policy, is the basis for this conclusion.

6. The tender was open to any interested supplier of medical grade footwear, including the Daisy Shoe Company.
**Human Rights: Vietnam**  
*(Question No. 2515)*

**Senator Kirk** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 27 January 2004:

With reference to the case of Australian minor Phan Ngoc Viet Phi, detained by Vietnamese authorities on 5 November 2002 and later gaol in Vietnam:

1. Can details be provided of any Australian assistance given to Phan Ngoc Viet Phi.
2. Was any assistance provided beyond ‘standard consular assistance’; if so, can details be provided of this assistance.
3. Were any representations made on her behalf by the Australian Government; if so, can details be provided of these representations.
4. Can details be provided of the sentence.
5. Were any appeals lodged against the sentence; if so, can details be provided of those appeals.
6. Can details be provided of any assistance given by Australian officials in the preparation and lodgement of any appeals.
7. What were the outcomes of any appeals.
8. Can details be provided of any ongoing Australian assistance, consular or otherwise.

**Senator Hill**—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

1. Ms Phan is receiving consular assistance in accordance with the Department of Foreign Affairs and Trade’s Consular Services Charter.
2. Consular assistance is tailored to the circumstances of each case. Ms Phan is receiving assistance appropriate to her circumstances.
3. The Government holds humanitarian concerns about Ms Phan’s detention in an adult prison. I (Mr Downer) have raised these concerns with the Vietnamese Foreign Minister. The Australian Embassy in Hanoi has also raised concerns with Vietnamese authorities.
4. In June 2003, Ms Phan was sentenced to 4 years in prison for drug trafficking.
5. An appeal was lodged on 24 June 2003.
6. Assistance with preparation and lodgement of legal papers falls outside the consular role.
7. Ms Phan’s unsuccessful appeal resulted in an increase in her sentence to 6 years.
8. Ms Phan continues to receive consular assistance.

**Veterans’ Affairs: War Memorials**  
*(Question No. 2519)*

**Senator Brown** asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 29 January 2004:

1. What support has the Australian Government given to the construction of war memorials at Gona and Buna-Sanananda, sites of critical World War 2 battles in the New Guinea campaign of 1942-43; if no support has been given, why not.
2. Have any government ministers visited the sites that were constructed at Buna-Sanananda and Gona by volunteers in 1995; if not, why not.
3. Does the Government contribute to the maintenance of these memorials; if so, how much.
**Senator Coonan**—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

1. No funds have been allocated by the current Government for construction of memorials at battlefield sites of Buna, Gona and Sanananda. Instead, the official memorial commemorating the Buna, Gona, and Sanananda campaign was completely redeveloped by the Government during 2002. This memorial, located at Popondetta, was originally built by the Australian Government in the 1960s and then redeveloped by the current Government as part of the commemorative activities for the 60th anniversary of the Defence of Australia.

   This project was one of three major memorial construction projects in Papua New Guinea during 2002 to commemorate the service and sacrifice of our veterans in the Battle of the Beachheads, the Battle of Milne Bay, and the Kokoda Track campaign. Since 1996, the Government has allocated funds for construction of other major overseas memorials, including Gallipoli, the Western Front memorials at Le Hamel and Fromelles in France, Hellfire Pass in Thailand, Crete, Sandakan, Tarawa, and most recently for the Australian War Memorial, London.

2. No. The Minister for Veterans Affairs, the Hon Danna Vale MP, led a major commemorative mission to Papua New Guinea in November 2002 to dedicate the official memorial commemorating the Buna Gona and Sanananda campaign. The Popondetta Memorial serves as an appropriate and accessible site for education and commemoration of the Battle for Buna, Gona and Sanananda.

3. During 2002, the Government agreed to assist with maintenance of the existing battlefield memorials at Buna and Gona during the redevelopment of the Popondetta Memorial. A total of $1610 was spent on the existing battlefield memorials.