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Thursday, 4 March 2004

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

NOTICES

Presentation

Senator Troeth to move on the next day of sitting:
That the Senate recognises International Women’s Day on 8 March 2004 and notes:
(a) that the idea to hold an International Women’s Day first arose at the turn of the century;
(b) that International Women’s Day is celebrated worldwide as a day for reflecting upon the progress made by women in achieving equal status with men, calling for further change and celebrating the achievements of women in their many and diverse roles;
(c) the major role that rural women play in food and fibre production, food security and the development of worldwide rural economies, women making up approximately 32 per cent of Australia’s farm workforce;
(d) the contribution of outstanding rural women, as recognised in the Rural Industries Research and Development Corporation’s Rural Women’s Awards and that consistent with the values of International Women’s Day, the Australian Government actively supports these awards and will be celebrating the achievements of the award winners at a national reception for rural women in March 2004; and
(e) that the Australian Government continues to encourage the development of rural women through other initiatives such as the Industry Partnerships Corporate Governance for Rural Women Program, a program which equips and encourages women to participate in their industries at whatever level they choose and also includes participating in decision-making bodies and playing a key role in contributing to national government and industry agendas relevant to agriculture, fishing and forestry.

Senator Allison to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) the weight of scientific evidence strongly suggests that:
(A) the global average surface temperature increased by approximately 0.6°C in the 20th Century and is likely to increase by between 1.4°C and 5.8°C in the 21st Century, and
(B) the primary cause of global warming is the increased concentrations of greenhouse gases in the atmosphere due to human activities, particularly the burning of fossil fuels,
(ii) the impact of climate change in Australia could include decreased water availability, lost productivity in the agricultural, fisheries, forestry and tourism sectors, increased fire risk, loss of alpine habitats and species, an increase in severe weather events, degradation and loss of coral reefs, and an increased risk of infectious diseases, respiratory illness, heat-related illnesses and allergies, and
(iii) despite the risk to Australia, the Howard Government has refused to ratify the Kyoto Protocol and failed to implement sufficient measures to reduce domestic greenhouse gas emissions and minimise the impact of climate change; and
(b) calls on the Government to:
(i) ratify the Kyoto Protocol and work cooperatively with the international community to devise a comprehensive agreement to reduce global greenhouse gas emissions,
(ii) raise the mandatory renewable energy target to at least 19,200 GWh for 2010 and 40,000 GWh for 2020,
(iii) introduce an emissions trading scheme and/or a carbon tax,
(iv) amend the Environment Protection and Biodiversity Conservation Act 1999 to ensure approval is required for all actions that could result in significant greenhouse gas emissions, and
(v) develop and implement a broader range of measures to reduce domestic emissions and encourage the expansion of the renewable energy sector.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.31 a.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.

Australian Sports Drug Agency Amendment Bill 2004
Customs Tariff Amendment (Paraquat Dichloride) Bill 2004
Great Barrier Reef Marine Park Amendment Bill 2004
International Transfer of Prisoners Amendment Bill 2004
Medical Indemnity Amendment Bill 2004
Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2004
Migration Amendment (Duration of Detention) Bill 2004

I 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—

AUSTRALIAN SPORTS DRUG AGENCY AMENDMENT BILL 2004

Purpose of the Bill
The bill will ensure that Australia complies with the recently announced World Anti-Doping Code (the Code) by enabling the Australian Sports Drug Agency (ASDA) to perform particular functions required as a result of the introduction of the Code.

Reasons for Urgency
The Code obliges national anti-doping organisations to adopt and implement its requirements prior to the commencement of the Olympic Games in Athens in August 2004. Although not a legal obligation, there will be strong international pressure to comply with the Code by this date. Non-compliance with the Code by either the government or National Olympic Committee of a country may have consequences with respect to Olympic Games, Paralympic Games, World Championships or other major sporting events. ASDA is Australia’s national anti-doping organisation. Amendment of the Australian Sports Drug Agency Act 1990 is required by April 2004 to facilitate compliance with the Code and ensure that ASDA has its revised procedures in place prior to the commencement of the Olympic Games in Athens in August 2004.

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

CUSTOMS TARIFF AMENDMENT (PARAQUAT DICHLORIDE) BILL 2004

Purpose of the Bill
The bill amends the Customs Tariff Act 1995 to incorporate customs Tariff Proposal No. 1 (2003), which inserted an additional note in Chapter 29 of the Customs Tariff to specify that the pesticide chemical paraquat dichloride, classified to subheading 2933.39.00, may include an added emetic, for safety reasons.

Reasons for Urgency
Alterations contained in Customs Tariff Proposals must be enacted within twelve months of their date of tabling in the House of Representatives.
Passage of this bill is therefore required before 27 March 2004 (i.e. twelve months after the tabling of Customs Tariff Proposal No. 1 (2003)).

(Circulated by authority of the Minister for Justice and Customs)

GREAT BARRIER REEF MARINE PARK AMENDMENT BILL 2004

Purpose of the Bill

The bill amends the Great Barrier Reef Marine Park Act 1975 in order to provide that the legal liability for payment of the Environmental Management Charge (EMC) is placed on tourists visiting the Great Barrier Reef Marine Park rather than tour operators conducting activities in the Great Barrier Reef Marine Park and to change the manner in which the EMC is collected.

The effect of the amendments will be that GST will not be payable in respect of the EMC.

Reasons for Urgency

Many tour operators set their prices so that the cost of the EMC is passed on to the tourist as part of the full ticket price. As most (if not all) tour operators were operating on the understanding that GST did not apply to the EMC, tour operators were not collecting GST on the EMC component of the full ticket price.

On 7 July 2003, the Australian Taxation Office made an announcement that those tour operators who had not collected GST on the EMC component of the full ticket price before 1 September 2003, would not be required to remit GST on this component. However, as from 1 September 2003, all tour operators would be required to remit GST on the full ticket price.

This bill is required to be dealt with urgently in order that the changed arrangements can be in place by 1 April 2004 (the start of a new quarter for the collection of the EMC). Early implementation will provide maximum benefit to the $1.4 billion reef tourism industry, including the certainty required to set ticket prices. If the bill is not passed in the 2004 Autumn sittings, tour operators will continue to pay GST in respect of the EMC, creating uncertainty and imposing a burden on the reef tourism industry.

INTERNATIONAL TRANSFER OF PRISONERS AMENDMENT BILL 2004

Purpose of the Bill

In July 2003, the Government announced that as a result of its discussions with the US, Australia and the US agreed to work towards putting arrangements in place to transfer Mr Hicks or Mr Habib to Australia, if convicted by a military commission, to serve any penal sentence in Australia in accordance with Australian and US law. The Government has developed the International Transfer of Prisoners Amendment Bill 2004 to meet this commitment.

The Bill seeks to amend the International Transfer of Prisoners Act 1997 (ITP Act) to facilitate the repatriation of Australians serving a prison sentence overseas in places or regions that are under the control or authority of a foreign country but are not part of the foreign country. The amendments will also provide a means by which Australians may be transferred to Australia to serve a prison sentence imposed by a US military commission.

A transfer under the ITP Act requires the consent of the surrendering jurisdiction, the transferee and the country to which the prisoner is being transferred.

The amendments to the ITP Act will:

- expand the meaning of 'transfer country' for the purposes of the Act, and
- clarify the meaning of the terms 'court' or 'tribunal' under the ITP Act (subsection 4(1))
- expand the list of areas that may be deemed part of a transfer country, and
- insert a provision to deem certain regions to be a foreign country for the purposes of the ITP Act.

Without the amendments the ITP Act will not apply to an Australian citizen sentenced to imprisonment by a military commission or regions that do not constitute a foreign country but which are under the control or authority of a foreign country.
The Bill will also ensure that Australia can conclude prisoner transfer agreements with a part or region of a foreign country (sections 4(1) and 8) or areas under the control or jurisdiction of a foreign country, such as Guantanamo Bay.

**Reasons for Urgency**

The US Government has announced that an Australian detainee held at Guantanamo Bay is included in the list of six detainees eligible for trial by military commission. That list was signed by President Bush on 3 July 2003. Although no charges have yet been laid and no trial date has been set, it is necessary to have the ITP amendments in place so that a transfer could occur if an Australian detainee is sentenced to a term of imprisonment.

(Circulated by authority of the Attorney-General)

———

**MIGRATION AMENDMENT (DURATION OF DETENTION) BILL 2004**

**Purpose of the Bill**

The bill amends the Migration Act 1958 to remove the ability of the Federal Court or Federal Magistrates Court to order the interlocutory release of judicial review applicants from immigration detention pending finalisation of litigation that involves a claim that either the applicant may have a visa or that their detention is unlawful.

(Circulated by authority of the Minister for Immigration and Multicultural and Indigenous Affairs)

———

**TAX LAWS AMENDMENT (2004 MEASURES NO. 1) BILL 2004**

**Purpose of the Bill**

This bill will amend the taxation law to:

- broaden the medical expenses tax offset to cover expenses for guide dogs for hearing impaired and other disabled individuals;
allow a deduction for transport expenses incurred in travelling between two places of unrelated income-earning activity;

ensure that the small business capital gains tax (CGT) concessions apply as intended where a small business operates through a discretionary trust;

amend the Energy Grants (Credits) Scheme (Consequential Amendments) Act 2003 to close a loophole that would otherwise create an unintended entitlement to fuel grants;

ensure that goods and services tax (GST) input tax credits are excluded from the cost base and reduced cost base for CGT purposes;

amend the Act to enable the disclosure of protected information from the Australian Business Register (ABR) to Commonwealth agency heads and heads of State and Territory departments;

allow an income tax deduction for the net amount of a donation made to a deductible gift recipient where there is an associated minor benefit;

amend provisions relating to the taxation of discretionary trusts (including the repeal of section 109UB);

ensure that the deduction available under sections 46FA and 46FB continues to be available for on-payments of unfranked dividends by a resident company to its wholly owned non-resident parent;

require that charities, public benevolent institutions and health promotion charities be endorsed by the Commissioner of Taxation in order to access all relevant tax concessions; and

add certain organisations as specifically-listed deductible gift recipients.

Reasons for Urgency

These measures need to be enacted as early as possible to provide certainty for business and taxpayers in relation to how the tax law applies. Passage in the 2004 Autumn sittings is required as the matters either relate to the current and previous income year or will have a significant impact on taxpayers from 1 July 2004.

Senator MACKAY (Tasmania) (9.31 a.m.)—At the request of Senator Sherry, pursuant to standing order 78(1), I give notice of his intention, after taking note of answers later today, to withdraw business of the Senate notice of motion No. 1 standing in his name for today for the disallowance of the Superannuation Industry (Supervision) Amendment Regulations 2003 (No. 5), as contained in Statutory Rules 2003 No. 251 and made under the Superannuation Industry (Supervision) Act 1993.

Senator Ridgeway to move on the next day of sitting:

That the Senate—
(a) notes that:

(i) the Government has committed to a public review of the economic impact of the free trade agreement (FTA) between Australia and the United States of America (US), and

(ii) under US trade law, before an agreement can be ratified, a thorough environmental impact assessment must be done to review the extent to which positive and negative environmental impacts may flow from economic changes expected to result from the prospective agreement; and

(b) calls on the Government to:

(i) conduct a full public analysis of the environmental impact of the FTA,

(ii) conduct a full public analysis of the social and cultural impact of the FTA, and

(iii) table reports of these reviews in the Parliament for its consideration.

BUSINESS

Rearrangement

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.33 a.m.)—I move:

That the following government business orders of the day be considered from 12.45 p.m. till not later than 2 p.m. today:
No. 7 Agricultural and Veterinary Chemicals (Administration) Amendment Bill 2004
   Industrial Chemicals (Notification and Assessment) Amendment (Rotterdam Convention) Bill 2004
Extension of Sunset of Parliamentary Joint Committee on Native Title Bill 2004
No. 8 Australian Crime Commission Amendment Bill 2003 [2004]
No. 9 Industry Research and Development Amendment Bill 2003
Question agreed to.

Rearrangement
Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.33 a.m.)—I move:
That the order of general business for consideration today be as follows:
(a) general business notice of motion no. 787 standing in the name of Senator George Campbell, relating to superannuation and retirement income measures; and
(b) consideration of government documents.
Question agreed to.

COMMITTEES
Rural and Regional Affairs and Transport Legislation Committee
Extension of Time
Senator FERRIS (South Australia) (9.34 a.m.)—At the request of Senator Heffernan, I move:
That the time for the presentation of reports of the Rural and Regional Affairs and Transport Legislation Committee be extended as follows:
(a) administration of the Civil Aviation Safety Authority—to 5 August 2004; and
(b) administration of AusSAR in relation to the search for the Margaret J—to 27 May 2004.
Question agreed to.

Electoral Matters Committee
Membership
Senator BARTLETT (Queensland—Leader of the Australian Democrats) (9.34 a.m.)—I, and also on behalf of Senator Faulkner, move:
(1) That the resolution of appointment of the Joint Standing Committee on Electoral Matters be varied by omitting in paragraph (2) “1 Senator to be nominated by the Leader of the Opposition in the Senate and 2 Senators to be nominated by any minority group” and substituting “2 Senators to be nominated by the Leader of the Opposition in the Senate and 1 Senator to be nominated by any minority group”.
(2) That a message be forwarded to the House of Representatives seeking the concurrence of the House in this variation to the resolution of appointment.
Question agreed to.

Electoral Matters Committee
Reference
Senator MURRAY (Western Australia) (9.35 a.m.)—I move:
That the following matters be referred to the Joint Standing Committee on Electoral Matters for inquiry and report by the last sitting day in June 2004:
(a) the matter relating to electoral funding and disclosure, which was adopted by the committee on 15 August 2000, and any amendments to the Commonwealth Electoral Act necessary to improve disclosure of donations to political parties and candidates and the true source of those donations; and
(b) any submissions and evidence received by the committee in relation to that inquiry of 15 August 2000.
Question agreed to.
FOREIGN AFFAIRS: WESTERN SAHARA

Senator ALLISON (Victoria) (9.35 a.m.)—I, and also on behalf of Senator Nettle, move:

That the Senate—

(a) notes that:

(i) 27 February 2004 was Saharawi National Day and the 28th anniversary of the proclamation of the Saharawi republic,
(ii) on 30 January 2004, the United Nations (UN) Security Council extended by 3 months the mandate of the UN mission for Western Sahara, giving Morocco more time to respond to the latest peace plan for Western Sahara,
(iii) it is now 13 years since the original peace plan was signed,
(iv) Morocco has now accepted a United Nations High Commissioner for Refugees-sponsored exchange of family visits for Saharawis separated by war, occupation and the 2,720 km long military rampart erected by Morocco, and
(v) a delegation of 11 Australians will join the international march to the ‘Wall of Shame’ in April 2004 and will visit the 175,000 Saharawis in refugee camps in Algeria; and

(b) urges the Government to:

(i) congratulate Morocco for agreeing to the exchange of family visits,
(ii) use its best efforts to persuade Morocco to sign the latest UN peace plan that is based on the organisation of a referendum of self-determination in Western Sahara, and
(iii) provide humanitarian assistance to the Saharawi refugees who need food and medicine urgently.

Question agreed to.

EDUCATION: FUNDING

Senator NETTLE (New South Wales) (9.36 a.m.)—I ask that general business notice of motion No. 773 today, relating to funding for public schools, be taken as a formal motion.

Senator ALLISON (Victoria) (9.36 a.m.)—Mr President, I seek leave to amend the motion.

Senator MACKAY (Tasmania) (9.37 a.m.)—by leave— I suggest to Senator Allison that the opposition have not been advised of the nature of this amendment. Unless we are given time to consider it through our processes then we may be forced to oppose it when in fact we do not oppose it. We need time. I suggest to Senator Allison that she consider moving this amendment on Monday, which would give us a little bit more time to consider it.

Senator ALLISON (Victoria) (9.37 a.m.)—by leave—As I understand it, that is not something I am able to do because I am not the mover of the motion. If Senator Nettle would be willing to consider postponing until Monday, then I would be happy to do that.

The PRESIDENT—Is leave granted for Senator Allison to amend Senator Nettle’s motion?

Leave not granted.

Senator NETTLE (New South Wales) (9.38 a.m.)—I move:

That the Senate—

(a) notes that:

(i) the fundamentally flawed socio-economic status (SES) funding system has delivered an extra $815 million in Commonwealth funding to non-government schools,
(ii) the announced expansion of the SES system to catholic systemic schools will deliver a further $362 million in
additional funding to private schools whilst no new money is promised to public schools, further disadvantaging the public system, and

(iii) the SES funding system is based on the erroneous assumption that private school enrolments reflect the average socio-economic status of the areas in which the students live; and

(b) calls on the Government to:

(i) recognise the need to prioritise funding for public schools, which deliver high quality education to all students regardless of wealth, religion, educational or behavioural needs,

(ii) scrap the flawed SES funding system, which delivers inequitable funding outcomes to the non-government school sector, and

(iii) end Commonwealth subsidies to the wealthiest private schools.

Question put.

The Senate divided. [9.42 a.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes............ 2
Noes............ 43
Majority........ 41

* denotes teller

Question negatived.

COMMITTEES

Environment, Communications, Information Technology and the Arts References Committee

Meeting

Senator ALLISON (Victoria) (9.45 a.m.)—At the request of Senator Cherry, I move:

That the Environment, Communications, Information Technology and the Arts References Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 10 March 2004, from 11.30 am to 2 pm, to take evidence for the committee’s inquiry into competition in broadband services.

Question agreed to.

AUSTRALIAN LABOR PARTY: CENTENARY HOUSE

Senator MURRAY (Western Australia) (9.45 a.m.)—I move:

That—

(1) The Senate calls on the Government to appoint a member, or a retired member, of the judiciary to review the findings of the Royal Commission of Inquiry into Leasing by the Commonwealth of Accommodation in Centenary House, conducted by the Honourable TR Morling, QC in 1994, in the light of later evidence, particularly with regard to movements and trends in commercial rates and leasing arrangements since 1994.

(2) The review be empowered and resourced to seek expert advice from a panel of valuers, one to be appointed by the lessor,

Marshall, G. McGauran, J.J.J.
Murray, A.J.M. O’Brien, K.W.K.
Ridgeway, A.D. Scullion, N.G.
Sherry, N.J. Stephens, U.
Stott Despoja, N. Tchen, T.
Tierney, J.W. Troeth, J.M.
Watson, J.O.W. Webber, R.
Wong, P.
one to be appointed by the lessee and an independent Chairman of the panel to be appointed by the President of the Australian Institute of Valuers and Land Economists.

Question agreed to.

COMMITTEES
Finance and Public Administration
References Committee
Reference

Senator NETTLE (New South Wales) (9.46 a.m.)—I move:

That—

(1) The following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 30 June 2004:

The funding and disclosure of political parties, candidates and elections.

(2) In considering this matter, the committee examine and report on the following issues:

(a) the effect that public funding has had on the overall funding of political parties, candidates and elections;

(b) the effect on the political process of the increase in private funding, relative to public funding, of political parties, candidates and elections;

(c) avenues for removing the reliance on private funding for political parties, candidates and elections;

(d) relevant submissions, transcripts and reports of the Joint Standing Committee on Electoral Matters inquiry into electoral funding and disclosure (August 2000 to October 2001); and

(e) any other relevant matter.

Question negatived.

Senator Brown—Mr President, under the standing orders I ask that my lone supporting vote for that motion be recorded, please.

The PRESIDENT—That will be done, Senator.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (9.47 a.m.)—by leave—I suspect the reason that government, opposition, Australian Democrat and other senators, apart from Senator Brown and apparently Senator Nettle, oppose this reference is that, a little earlier in the business of the Senate today, a reference to an identical matter has been passed to the Joint Standing Committee on Electoral Matters. Given that circumstance, I wonder whether it is in order for identical or near identical references to be agreed by the chamber to be referred to separate committees. I think I know what the answer to that is, but I am merely making the point. I think it is an interesting procedural point, I am sure you would agree with me, Mr President. Now we are going to have a sage ruling from you on this matter.

The PRESIDENT—On matters like that, it is for the chamber to decide.

Senator Ian Campbell—There is no standing order against stunts.

The PRESIDENT—Yes. There is no standing order, I understand.

Senator MURRAY (Western Australia) (9.48 a.m.)—by leave—It is quite plain that Senator Nettle’s motion is substantially different to the one I put. I do want to say for the record that she, very reasonably, accepted that my motion would have precedence, recognising the authority and tradition of the Joint Standing Committee on Electoral Matters in these matters. I think it was quite proper for her to at least put her motion on record but mine was preferred. I appreciate her attitude in allowing me precedence.

Senator NETTLE (New South Wales) (9.50 a.m.)—by leave—The Leader of the Opposition in the Senate, Senator Faulkner, pointed out that the two references to the
committees were substantially identical. The two references to committees were significantly different in that the Australian Greens’ proposition proposed looking at avenues for removing the reliance on private funding for political parties, candidates and elections, a far more substantial and comprehensive reference in relation to the issue of corporate donations than the previously passed reference to the Joint Standing Committee on Electoral Matters, which looks at disclosure rather than—as the Australian Greens support—looks at the option of banning corporate donations.

Regulations and Ordinances Committee
Delegated Legislation Monitor

Senator TCHEN (Victoria) (9.51 a.m.)—On behalf of the Standing Committee on Regulations and Ordinances, I present the delegated legislation monitor for 2003. It is a consolidated edition of all the monitors that were produced in respect of each of the sitting weeks of the Senate during that calendar year.

During that year a total of 1,522 disallowable instruments were tabled in the Senate. These instruments were made under the authority of 192 separate enabling acts administered by 17 departments of the state. I wish to particularly draw attention to the quantity of this legislation because, from time to time, the Senate is accused of not being necessary. I wish to demonstrate the workload that just one Senate committee has to carry out. The other committees of this chamber do an equal if not greater amount of work.

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

First Reading

Bill received from the House of Representatives.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (9.52 a.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (9.52 a.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

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

The Extension of Sunset of Parliamentary Joint Committee on Native Title Bill 2004 extends the operation of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund until 23 March 2006.

The Committee has played an important role in the Parliament’s oversight of the development of the native title system.

The numbers of determinations of native title and indigenous land use agreements are growing at an increasing rate.

This bill will ensure that the Committee continues to play its important role into the future.

Debate (on motion by Senator Mackay) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour of the day.
Bills received from the House of Representatives.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (9.53 a.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (9.54 a.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

INTERNATIONAL TRANSFER OF PRISONERS AMENDMENT BILL 2004

In July 2003, the Government announced that, as a result of bilateral discussions, we would work with the US to put in place arrangements to transfer Australian citizens convicted by a military commission to Australia for the purpose of serving any penal sentence in Australia in accordance with Australian and US law.

The Government has developed the International Transfer of Prisoners Amendment Bill 2004 to meet this commitment.

The bill is facilitative only.

At this stage, no Australian has been convicted by a military commission.

We know that there are two Australians currently being detained by US authorities in Guantanamo Bay, Cuba and that one of those men, David Hicks, was included in the 3 July 2003 list of the six detainees who President Bush has declared eligible for trial at this stage.

At this time, no charges have been laid against Mr Hicks.

Although Mr Habib has not yet been listed as eligible for trial, the Government understands that US authorities are expediting consideration of his case.

This bill provides a statutory basis for returning Mr Hicks and Mr Habib to Australia in the event that they are charged, convicted and sentenced to a period of imprisonment.

It is a preparatory step to ensure that both men can, if the circumstances arise, benefit from the humanitarian nature of the international prisoner transfer scheme.

The amendments will increase the flexibility and application of the international prisoner transfer scheme as it applies in Australia, allowing the scheme to apply to a broader range of areas.

This will allow the Act to apply to a larger number of Australian citizens or persons with community links to Australia who are imprisoned in foreign countries.

The amendments will also allow for a larger number of foreign nationals imprisoned in Australia to return to their home countries, thereby providing an economic benefit to Australia.

For example, Australia has been discussing with Hong Kong and China the possibility of entering into an agreement for transfer of prisoners from Hong Kong for a number of years.

However, the unusual status of Hong Kong, like Guantanamo Bay, precludes the application of the International Transfer of Prisoners Act 1997 to that area.
And, with the breakdown of colonial regimes around the world, it is increasingly likely that we will be confronted with other regions of unusual status with whom we may be interested in finalising a prisoner exchange agreement.

To facilitate the transfer of prisoners back to Australia from Guantanamo Bay and areas with an unusual status, such as Hong Kong, it is necessary to amend the Act.

The first amendment, when taken with the third and fourth amendments, address an anomaly whereby a region or area that is not a sovereign country cannot be declared a transfer country for the purposes of the ITP Act.

The second amendment will clarify the meaning of the terms ‘court’ or ‘tribunal’ under the ITP Act to clarify a possible ambiguity, in particular whether a military commission can be considered a “court” or tribunal” for the purposes of the ITP Act.

This will enable the ITP Act to apply to a sentence of imprisonment imposed by a US military commission.

The third amendment will extend the list of areas that are deemed part of a transfer country for the purposes of the ITP Act.

This gives recognition to the fact that a transfer country may consist of a range of different regions which may not be considered a part of that country because, for example, it is not part of the landmass that constitutes the mainland of that country.

Increasing the flexibility and application of the ITP Act will provide increased community benefits.

It will reduce the impact on Australian families who have family members imprisoned in areas that the Act currently does not apply to.

It will also reduce the impact on Australian citizens imprisoned overseas who may suffer due to the cultural and language differences they experience in a foreign country.

Returning such prisoners to Australia increases their chances of rehabilitation, not only by enabling the prisoner to take part in prison programs and services that they may not have accessible to them in a foreign country, but also by enabling prisoners to have more contact with their family.

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GREAT BARRIER REEF MARINE PARK AMENDMENT BILL 2004

No government in this nation’s history has done more to protect the Great Barrier Reef than the Howard Government.

We have done so, principally, through three far-reaching and ambitious actions.

First, we passed the Environment Protection and Biodiversity Conservation Act in 1999—opposed by members opposite—which gave this country its first, national, environment-specific legislation in our history. One of the significant impacts of the EPBC Act has been to give the Australian Government unprecedented powers to protect the Great Barrier Reef.

I note that in the Labor Party’s recently unveiled environment platform that it continues to fall into factual error in claiming that it must protect the Great Barrier Reef from mining, and from mineral exploration.

There are two indisputable facts which demonstrate that the premise of the claim is flawed—pointless—redundant.

The first is that the Great Barrier Reef Marine Park Act 1975 explicitly bans mining, and mineral exploration, in the Park.

The second equally obvious and indisputable fact that Labor cannot seem to absorb is that the EPBC Act protects the Park from impacts from mining and exploration outside the park to the limit of the Exclusive Economic Zone. Any proposed activity within the EEZ that has the potential to impact negatively on the World Heritage values of the Great Barrier Reef, or that otherwise awakes the provisions of the EPBC Act, is captured by this Australian law, which provides a quantum advance in the protection of the Great Barrier Reef from the sorts of mineral exploration in the region that was actively promoted by Labor when it was last in control of this parliament.

The second massive contribution to the protection of the Great Barrier Reef by the Howard Government has been the development of a new zoning plan for the Great Barrier Reef Marine Park...
that will, if it is not disallowed by this parliament, ensure that one third of the reef—a six fold increase—will be protected in so-called “no-take zones”—zones where no extractive activity can occur.

This is a plan that has been hailed internationally. It is, undoubtedly, the most comprehensive effort to protect and preserve the environmental and economic values of a coral reef system, and its associated ecosystems, anywhere in the world. This Government is a world leader in this regard.

This Representative Areas Program for the Great Barrier Reef Marine Park has the intent of providing the Great Barrier Reef with such a level of protection of its unique and wondrous biodiversity as to give it a high level of resilience in the face of the threats that confront it.

The better the overall health of the reef, the better it will be able to survive those pressures.

The third great advance that this Government has made in terms of protecting the biodiversity, and thus the resilience, of this national icon, is the development in concert with the Queensland Government of the Reef Water Quality Protection Plan.

The intent of the Plan is to first halt, and then ultimately to repair, the decline in water quality in the Great Barrier Reef lagoon.

The aim is to achieve a halt in the decline in water quality in ten years and this is an action that is completely synergistic with the Representative Areas Program, and the EPBC legislation.

Together these actions comprise a suite of measures to protect the reef that are interconnected and that are singly, and collectively, unmatched.

One of the great beneficiaries of this suite of actions is the tourism industry.

Tourism is, by far, the largest single industry associated with the Great Barrier Reef and the Great Barrier Reef Marine Park.

Fishing is important. In the catchments of the Great Barrier Reef mining, and agriculture, are extremely important but, when it comes to the reef and the park, and many of the communities adjacent to them, tourism is, far and away, the biggest industry.

And that is understandable. The Great Barrier Reef is not only a great regional, State, and national tourist attraction—it is a premier destination of international tourists.

What those tourists come to see is pristine reef. The Great Barrier Reef has more pristine reef than any other coral reef system on the planet—and we have an obligation to maintain the quality of the reef as best as we possibly can. That is what this government is doing—more comprehensively than any other in the history of our country.

And that is in the interests of biodiversity for its own sake. It is in the interest of natural beauty for its own sake, and it is most certainly in the interest of the tourism industry that the Productivity Commission recently estimated had an annual value well in excess of $4 billion.

That introduction, to the significance of the tourism industry, brings me to the bill.

The Environmental Management Charge (“the charge”) was introduced in 1993 as a charge on operators using the Great Barrier Reef Marine Park (“the Marine Park”) to contribute financially to the management of the Marine Park. Currently the maximum charge imposed is $4.50 per visitor.

The introduction of the charge provided the Great Barrier Reef Marine Park Authority (“GBRMPA”) with revenue to apply to the management of the Marine Park. Monies collected from the charge have been applied to research and management of the Marine Park to ensure that it is able to manage the increasing pressures caused by tourism, coastal development, mariculture, shipping, fishing, climate change, and the like.

Under the current arrangements, the permission holder or tour operator has legal liability to pay the charge to the GBRMPA. The charge is paid by the tour operator based on the number of visitors participating in excursions each day, and is submitted to the GBRMPA at the end of each quarter.

However, since the introduction of the Goods and Services Tax (“GST”) in 2000, there has been confusion amongst tour operators operating in the Marine Park as to whether or not the GST is applicable to the charge.

The charge is listed in the Treasurer’s determination pursuant to section 81-5 of the A New Tax System (Goods and Services Tax) Act 1999; the
effect of which is that payments of the charge made to the GBRMPA directly by the tour operator are not subject to the GST. However, when the tour operator passes on the charge to the visitor, it is treated as one of many input costs of the tour operator and the GST applies to the full price of the services provided.

These amendments that I am introducing today are aimed at dispelling that confusion by restructuring the method of payment and collection of the charge. These amendments will place the legal liability for payment of the charge on the visitor, and not the tour operator. As the Treasurer’s Determination pursuant to section 81-5 of the A New Tax System (Goods and Services Tax) Act 1999 operates to ensure that the payment of the charge is not taken to be the provision of consideration, the GST will not be applicable to the charge paid by the visitor. The tour operator will then collect the charge paid by the visitor and remit that money to the Commonwealth through the GBRMPA.

Given the amount of public money involved, the bill creates a new offence if the tour operator does not submit the money collected from the visitor.

In addition, the Great Barrier Reef Marine Park Act 1975 already contains provisions allowing an inspector to search vessels, aircraft or premises for the purposes of ascertaining a person’s liability to charge, and allows an inspector to apply for a search warrant for the same. The bill will increase the scope of those powers in order to allow inspectors to ascertain that a person has collected the correct amount of the charge from the visitor and to ensure that all visitors have paid the charge.

These amendments clarify the situation regarding the EMC and GST payments. This will provide greater certainty for the tourism operators who depend on the Reef and provide significant employment and economic benefits.

It enhances the list of actions being undertaken by this government to ensure fair and reasonable access to a well protected natural and economic asset.

MIGRATION AMENDMENT (DURATION OF DETENTION) BILL 2004

The Migration Amendment (Duration Of Detention) Bill 2004 adds a new subsection to section 196 of the Migration Act 1958.

The effect is to make unmistakably clear the parliament’s intention that an unlawful non-citizen is only to be released from immigration detention in the circumstances specified in section 196—unless a court finally determines that the detention is unlawful or the person is not an unlawful non-citizen.

The bill substantially mirrors the Migration Amendment (Duration Of Detention) Bill 2003 in its original form. The 2003 bill was ultimately passed with amendments that only prevented the courts ordering the interlocutory release of persons of character concern.

During the house’s consideration of the Senate’s amendments, the then Minister for Immigration and Multicultural and Indigenous Affairs indicated that the government accepted the amendments as an interim measure only. The government’s priority was to protect the Australian community against the possibility of people of character concern being released from detention, with possible tragic consequences.

In accepting the limited scope of the bill, however, Mr Ruddock made it clear that the government would be introducing a new bill to cover broader concerns it has on interlocutory release of all persons from immigration detention before final resolution of their court proceedings—this is that bill.

This bill is an important measure in upholding the principle of mandatory detention for all unlawful non-citizens under the Migration Act.

In 1992, the parliament enacted a series of changes to the migration act to introduce the policy of mandatory detention. First, the Migration Amendment Act 1992 introduced mandatory detention of unauthorised boat arrivals. The Migration Reform Act 1992, which commenced on 1 September 1994, introduced mandatory detention of all unlawful non-citizens.

The Migration Reform Act included section 196, which provides that an unlawful non-citizen must
be kept in immigration detention until he or she is:

- Removed from Australia;
- Deported; or
- Granted a visa.

Subsection 196(3) specifically states:

“to avoid doubt, subsection (1) prevents the release, even by a court, of an unlawful non-citizen from detention (otherwise than for removal or deportation) unless the non-citizen has been granted a visa.”

The intention of section 196 was to make it clear that there was to be no discretion for any person, or court to release from detention an unlawful non-citizen who is lawfully being held in immigration detention.

Mandatory detention remains an integral part of the government’s unauthorised arrivals policy. The government believes that it is necessary to ensure, as a matter of public policy, that all unlawful non-citizens are detained until their status is clarified. This means that they must continue to be detained until they are removed or deported from Australia or granted a visa.

It is not acceptable that any person who is, or who is suspected of being, an unlawful non-citizen, is allowed into the community until the question of their status is resolved.

This policy sends a strong deterrence message to people-smugglers—that Australia’s regularised immigration processes will not be circumvented.

Despite the clear intent of section 196, there has been a trend by the federal court to order the interlocutory release of persons in immigration detention under section 23 of the Federal Court of Australia Act 1976.

An “interlocutory order” is an order made during proceedings prior to the court’s final determination of the substantive matter. Where such an order is made, a person must be released into the community until such time as the court finally determines their application.

In the case of VFAD of 2002, the full Federal Court held that:

“section 196(3) is silent as to the power of this court to grant interlocutory release in circumstances where a person in detention claims not to be an unlawful non-citizen”

Further, the court did not accept that section 196(3) by implication denied its power to order the interlocutory release of persons in immigration detention.

The court was also of the opinion that:

“Parliament has not made ‘unmistakably clear its intention to abrogate the power of this court to protect a ‘fundamental freedom’ by ordering the release……on an interlocutory basis, of persons in detention………”.

This bill makes parliament’s intention “unmistakably clear”.

The new subsection makes it explicitly clear that, unless an unlawful non-citizen is removed from Australia, deported or granted a visa, the non-citizen must be kept in immigration detention. The new subsection makes it explicitly clear that, unless an unlawful non-citizen is removed from Australia, deported or granted a visa, the non-citizen must be kept in immigration detention.

The new subsection makes it explicitly clear that, unless an unlawful non-citizen is removed from Australia, deported or granted a visa, the non-citizen must be kept in immigration detention. This applies unless a court finally determines that:

- The detention is unlawful; or
- The person is not an unlawful non-citizen.

I stress that the amendments do not affect the court’s powers to finally determine the lawfulness of a person’s detention, or to determine the lawfulness of the decision or action being challenged.

They are intended simply to clarify the existing provisions of the act. They do no more than what the courts have said that the parliament needs to do. That is, make its intention in relation to immigration detention ‘unmistakeably clear’.

The government believes that it is in the interests of all parties that such cases are finally determined as quickly as possible.

The court’s final determination of the case can take anywhere between several weeks and several months. Where the person is subsequently unsuc-
cessful, that person must be relocated, redetained and arrangements then made for their removal from Australia. This is a time-consuming and costly process and can further delay removal from Australia.

In summary, the bill implements measures to ensure that the parliament’s original intention in relation to immigration detention is clearly spelt out and the integrity of the mandatory detention provisions of the act are not compromised. I commend the bill to the chamber.

Ordered that further consideration of these bills be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

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

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

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

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

Criminal Code Amendment (Terrorist Organisations) Bill 2003

In Committee

Consideration resumed from 3 March.

The TEMPORARY CHAIRMAN (Senator Chapman)—The committee is considering government amendments (1) and (2) moved by Senator Ellison.

Senator BROWN (Tasmania) (9.56 a.m.)—I have had a couple of representations—and I am sure that they have gone to other members—from legal commentators or members of the legal community and I want to simply ask the minister about those and the criticisms contained in those on the Criminal Code Amendment (Terrorist Organisations) Bill 2003. The first is from Mr Joo-Cheong Tham, an associate lecturer in the School of Law and Legal Studies at La Trobe University. It is headlined ‘Opposition to the Criminal Code Amendment (Terrorist Organisations) Bill’ and begins:

I am an associate lecturer at the school of law and legal studies. Since the September 11 attacks in America I have intensively researched Australia’s counter-terrorism laws. I have also participated in the debate surrounding these laws and appeared at the various parliamentary committees inquiring into such laws.

He goes on to say that he understands that the bill is about to be debated and that the Labor Party will support it. He then says:

This bill, if passed, will allow the proscription of organisations simply by virtue of the federal Attorney-General being satisfied that the organisation is ‘directly or indirectly engaged in preparing, planning, assisting in or fostering the doing of terrorist acts’.

He goes on to say:

I urge you and your party to maintain its firm opposition to this bill for the following reasons: (i) the bill is unnecessary because the government presently has the power to proscribe organisations. The Criminal Code Act 1995 presently empowers the government to proscribe an organisation if such an organisation has been identified by the United Nations Security Council as a terrorist organisation. More importantly, the government has at its disposal extensive proscription powers. Under part 4 of the Charter of the United Nations Act 1945 the Foreign Minister, if satisfied that an organisation is engaged in terrorist acts, can list it with the result that the assets of this organisation become frozen. Such freezing invariably means that the listed organisation is shut down. My research into the proscription regimes in Canada, New Zealand, the United Kingdom and the United States of America clearly demonstrates that the banning powers available under the Charter of the United Nations Act 1945 are the broadest found in the anglophone countries. This is simply because this act does not define the meaning of terrorist acts; it leaves it to the Foreign Minister to apply his subjective understanding of what constitutes a terrorist act or terrorist organisation in the banning of individuals and organisa-
tions. Unsurprisingly, the breadth of this regime has led to extensive usage. To date 342 individuals and 141 entities have been banned under this regime. For instance, Hamas and Lashkar-e-Tayyiba have been banned under this regime for more than two years.

Before going on to the next point in Mr Joo-Cheong Tham’s letter, I ask the minister: isn’t it so that the government presently has the power to proscribe terrorist organisations? What advantage over those present powers is built into the current legislation?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.00 a.m.)—I understand that the legislation that Senator Brown refers to is in regard to the financing of organisations. That is something quite different to what we are talking about here. What we are dealing with here is the membership of organisations. The legislation Senator Brown refers to deals with the financing of organisations. I understand that the penalty involved there entails a maximum of two years imprisonment. I will correct that if that is not right, but I understand it to be the case that that is the maximum. It deals with financing. It is a very different piece of legislation to what we are dealing with here. You really cannot compare them. It is like comparing apples with pears.

Senator BROWN (Tasmania) (10.02 a.m.)—Unfortunately, the minister was not listening, so I will go to the second point again. Joo-Cheong Tham makes the point:

The second point he makes is:

The bill is unnecessary because membership and participation in a terrorist organisation are already illegal.

This countermands what the minister has just said. The associate lecturer goes on:

The only question left is: is the minister saying that the advantage of this bill is that it gets around the courts?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.01 a.m.)—When Senator Brown says that these organisations have been ‘banned’, they have been proscribed as organisations that you cannot finance. Senator Brown most probably will take issue with that, and prefer the advice of the associate lecturer at La Trobe University, but I can tell Senator Brown that that is the advice that the government has. The legislation he is talking about deals with the financing of terrorist organisations. What we are talking about here is something quite different. We are talking about the membership—someone who is a member of a terrorist organisation. They are two different pieces of legislation dealing with two different aspects of counter-terrorism.

Senator BROWN (Tasmania) (10.02 a.m.)—Unfortunately, the minister was not listening, so I will go to the second point again. Joo-Cheong Tham makes the point:

Under the Criminal Code Act 1995—which we are dealing with here—membership and other forms of participation in organisations judicially determined to have engaged in terrorist activity are criminal offences, punishable by severe penalties, which in some cases can be up to 25 years imprisonment.

So the point the minister makes is not valid. The point I made is that this law is aiming to get around Australia’s judicial system. That is the point—and that is why it is obnoxious.

The third point in this letter is that the bill confers arbitrary executive power:

The bill, if passed, will confer arbitrary power on the federal government. First, the power is based on vague criteria. Second, it can be exercised on the basis of secret and untested evidence. Third,
the applicable standard of proof is merely on the balance of probabilities and not the ‘beyond reasonable doubt’ standard that customarily applies to criminal proceedings. Moreover, the bill only provides meagre review mechanisms. The key mechanism provided is a review under the Administrative Decisions (Judicial Review) Act 1977. Such review, however, is likely to be ineffectual. It is limited to questions of legality, and does not extend to the merits of the decision to proscribe. Further, the courts have demonstrated a traditional reluctance to examine questions of national security after an executive decision has been made. The fact that this bill would confer arbitrary executive power was well recognised last year by Senator John Faulkner, the Australian Labor Party spokesperson for home affairs, when he said that ‘proposals to erode our freedoms and our rights—

Senator Faulkner—A very fine fellow, too.

Senator BROWN—I hear an interjection which I would agree with. The quote is:

‘proposals to erode our freedoms and our rights will ultimately erode our security as well. For this reason we do not accept, and will not accept, the government’s executive proscription bill. We will not accept a regime of secret proscriptions of decisions in closed rooms of such significance and potentially destructive power in the hands of one person and one person alone. To have that kind of power exercised by one person in secret, particularly a member of the government executive, is not acceptable in a democratic society and should never be allowed on the statute books’.

The fourth point in this letter is:

The bill, in conferring arbitrary executive power, risks undermining fundamental freedoms. The mere presence of such arbitrary executive power threatens to undermine political freedoms by chilling political activity. More than this, the arbitrary nature of power conferred by the bill means that its exercise is liable to lead both to mistakes and abuse. In either case, fundamental liberties like the freedoms of political thought and association are put in jeopardy. Any proposed anti-terrorism measures should be justified as being necessary in the campaign against terrorism. Moreover, it should not unduly trespass on rights and freedoms. This bill fails grievously on both counts and should be rejected.

Joo-Cheong Tham
Associate Lecturer
School of Law and Legal Studies
La Trobe University

I draw the committee’s attention to a letter from the Law Council of Australia. It may help the progress of the committee if the letter were to be incorporated into Hansard. This letter is signed by Mr Bob Gotterson QC, who is the President of the Law Council of Australia. It says:

I write in relation to the Criminal Code Amendment (Terrorist Organisation) Bill which has been the subject of recent public comment.

The Law Council of Australia views with concern the recent developments in relation to this Bill, including an agreement between the two major parties to support the Bill on condition of a number of legislative amendments.

It remains the Law Council’s considered view that the new proscription powers contemplated by this Bill should be open to court supervision, to ensure the power is discharged effectively and fairly. Although a number of additional safeguards have been negotiated between the major parties, they do not address this basic concern.

While the importance of an adequate legislative framework to respond to terrorist threats is undeniable, the Law Council has serious reservations in regard to this particular legislative development and its potential consequences both for basic rights of the citizens of Australia and for members of the legal profession who may be called upon to defend them.

I will be asking the minister to comment on both those key points. The letter goes on to say:

To summarise our view, exercise of the proscription power should be conditioned upon court action, preferably as a pre-condition to exercise of the power. As an alternative the power could be exercised provisionally for a limited period, say
30 days, with any extension of the period subject to court sanction.

As you will be aware, the powers contained in the Bill will allow the Federal Attorney-General to proscribe groups as ‘terrorist organisations’ under Commonwealth criminal law.

The letter goes on to criticise the powers in the Bill. I draw attention to a paragraph further down the letter, where it says:

While it is unlikely that any organisations truly involved in terrorist activities would seek the benefit of such judicial review, it would be an effective means of ensuring that people exposed to serious criminal liability through erroneous or unjustified listing of terrorist organisations under the Criminal Code would have the benefit of some measure of a priori judicial protection. On the other hand, making proscription a purely Executive act has been described by Dr Jenny Hocking in a submission to the Senate Legal and Constitutional Legislation Committee considering earlier proscription proposals as:

“subversive of the rule of law in its failure to allow for a trial in this aspect, it breaches the notion of equality before the law in its creation of groups for which the usual judicial process does not apply and it breaches absolutely the separation of powers in even allowing for such a use of Executive power.”

The letter goes on to say:

The Law Council urges caution in any expansion of the Attorney-General’s power to list groups as ‘terrorist organisations’ or to otherwise proscribe organisations under Commonwealth law. Any such power should be subject to opportunity for prior judicial review, and affected citizens should be afforded natural justice and due process as part of this exercise of Executive power. We have suggested an alternative of provisional exercise subject to court sanctioned extension. This alternative would facilitate immediate proscription where that might be needed in the national interest but would subject any continuation of the proscription to court sanction.

Finally, the Law Council speaks for members of the Australian legal profession who may be called upon to defend people affected by the proscription powers under consideration. In this regard, the Law Council seeks assurance that the proscription process will not abrogate or interfere with established legal protections such as the privilege against self-incrimination and legal professional privilege. While the protection of Australians against acts of terrorism must remain a paramount concern for the Commonwealth, as well as State and Territory governments, any revisions to the legislative framework for this protection should not interfere more than is absolutely necessary with fundamental legal protections currently enjoyed by Australians.

I trust you will give this matter your serious consideration.

I ask, indeed invite, the minister and Senator Faulkner to comment on either of those letters from the legal community.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (10.10 a.m.)—I do not think I can add to my remarks of yesterday.

Senator BROWN (Tasmania) (10.10 a.m.)—Silence.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (10.11 a.m.)—I appreciate that Senator Brown is going to provide copies of the letters. He has indicated that he will provide copies to the government. He has not indicated that to the opposition, I note. I have not seen them. I think I made my position on this very clear in yesterday’s debate. I accept that there are some differences between Senator Brown and me on this, apparently. As I said to Senator Brown yesterday, it is time for him to accept that he has won this argument with the government that the opposition and other senators have had. It is time to claim victory. One of the great things in politics, Senator Brown—not that I know much about providing advice to people—is that you have to know when you have won. I do not win very often. In my experiences in politics I have not had too many wins. But when I do
win something I try to recognise it, claim victory and move on.

I am very happy to read the letters. I look forward to seeing them. They raise important issues and, as you know, I am very interested in them and I will look at them closely. But I am not going to make comment upon matters that have been raised, in at least one case, in private correspondence with you. One letter sounds like an identical letter that I have received.

Senator BROWN (Tasmania) (10.12 a.m.)—It is incumbent on the government to get up and say something. As far as the comment from Senator Faulkner is concerned, I am not winning anything here. We are losing and this nation is losing.

Senator Faulkner—You just do not recognise it.

Senator Ellison—You can lead a horse to water.

Senator BROWN—That is the point. It is serious and the minister might take it seriously. The fact is that this is a massive invasion of the rights of Australians. This is, for the first time in the history of parliamentary procedure that I am aware of, the granting of the powers of the courts and the parliament to an individual. It is a very serious matter. I will ask the minister specifically about the last paragraph in the letter from the Law Council, to wit:

In this regard, the Law Council seeks assurance—from the government and/or the opposition—that the proscription process will not abrogate or interfere with established legal protections such as the privilege against self-incrimination and legal professional privilege.

Does the minister give that assurance?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.14 a.m.)—The assurance I can give is that the law will be administered in an appropriate manner and according to the legislation which has been enacted. The Law Council itself recognises that in some circumstances there have been changes to the law in relation to the privilege against self-incrimination and professional privilege—perhaps not so much the latter, but in relation to the legislation there have been provisions which deal with that. We will not deal with those here but I will just say to Senator Brown that the Attorney-General has a copy of this letter and, I understand, is replying to it. I have no further comments to add. I have outlined the government’s position quite clearly. It is obvious Senator Brown disagrees with the government’s position and will no doubt express that in the usual manner.

Senator BROWN (Tasmania) (10.15 a.m.)—Here we are in this chamber debating a critical piece of legislation. That reply from the minister says that the Attorney-General, who is totally empowered beyond the law to label community organisations as terrorists and to arrest individuals who are members of those organisations in Australia in the future on the basis of very vague definitional parameters, is writing back to the Law Council of Australia, presumably implying that the response to my question about this letter will be given to the public after this debate takes place. That is not satisfactory. We are here to determine on the basis of the information available and in debate whether this law should pass or not. I ask the minister: will he present the committee with the response to this letter from the Attorney-General? Where is it?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.16 a.m.)—I will provide that when it is at hand.

Senator BROWN (Tasmania) (10.16 a.m.)—I suggest that the committee adjourns until that letter is at hand so that we can take
it into account and move the debate forward. I move:

That progress be reported.

Question put.

The committee divided. [10.21 a.m.]

(The Chairman—Senator J.J. Hogg)

Ayes………… 8
Noes………… 31
Majority……… 23

AYES
Allison, L.F. * Bartlett, A.J.J.
Brown, B.J. Greig, B.
Murray, A.J.M. Nettle, K.
Ridgeway, A.D. Stott Despoja, N.

NOES
Bishop, T.M. Buckland, G.
Campbell, G. Carr, K.J.
Chapman, H.G.P. Collins, J.M.A.
Cook, F.F.S. Denman, K.J.
Eggleston, A. * Ellison, C.M.
Evans, C.V. Faulkner, J.P.
Ferris, J.M. Forshaw, M.G.
Hogg, J.J. Hutchins, S.P.
Kirk, L. Macdonald, J.A.L.
Mackay, S.M. Marshall, G.
McLucas, J.E. O’Brien, K.W.K.
Scullion, N.G. Sherry, N.J.
Stephens, U. Tchen, T.
Tierney, J.W. Troeth, J.M.
Watson, J.O.W. Webber, R.
Wong, P.

* denotes teller

Question negatived.

The TEMPORARY CHAIRMAN (Senator Chapman)—The question is that the amendments moved by Senator Ellison be agreed to.

Senator BROWN (Tasmania) (10.24 a.m.)—So we have it that the government and the opposition have voted against the chamber being furnished with a letter from the Attorney-General responding to the Law Council of Australia on the important matters that I read out. That is a new low in a debate on such an important issue. We have a right, in this chamber, to be informed on the matters that are being raised. We have a right to know whether the time-honoured protections for people in the legal community are upheld in this law and there is no evidence that they are. We have a right to know that this law is of itself essential, because the argument is that terrorist organisations can be and have been put out of action in the past and will be in the future.

What is happening here is that the opposition is abrogating its responsibility and the government is bringing in a draconian law which has no place on the statute books of Australia. It is a disgraceful situation. The denial of the committee of a letter from the Attorney-General—a critical letter, an absolutely pivotal letter in this argument in the committee, a letter which is going to appear after this debate takes place—is a further hallmark of the descent into a loss of proper parliamentary control and review, which is the direction that laws are taking under this government. I could ask about other specific matters in that bill, but my questions are not going to be answered. The minister did not answer that one; he is not going to answer any more. He has the numbers. Labor has caved in and agreed to it and there the matter is going to end, but we will vigorously oppose this legislation and look at what opportunities there are further down the line to remove the repugnant components of it.

Question agreed to.

Senator GREIG (Western Australia) (10.26 a.m.)—I move Democrat amendment (1) on sheet 4168:

(1) Page 4 (after line 3), at the end of Schedule 1, add:

Intelligence Services Act 2001
5 Subsection 28(2)

Omit “7 members, 3 of whom must be Senators and 4 of whom must be
members of the House of Representatives”, substitute “9 members, 4 of whom must be Senators and 5 of whom must be members of the House of Representatives”.

6 After subclause 14(4) of Schedule 1
Insert:
(4A) The Leader of the Government in the Senate must nominate at least one Senator who is a representative of a recognised political party that is represented in the Senate and does not form part of the Government or of the Opposition.

I referred to this amendment when I spoke earlier in committee about the concerns we Democrats have with the professed robust safeguards the minister speaks of. These are robust safeguards which the opposition consents to but which we challenge. One of those alleged robust safeguards is the purview which the minister has advised and referred to in terms of the role which the joint intelligence committee has in reviewing a listing and in reporting that to the parliament. But that body—the Parliamentary Joint Committee on ASIO, ASIS and DSD—is not in any real sense a parliamentary representative body, because it does not represent the parliament fully.

This amendment seeks to ensure that there is a more diverse and more representative composition of that committee. The committee itself is established under the Intelligence Services Act. That act provides that there must be seven members of the committee, four from the House of Representatives and three from the Senate. The members from the House of Representatives must be nominated by the Prime Minister after consulting with the Leader of the Opposition. The nominated members are then appointed by resolution of the House. Similarly, in the Senate, the Senate members are nominated by the Leader of the Government in the Senate, who must first consult with the leaders of recognised political parties which do not form part of the government. In making these nominations, the Leader of the Government in the Senate must give consideration to the desirability of ensuring the representation of various political parties. Despite the fact that there is currently nothing in the legislation to prevent the appointment of senators who are not members of either the government or the opposition, no such senator has yet been appointed.

It is our view that, given the crucial role which the joint committee will now play in relation to the proscription of terrorist organisations—its purview role, as the minister has referred to it—it is time to ensure that this committee is more representative and more diverse. It is our view that this will help to ensure and to provide for greater accountability of the government’s power to proscribe terrorist organisations. We believe that it is too dangerous simply to leave the scrutiny of the legislation to major party representation, to the government and the opposition—both of whom, we would argue, have questionable records on antiterrorism measures.

This amendment provides that the Leader of the Government in the Senate must nominate at least one—but is not limited to one—senator who is not a member of either the government or the opposition. That is designed to ensure that the joint committee is not as exclusive as it currently is. It enables members of the crossbench to apply the same level of scrutiny to the activities of the joint committee as we do here in this chamber. The first part of the Democrat amendment is more of a pragmatic amendment which recognises that the government and the opposition are unlikely to want to give up one of their current places on the committee in order to facilitate this. What we are seeking to
do here to facilitate that outcome is to ensure that the new requirement for the Leader of the Government in the Senate to nominate a senator from the crossbench occurs in that way. The amendment increases the number of members of the committee by two, thus enabling the opposition to retain their current number of members and ensuring that the government will retain a majority of the committee, as is required by the legislation. Our argument essentially is that, if parliamentary scrutiny is to be the primary accountability mechanism in relation to the proscription power, it is important that we ensure that it is genuinely parliamentary scrutiny and not simply, as it stands at the moment, scrutiny by the opposition.

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.32 a.m.)—I move:

That this bill be now read a third time.

Senator BROWN (Tasmania) (10.32 a.m.)—Section 71 of the Constitution, ‘Judicial power and Courts’, in chapter III, ‘The Judicature’, says:

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction.

The rule has been—and the Constitution points to it—that judicial matters shall be in the hands of the courts, but we now have a piece of legislation before us which crosses that boundary. It hands to the Attorney-General enormous judicial powers which are not the prerogative of the courts anymore or, indeed, the prerogative of the parliament.

Under this legislation, for the first time in our nation’s history, a minister, behind closed doors, acting on information from an intelligence agency, ASIO, will be able to decide to ban a community organisation in Australia by placing the label ‘terrorist organisation’ over it and with that ban to criminalise the members of that organisation.

By the fiat of a single minister there will be the ability to make criminals out of organisations and people in Australia before a court or the parliament has intervened or been referred to. This is a dangerous change to the way in which our nation works and it has come from a government which has been eroding the basis of our constitutional rights, our civil rights and our political rights in this country in the name of fear in recent years. Sensationally, on this occasion it has been backed by the Labor Party and opposition, which should be fighting this legislation tooth and nail.

The parliament has been able to proscribe and has effectively proscribed terrorist organisations in this country to now, and the government has not been able to criticise that effectiveness. But we have a situation here in which the power of the parliament has been set aside and given not just to the executive but to the Attorney-General, Mr Ruddock. We are in a situation where, as I said, he, acting alone, can criminalise organisations and individuals in Australia. It is no small matter because, having been so criminalised, the individuals will face up to 25 years in jail or, in the case of a person who recklessly did not know that the organisation was a criminal one and stayed a member, 15 years in jail.

The whole thing is unnecessary. We are all concerned about terrorism. We all want to make this nation safe from terrorists. But we have passed laws in this parliament which do just that and, despite repeated requests to the
minister to make it clear why this legislation is necessary, when so far the ability to proscribe organisations in this country has worked flawlessly and the government has not been knocked back, he has failed to do so. It is more political than it is a matter of protecting the nation from terrorism. That the Labor Party have done a 180-degree about-turn on this matter since June last year, when Senator Faulkner was saying exactly what I am saying now, is inexplicable unless you look at it in political terms. When you look at it in political terms, it is the Labor Party saying: 'We don't want to be seen to be soft on terrorism. The government have a cudgel there that we can't face, so we'll join them.'

We are on a terrible slippery slope where we know that the Attorney-General has more laws to come which are worse than this one. That is agreed all around. The Attorney-General says so himself. He said this week that his canvas is not yet complete, and he did so with a great deal of cockiness, saying that the Labor Party had caved in to the election on this piece of legislation so he will take it further. This has been a political mistake by the Labor Party. But, more importantly, it will, if the third reading passes, give to the Attorney—the very person who is concocting this political situation as we go to the election—an extraordinary power to intervene in the election to proscribe organisations and/or people, which otherwise would be the business of parliament, out of parliament in a way which is going to be politically advantageous to the Howard government in raising fear to its advantage before the ballot boxes are approached by the citizens of this country.

I cannot believe that the opposition could make such a mistake politically, let alone in the real interests of the Australian people. It is the opposition’s job to defend the country against this sort of legislation. Until now—and certainly last year and in 2002—it has effectively done that. But a political decision has now been made not to do so anymore. There are further consequences than we are facing today, and I have talked about those. But, as far as I am concerned, I fear for the Australian people. We do not have to talk about any current or past government in this country but look to what has happened in other democratic countries to see how quickly a democracy can become a dictatorship. It is always facilitated by loose laws which get around the courts and which set aside the parliament’s right, obligation and duty to be the arbiter of matters of great importance for the country. That is lost here to no gain. That is the problem: it is to no gain, because people plotting, planning or intent on carrying out terrorist activities in this country can be arrested, put out of action and proscribed under the current laws.

A political low point has been reached here, and it is very frustrating to see what is happening. It is deeply frustrating to see this legislation, supported by the opposition, about to pass this place and to know that more is coming. We have to accept that that is how it goes in a democracy, but a democracy can unravel itself. The check, the balance, that one would expect from an opposition in an alternative government has not been there to prevent this piece of unraveling. It is a terrible law that is about to pass in this place. It infringes on the rights of Australian citizens, the rights of the judiciary and the rights of the parliament and it hands powers to one member of the executive in a system which I think has gone much too far along the way of allowing executive government in this country its will. It is not just overriding the parliament but now overriding the rights of the judiciary as well. I hope that the opposition as well as government members, who should know better than this, reflect upon that.
If we are going to move further through this year with the sale of political and civil rights as an expedient winner in the run to the ballot box as this government purveys concocted fear, as it did in the run to the last election, then as I said it is a low point in politics for this country. Even at this point, I would urge the opposition to reconsider, but I know it is not going to. The best we can do is to insist there be a division and, when we come back for the next piece of legislation from Mr Ruddock, see whether the opposition has got back its gumption, whether it has got back its spine and whether it has got back its obligation to put the interests of this country ahead of a fear of the government being able to label it falsely, if it had stood up to this legislation, as being soft on terrorism.

I think the people of Australia are getting sick of this government’s efforts to manufacture fear for political purposes. We have to put all our faith in the wisdom of the people, and we have to get out and advocate why it is we make decisions in this place. Instead of doing that, the opposition has just said, ‘We’ll put this aside and we’ll allow that one to go through while we get on with other matters.’ It is a very dangerous prescription. We will be, and have been in every way we can in this democratic place, opposing this legislation.

Senator GREIG (Western Australia) (10.43 a.m.)—Madam Acting Deputy President McLucas, you are probably unaware—but I am sure Minister Ellison would not be—that we Western Australians have just come out the other side of yet another inquiry into police corruption in our state and that that particular royal commission has in recent days exposed endemic corruption within the Western Australia Police Service. Some politicians have expressed surprise at this, and the police minister has expressed surprise at this, but very few citizens in Western Australia have expressed surprise at this. I think it illustrates the dangers that are inherent in giving people power without accountability.

We have been told repeatedly in Western Australia that there are enough accountability mechanisms—enough robust safeguards, as Minister Ellison would have us believe—to ensure that, for the most part, that kind of corruption is mitigated against; yet the outcome of this royal commission illustrates yet again that it is not enough. In recent days there has been some speculation, not surprising to me, that perhaps one of the best ways to address this—one of the best ways; it is not the only problem which has emerged in Western Australia—is to ensure that the next police commissioner is not from within Western Australia, not from within the system, not from within the culture, but from outside.

That is what we Democrats believe is the best way to approach the Criminal Code Amendment (Terrorist Organisations) Bill 2003—ensuring through the auspices of the UN Security Council that there is an outside watchdog, an outside imprimatur and a mechanism which is not a part of the inherent culture. But the legislation before us ensures that it is an in-house job. It ensures that the proscription process occurs between the Attorney and the Leader of the Opposition and that the only parliamentary committee which would have any purview over this is one on which there is only Labor and coalition representation. When I moved an amendment a moment ago to widen that to ensure cross-party representation, neither the Minister for Justice and Customs nor the opposition leader voted for the amendment, let alone spoke to it. We saw again the collusion about which we have concerns, between the government and the major opposition party in the lack of accountability inherent in the legislation.
Madam Acting Deputy President, I quote Senator Brandis, one of your Queensland colleagues:

There are two simple reasons why the proscription of organisations ... is a bad idea: first, it is wrong in principle and second, because it would be useless.

It is not the role of the criminal law to ban organisations but to prevent crime. Organisations do not commit crimes; criminals do. That elementary proposition applies just as much to terrorism as it does to any other grave crime.

There are very few things, I suspect, on which Senator Brandis and I might agree, but that is one of them. I believe that proscription is not only abhorrent to basic principles of democracy but also bad policy, and there is no evidence to suggest that it will protect Australians from terrorism. We Democrats have consistently taken the position that criminal behaviour should be punished, not thought or association. For that reason we are opposed to the concept of proscription with or without a UN listing. But we have said repeatedly that if we are going to have a proscription regime then it really ought to have the requirement of UN listing to provide the safeguard which we are told is there but which we do not believe really is. We believe that the requirement for an organisation to be listed by the Security Council is a vital safeguard and we strongly oppose the removal of that.

The alternative arrangements agreed to by the government and the opposition do not provide the safeguard which we believe ought to be there. That illustrates again one of the concerns expressed by we Democrats at the time the original package of security legislation was introduced. That concern is that once new powers are introduced they could be gradually increased or that restrictions that are deliberately placed on them could be removed. That was just one of the reasons why we Democrats opposed four out of the five antiterrorist bills in that original suite of bills in the form in which they were originally presented. The removal of the requirement of United Nations listing is the second change that has now been made to proscription power since its introduction. In 2002, just two years ago, changes were made which now enable proscription regulations to take effect earlier than they could previously. We have seen a similar pattern in relation to the ASIO legislation, which has also changed since it came into operation, not to mention the government’s attempts to radically expand the powers of ASIS under the Intelligence Services Amendment Bill 2003, which is yet to be debated.

These experiences demonstrate clearly to us why caution should be exercised when introducing new powers, particularly in the context of counter-terrorism. There is clearly a tendency for the government to attempt to expand such powers once they have been introduced. I emphasise that we Democrats are committed, without question, to ensuring the safety and security of the Australian people. Our opposition to this legislation should not in any way be interpreted as counter to that commitment. We oppose this particular legislation because we consider it bad and founded on wrong principle and because we are not convinced that there is any compelling evidence to suggest that it will increase the safety and security of Australians against threats of terrorism. It is our view that the government is taking the wrong approach to this and compromising the rights and liberties of Australians without increasing their security.

Minister Ellison was asked yesterday what other forms of legislation of this nature might be in the pipeline. That was in the context of Attorney-General Ruddock saying on the television two nights ago, I think, that his canvas was unfinished—that his legislative work in this area was unfinished. The minis-
ter was a little vague in his response but referred to a coming bill on the transfer of prisoners. He did not mention that in the pipeline is the Telecommunications (Interception) Amendment Bill 2004, a bill which would allow government authorities to access email, voicemail and SMS messages from citizens without a warrant. He did not mention the Communications Legislation Amendment Bill (No. 2) 2003, enabling the government to shut down any telecommunications carrier or deny individuals access to telephone and email communications. And he did not mention the Intelligence Services Amendment Bill, designed to give ASIS the power to engage in paramilitary activities and to carry weapons. This suite of future legislation gives the Democrats concern. We do not automatically oppose this coming legislation but we make the point that there must be scrutiny and accountability. In our view, this legislation lacks that.

Senator NETTLE (New South Wales) (10.51 a.m.)—I rise to add to the comments that Senator Brown has already made here on behalf of the Australian Greens. What we are about to see in relation to the support that the opposition has already given to the government on the Criminal Code Amendment (Terrorist Organisations) Bill 2003 is an absolute sell-out by both the opposition and the government in terms of ensuring security for Australians. All of us here want to ensure that Australians are protected against terrorism. Fundamental to that sits the need to ensure that the civil liberties of Australians are not taken away. We have already taken away Australian civil liberties in the form of the ASIO legislation that passed through here not so long ago, and now we see another piece of legislation seeking to take away people’s civil liberties with regard to membership of organisations and how those organisations may be banned by one man: the Attorney-General, the Hon. Philip Ruddock.

This is a cascade to the fear and division that this government has engendered around the issues of the war on terrorism. As we have heard many opposition members say in this chamber in the past, if we succumb and take away our civil liberties on so many of these issues, we are succumbing to the terrorists, we are succumbing to those who seek to diminish our capacity to engage freely in a democratic society here in Australia. That is what we now have. We are having it eaten away by pieces of legislation like the ASIO legislation, and now we see again the two major parties in this chamber coming together to ensure that our right as a parliament to determine what organisations should be banned and should be labelled as terrorist organisations is taken away and given to one man.

The great safeguard that the Labor Party has brought into this legislation is that the Attorney-General has to make a phone call. He does not have to listen to what the person on the other end of the phone is saying. He does not have to pay any attention or take any notice of what is being said to him on the other end of the phone. He just has to make the phone call. That is not a safeguard. What rubbish for that to be considered as a safeguard! The parliament of Australia, the Senate of Australia, is the safeguard to ensure that we do not have a whole raft of organisations, particularly in the lead-up to an election, labelled by this Attorney-General as terrorist organisations.

This legislation should go no further than it has already. As senators, it is extremely important that we protect the rights of Australian citizens to be protected by their parliament against exactly this type of legislation. It is a great shame if we are about to see, yet again—and we saw it on the ASIO bill—the opposition join with the government and be scared to stand up for the rights and the civil liberties of Australians.
lians need opposition senators to stand up and say, ‘We defend your civil liberties, we defend your right to engage in a whole range of different activities, and the parliament should be the place that determines if that is not proper.’ If we are about to see a cave-in on that, that is a great shame on the opposition in kowtowing to the government’s fear and scaremongering around the issue of a war on terrorism. The Greens will not be a party to it. We will continue to stand up in here for the rights and the civil liberties of Australians.

Senator STOTT DESPOJA (South Australia) (10.55 a.m.)—I rise as the Australian Democrats foreign affairs spokesperson to support the work of Senator Greig and his comments on behalf of the Democrats. I want to put on record today that one of the most disturbing aspects of the Criminal Code Amendment (Terrorist Organisations) Bill 2003 is the fact that it is part of a pattern of abrogating what responsibilities we have to multilateral frameworks, in particular the United Nations. The Democrats have made this clear: we think it is a very grave mistake. It reflects a disturbing pattern of behaviour on behalf of this government over recent years because, once again, the government is choosing to bypass the United Nations.

There is no doubt that the UN is facing one of the most challenging chapters in its history. There is a growing consensus that the time has come for significant reform. This has been recognised by the Secretary-General, who last year appointed a high-level panel to examine these issues. I note that former Minister for Foreign Affairs Gareth Evans is a member of this panel—and indeed, the youngest member of this panel. The panel will look at the course for reform. No doubt one of the issues that this panel will look at is reform of the Security Council. Many of us would argue that the current composition of the Security Council does not reflect current geopolitical situations. But, of course, it harks back to its post-World War II formulation. There are some glaring absences among the permanent members, with no representation for regions such as Africa, South America and South-East Asia.

The way in which the Security Council currently operates provides a clear illustration of the reality that the United Nations is not a cohesive, independent organisation which can be criticised in its own right. On the contrary, it is a forum in which member states can come together in an attempt to combat global challenges constructively, peacefully and democratically. That is the underlying principle of the United Nations. In fact, its goodwill and its future running depends on the commitment of member states. The organisation must continue to evolve if it is to maintain its fundamental role in promoting and protecting international peace and security. As Kofi Annan has acknowledged himself, ‘Reform is our survival and our future.’

At this critical time for the UN there are, unfortunately, some countries which are increasingly choosing to abandon multilateral processes and act independently of the United Nations. Rather than rising to the challenges associated with multilateralism, these countries are simply walking away—and I am so ashamed to admit that our country is one of them. Over the years, our Prime Minister and our federal government have repeatedly chosen to act independently of the UN in their conduct in international affairs. The most glaring example in recent times is the government’s decision to go to war against Iraq without UN backing—a classic example of a government turning its back on
the UN simply because its position was inconsistent with that of the Security Council.

As we know, the Prime Minister spent months lobbying for a Security Council resolution which would sanction military action against Iraq. He flew all the way to Washington to meet with President George W. Bush. He tried to convince the President that any attack against Iraq should actually occur within the auspices of the UN. However, when this became too difficult, he did a complete backflip and claimed that no such resolution was required. In the face of international concern, the coalition countries chose not to abandon their misconceived plans for war; they chose to abandon democracy, and that is arguably what we are doing today. On the sole basis that other member states did not concur with their position, they proclaimed that the UN was irrelevant. In fact, Australia’s Ambassador to the United Nations recently went as far as labelling it impotent. So, while countries such as the US and our own can wax lyrical about the irrelevancy, as they perceive it, of the United Nations, the reality is that it is actually the deliberate actions of the member states which choose to act independently of the UN that then result in the UN being irrelevant.

The waning commitment of our government to the UN is evidenced by its actions, its statements and indeed its allocation of resources. This government’s attitude is that it is just too difficult to cooperate with other countries. This government fails to recognise that in fact global efforts often produce the most effective results, particularly when responding to global challenges such as the AIDS pandemic, global warming or indeed the threat of terrorism. Just in the last few days we have heard of a new one: the government’s decision to renounce its membership of the International Fund for Agricultural Development, a United Nations agency which aims to assist the rural poor to overcome poverty. The decision to abandon this organisation is deeply concerning and somewhat inexplicable. Membership of IFAD carries no obligation to actually donate to the fund. In fact, our government had already ceased making donations to the fund on the basis of some of the concerns that it had about the fund. IFAD has demonstrated a genuine commitment to address any concerns that Australia actually has and, in many cases, has already done so. However, it should be noted that these concerns do not appear to be shared by other donor countries, many of which have actually increased their donations to the fund, including, ironically, the United States of America, which recently increased its commitment by 50 per cent.

Given that there is no responsibility required by or pressure on Australia to donate to IFAD, it is hard to understand why our government insists upon Australia being the first country ever to renounce its membership of IFAD since it commenced operations back in 1978. So I am putting the government on notice today that the Democrats will be scrutinising this decision very closely when the enabling legislation comes to parliament and also indeed through the Joint Standing Committee on Treaties. There seems to be no logical basis for the government’s decision. However, it is clearly consistent with the government’s continuing tendency to snub the United Nations and its various agencies.

Here at home, we have a similar situation with the government’s decision to defund the United Nations Association of Australia. Everyone knows about the UNAA. We know about the UNAA. We know about the fundamental, effective role that it performs in educating the Australian public, among other things. It plays a critical role in facilitating consultation with young Australians—for example, through the UN Youth Association and by hosting model UN conferences for young people. The association
has a distinguished record of service to the Australian community and its accountability for the expenditure of public funds should be assessed against this record. So the government should reverse its decision to defund, in this instance, the United Nations Association of Australia.

In closing, I want to make the point that the government’s lack of commitment to multilateralism in the context of counter-terrorism is particularly dangerous. It has been argued that terrorism presents the most significant threat to international peace and security in the 21st century. It is a threat that, as we know, knows no boundaries and is not confined to the borders of any particular country. During the past few years, we have witnessed attacks in places such as Iraq, Israel, Saudi Arabia, the United States, Bali and Russia, among others. Terrorism is truly an international problem and everyone in this place acknowledges that, and it demands an international response. It is vital for the international community to unite in its efforts to combat threats of terrorism, but what the government has done today through this legislation is yet another attempt to bypass the international and multilateral frameworks, such as the United Nations. Once again the government is shrinking back from the challenges of working cooperatively with other countries and it is making the grave mistake of attempting to address a global threat alone.

This was clearly illustrated last year when the government moved to proscribe a number of organisations which had not been listed by the United Nations. The government used these organisations as examples of organisations which, while they had not been listed by the UN, nevertheless presented a threat to Australia’s security. It was on this basis that the government argued that there was a need to remove the requirement for United Nations Security Council listing. Yet it eventually emerged that the government had never even attempted to get these organisations listed by the Security Council. The government complains that the UN Security Council can only list organisations that are associated with al-Qaeda. Well, why doesn’t Australia start lobbying the Security Council to expand the basis on which organisations can be listed? Why not demonstrate some leadership in these multilateral frameworks rather than simply desert them?

The Democrats firmly believe that the government’s expressed strategy of abandoning the principle of multilateralism is a very dangerous path to take, one which puts the safety and security of Australia at risk. The United Nations is not a fair-weather friend. At a time when the future viability of the UN is under threat, Australia is doing very little to preserve it. A future without the UN, a future in which individual countries and coalitions of countries can simply do whatever they want whenever they want, is a very frightening future indeed. Yes, multilateralism is fraught with challenges and yes, the United Nations is in desperate need of reform, but these are not reasons to give up on it. International peace and security depend on the international community’s ability to work cooperatively to combat the many global challenges we face. We can help build a viable United Nations for the sake of future generations or we can help destroy it and all the hard work that has been done over the last 60 years. The Democrats believe that there is actually no choice for us and this government, and that is why we are so sickened and disheartened by the decision today. It is time for our government to renew its commitment to the United Nations and, for goodness sake, to take up the challenge of trying to make it more effective.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (11.06 a.m.)—I would like to make a
brief contribution on the third reading of the Criminal Code Amendment (Terrorist Organisations) Bill 2003 because it is important legislation. It achieves a number of things and I would like to place those on the parliamentary record. The principles behind the amendments to this legislation that have been carried have been insisted on not only by the opposition in this chamber but also by minor parties in the Senate. Those amendments mean that decisions to proscribe organisations will not be taken in secret. That is the fundamental principle: they will not be taken in secret. Now such a decision can only follow after appropriate consultations with the Leader of the Opposition and the leaders of state and territory governments.

In addition, the Attorney-General will be required to formally consider applications by individuals and organisations to delist an organisation, with any subsequent decisions subject to judicial review. Also, the Attorney-General will now be genuinely accountable to the parliament for the exercise of his or her discretion. Suspect decisions to proscribe organisations, if there are any, will be subjected to proper scrutiny by the powerful, professional and hitherto bipartisan committee which has been established by this parliament—the Joint Committee on ASIO, ASIS and DSD—and, if those decisions have no sound basis in security and intelligence material, they can be overturned in the parliament. They can be overturned in the Senate. And the legislation as a whole will be subject to triennial review by the joint intelligence committee. In addition, under the legislation, listing regulations will lapse after two years. And in addition to that, listing decisions will be subject to judicial review in the Federal Court of Australia.

When the original legislation that proposed an executive proscription model was introduced into the parliament it did not allow for the disallowance of any decision by the Attorney-General or another member of the executive. There was no capacity for parliamentary disallowance. The original provision provided that after a declaration came into force it stayed in force until either it was revoked or, at the beginning of a day specified in the declaration, the declaration ceased to be in force. There was no capacity for parliamentary disallowance. That was the original bill and that is why so many in this parliament and so many in committees of this parliament had such serious concerns about those provisions. Since that time we have had parliamentary proscription—first of all with the Hezbollah External Terrorist Organisation, then with the terrorist wing of Hamas, and then the terrorist organisation Lashkar-e-Taiba. All three of those terrorist organisations have been proscribed by this parliament through legislation. Why? They have been proscribed in that way because those terrorist organisations could not be proscribed under the provisions of the original legislation because the organisations either effectively had no direct links to al-Qaeda or had not been identified by the United Nations Security Council as terrorist organisations.

Not one parliamentarian in either the House of Representatives or the Senate stood up and said that the terrorist wing of Hezbollah, the terrorist organisation associated with Hamas or the terrorist organisation Lashkar-e-Taiba should not be proscribed. Those proscriptions were unanimously agreed to by both houses of the Australian parliament. That means basically that in terms of the original proposition that was put arguing against parliamentary proscription the parliament moved on.

I have heard the debate we have had over the last two days, particularly the interminable contributions from Senator Brown. I have heard how the Greens now take succour from the strength of the pre-existing antiterrorism
laws. That was not Senator Brown’s view when the opposition moved amendments to put those particular antiterrorism laws into place. I was the opposition shadow minister and the senator who moved those substantial amendments in this place to ensure that particular regime—those provisions—became law and had legislative effect. That was not the view of the Greens at the time. Talk about backflips! They did not support them at all; now they are defending them to the hilt. They are saying that they are very robust and that we should bat on with what we have. But those amendments were opposed tooth and n ail at the time by Senator Brown and Senator Nettle.

You cannot have it both ways in this business. Sometimes you are held to account for what you say and do. The Greens opposed these provisions tooth and n ail at the time. I respect their view; I do not agree with it, but I respect their view. What I do not respect is the backflip worthy of Nadia Comaneci in the Olympic Games that we have had in this chamber. I do not respect that and I do not think many senators would—but that is what has occurred. Of course, not only do we have a situation where the current provisions that are being amended now are said to be robust and excellent and are strongly defended by the Greens, even though they opposed them when they were introduced; we have a situation where parliamentary prescription, which they opposed when it was introduced, is now supported by all of us. Every single parliamentarian elected to the parliament of the Commonwealth of Australia in both the House of Representatives and the Senate has supported it. It is a fact of life.

Everyone believed parliamentary prescription of the terrorist wings of Hezbollah and Hamas and the terrorist organisation Lashkar-e-Taiba was justified. I believe it was justified. In fact, it was the opposition’s proposal that we take this initiative, and I am pleased that the government agreed and brought in legislation. I am also pleased that we now have a situation where the parliament has the capacity to disallow a listing if it believes a listing should not have been made and that, around that, we have additional safeguards built.

First of all, there will be early warning to this parliament. The Leader of the Opposition will be informed. As we know, the state and territory leaders of government will be informed. But, if a majority of the parliament in the Senate or the House of Representatives determines, with the benefit of additional advice from the committee of this parliament that is charged with the responsibility of assessing and analysing security intelligence matters—the joint intelligence committee—that such a listing should not stand but be disallowed, then that will occur. These are substantial safeguards. These are real safeguards. These are real advances on the proposals that were originally introduced by that sloppy and hopeless former Attorney-General, Daryl Williams, in the middle of 2002. These are real advances on the incredibly incompetent performance of the no-hoppers in the Howard government who have had responsibility for these matters.

I have said to the Greens that, just on this occasion, instead of doing what they always do, which is to whinge and wail and whine about what is happening, they should recognise that they have got their agenda up. They have won. They ought to recognise the fact that they have won, that these are massive improvements. These are important safeguards. These amendments matter and the Greens ought to claim victory, not defeat. They ought to claim victory; they ought to recognise that they have won. That is one of the challenges of politics: to recognise when you win. I know: I rarely win anything, but on the rare occasions on which I have won something in the 30-odd years I have been in
the Labor Party I have at least recognised it, claimed victory on the odd occasion and gotten on with it.

This mob over here should do the same thing. They should realise that they have won, they have had a victory. They have changed the legislation, obviously with the driving force of the opposition, but they have joined with us in what has been an essential crusade, and they should nail it up as a victory. But they will not do that. I cannot really comment on the personality traits of Senator Brown and Senator Nettle. I like both of them very much but I do not understand why they are always so negative. The Australian Democrats are laughing away down there—look at them laughing away. I do not know why they are laughing, for God’s sake.

**Senator Stott Despoja**—You’ve got to!

**Senator Greig**—We’re not!

**Senator Faulkner**—The laugh of a condemned man and woman. You say you are not laughing but you look like you are laughing, you really do. I saw an opinion poll recently and the Australian Democrats scored an asterisk in it, but they are still laughing. They know they have won. You have to give them a bit of credit. If only Senator Nettle and Senator Brown would realise that this is a fundamentally important change to legislation. This government—I believe ill-motivated on these things—has accepted important changes to legislation and, as a result, we have better and tougher laws. I have never resiled from the fact that we have, all of us—government, opposition and crossbenchers in this chamber and of course in the House of Representatives—a fundamental responsibility to protect Australia and to protect Australians. That, at the end of the day, is what this is about.

Of course as we do that we must balance those absolutely essential freedoms and liberties that are so important to all Australians. Of course we must play our part in the international community on the challenges that face us in relation to terrorism. The challenge has always been to get the balance right in relation to this important issue of how one deals with terrorist organisations and those who might be involved in their appalling, nefarious activities. I think this legislation gets that balance right.

I am not as concerned as others are about what might be coming down the track. I know how Mr Ruddock works. Senator Nettle is right about that. Senator Brown is right about that. Senator Stott Despoja, who mentions the issue, is right about that. Of course one has to question what Mr Ruddock is likely to do. The challenge for the Senate and for all of us is to treat that legislation when it is received on its merits, just like we should treat this legislation on its merits and just like we should treat the provisions in this legislation on their merits. The amendments that have been move dramatically improve the legislation. This legislation, when you compare it to the original proposals in relation to executive proscription introduced by that buffoon Daryl Williams in the middle of 2002—

**Senator Ellison**—Madam Acting Deputy President, on a point of order, the term ‘buffoon’ is unparliamentary and I ask the senator to withdraw it.

**The ACTING DEPUTY PRESIDENT** (Senator McLucas)—I think you should withdraw it.

**Senator Faulkner**—I will withdraw it. The original proposals were introduced by Mr Daryl Williams, MP, QC, and all the other letters that he has got after his name, and he ought to be ashamed of himself for his efforts. What a disgrace! I am not confident about Mr Ruddock’s motivations, but the challenge for us is that, if legislation comes forward, we should deal with those...
issues and treat that legislation clause by clause on its merits. I believe that in relation to the anti-terrorism legislation in this country, this Senate has a very good record. I believe we have done well in this chamber, I believe we have done well in the committees of this chamber, and I believe this particular legislation and the improvements we are dealing with in this bill are a further example of that.

Question put:
That this bill be now read a third time.

The Senate divided. [11.29 a.m.]
(The Acting Deputy President—Senator J.E. McLucas)

AYES


Question agreed to.

Bill read a third time.

Senator Murray—Madam Acting Deputy President, I was caught up in an interview and missed that vote. Could my vote be recorded with that of my colleagues? I want it on the record that I voted with my colleagues.

The ACTING DEPUTY PRESIDENT—It is on the record now.

WORKPLACE RELATIONS AMENDMENT (COMPLIANCE WITH COURT AND TRIBUNAL ORDERS) BILL 2003

Second Reading

Debate resumed from 14 August 2003, on motion by Senator Patterson:

That this bill be now read a second time.

Senator JACINTA COLLINS (Victoria) (11.34 a.m.)—The Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 imposes severe and unreasonable new penalties on union officials and employees for noncompliance with commission or court orders under the Workplace Relations Act. There are a number of concerns about this bill, but I will start with its one-sided aspect. Whilst the bill talks about ‘officers or employees of registered organisations’, in practice this simply means unions, and—whilst the government might have hoped superficially to demonstrate some level of balance—anyone who has practised in any way within the industrial relations field would understand that as a very obvious fact. Although registered organisations can and do include employer organisations, employer organisations do not engage in industrial action. Employers themselves engage in industrial action such as lockouts, but their employer organisations are not directly involved in such action and
would not be affected by this legislation. This was confirmed by evidence to the Senate inquiry. The Australian Industry Group, for instance, admitted that they had never initiated industrial action. In answer to a question by Senator George Campbell about whether the offences in the bill were aimed at union officials or union employees, Mr Bennett, from the Department of Employment and Workplace Relations, replied:

I think that is a fair description, yes.

So on the government’s own evidence, this bill aims to introduce severe new penalties for unions but it proposes nothing which might penalise employers engaging in illegal lockouts or other industrial action—a point I will come to later. It is appalling that the government has introduced 12 pieces of legislation into the parliament with one clear and consistent objective—to weaken the bargaining position of working Australians in negotiations with their employers. This government has consistently sought to intervene in workplaces relations issues on one side of the equation. That one side is obvious—that of the employers. I will come to that point later if I have the time. I hope also to address some of the comments made by Senator Santoro in his speech during the second reading debate on the immediately previous bill in this area.

The one-sided imposition of new penalties on union officials and employees for non-compliance with commission or court orders under the Workplace Relations Act confirms once again this government’s biased approach to industrial relations. The government is entirely unconcerned about any possible employer wrongdoing. Not only does it not care to adjust the legislation, but it does not care to enforce the current legislation—another point I will come to in a moment.

The Department of Employment and Workplace Relations admitted to a recent Senate estimates hearing that it had initiated no prosecutions for nonpayment of employee entitlements with respect to the 2,419 complaints received from July to December 2003. It is no surprise that this legislation is only aimed at employees and officials of unions. Further, this bill is unreasonably punitive. The legislation potentially fines union officials and employees up to $2,200 for even the slightest slip with respect to a procedural direction or order of the commission. Being involved in a contravention triggers the punitive measures in the act, and this includes aiding, abetting, counselling or procuring the contravention, inducing the contravention by threats, promises or other means, being in any way knowingly concerned or party to a contravention and conspiring with others to effect the contravention. A contravention can be of any order or direction of the commission or the Federal Court. Potentially, this could be as simple as procedural directions.

But of most concern is that the legislation provides for automatic disqualification from holding union office for up to five years for anyone who is fined under these provisions. That of course would deny union officials the right to earn a living if they get even a minor fine or a minor breach. There is no precedent for such far-reaching and extreme automatic disqualification. Similar provisions in Corporations Law apply only to a serious criminal conduct, in recognition of the seriousness of denying someone their livelihood. But of course the severity of these provisions is entirely consistent with this government’s vehement hatred of unions. It believes anything is fair if it threatens and hurts unions, their officials or their ability to assist workers to bargain.

Another aspect of this legislation is that it will allow ministers to intervene in a way which could prolong disputes. This legislation allows the minister—not just the em-
ployer but the minister—to continue divisive legal proceedings long after disputes have been finished and the parties are trying to work harmoniously again. In this respect we know the government has form. The former minister, Mr Abbott, wrote to the automotive industry and told them that they were not muscling up enough in their negotiations on enterprise bargaining with trade unions, the AMWU in particular. Of course, we all remember Mr Reith’s intervention, for instance, on the waterfront. Remember those images of dogs and men in balaclavas—this sort of provision would assist that further.

I can recall the occasion some years back when I asked the department for their comprehension of how interventionist various ministers had been over time, and there had been no more interventionist minister in the industrial relations system than Mr Reith. This was under a government that has the rhetoric that we should allow the parties to sort these things out themselves. So its actions have been quite inconsistent with its rhetoric, but what its actions have demonstrated is that time and time again this government has sought to intervene on behalf of employers’ interests. On the occasion I mentioned, the then Minister Abbott was very disappointed that his prophecy of rampant industrial disputation in the automotive industry in the context of some 1,400 enterprise bargains was not realised—the negotiations actually proceeded without industrial disputation. But with this legislation the government could intervene to inflame disputes even after a bargain has been struck. An interesting thing here is that the employers do not want these sorts of provisions; they fear the prospect of politicians getting involved in their affairs and they would prefer that that did not occur. Let us go to the little evidence to support the need for this bill.

Senator McGauran—Where is the evidence for what you are saying.

Senator JACINTA COLLINS—I will give you some evidence for what I am saying, Senator McGauran. I had some very recent evidence last week when we heard in the building industry inquiry from the Masters Builders Association of Queensland. It might shock you but in evidence before the Senate inquiry those employer representatives actually said, ‘We look forward to the prospect of Labor being able to institute its policy since 1996 to re-empower the commission to be able to be involved and settle disputes.’ It is as clear and as stark as day. This is the problem with this government: it is not even going down the path of what sensible industrial practitioners say would help us effect what our industrial relations is meant to be there for and that is to settle disputes.

Let me go further to the little evidence to support the need for this bill. Legislation should not be brought before this parliament frivolously, and this is another bill that is doing just that. The Senate inquiry found that there was little evidence of a pattern of non-compliance with court or tribunal orders. Rates of industrial disputation—we hear about those time and time again from the government as well—are falling and the vast majority of industrial action complained about by the government is legally protected industrial action and would not be affected by this bill. The industrial action that is occurring is the legally protected industrial action within the system that this government created.

In the four-year period thoroughly examined by the department, it could only provide a list of 22 potential—and I stress potential—breaches of section 127 orders. Moreover, no finding of a breach was even made in a majority of these cases. Four years and 22 potential breaches, and no finding of a breach was even made in the majority of these cases. There are already a host of pen-
alty provisions in the Workplace Relations Act as well as detailed provisions about what happens if commission or court orders are not complied with. But these apply, unlike these measures, to employers and to unions.

This bill rehashes provisions that were taken out of the government’s Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002. They were taken out because they were totally unacceptable, and they remain totally unacceptable today. But dealing with these measures enables me to reflect on how Labor shares the Democrats’ frustrations about a lack of a commitment by this government to the enforcement of employees’ entitlements. The difference between our position and the Democrats’ position, though, is that we do not believe a case has been made for a new regulatory body. We think the government should get more serious about ensuring that the current means of addressing these matters are being utilised, because there are already officers with clear responsibility for ensuring compliance with the Workplace Relations Act. They are the inspectors appointed under the act who are currently part of the Office of Workplace Services in the Department of Employment and Workplace Relations. The office have a budget of $9.5 million per year, yet in the last six months of 2003 they did not launch a single prosecution in respect of any of the complaints they received during that period. So there is a regulator funded to the tune of almost $10 million per year. The question—and it is a very serious question for the Senate in this case—is: what are they doing? What are their instructions? Why are they not pursuing matters through prosecution?

In respect of breaches of provisions of the act relating to industrial action by unions and employees, the evidence does not support the assertion that there is a problem. Labor do not believe that just because the government says there is a problem this means there actually is one. In fact, we have been encouraged by past conduct to conclude the contrary almost automatically. As I have already outlined, evidence to the Senate inquiry into this bill shows quite the opposite. Disputes are falling and almost all industrial action is legally protected.

Since I have some time remaining to speak to this bill, let me reflect on Senator Santoro’s previous comments. Senator Santoro in his speech on the second reading on the earlier bill put forward that Labor, the Greens and, indeed, the Democrats could not claim a franchise for concern for the interests of workers and, indeed, for the role of unions. I thought it might be useful to run Senator Santoro through some of the history of these matters, of which I am sure Senator Murray is aware—certainly I am. Senator Murray, perhaps you and I are the only people who have been consistently through this process since about 1996.

**Senator Murray**—What about Senator Campbell? But he has left us.

**Senator JACINTA COLLINS**—That is right. Now that we have Senator Abetz there is a new player, but obviously Senator Santoro needs to be informed in a few areas as well.

**Senator Abetz interjecting**—

**Senator JACINTA COLLINS**—Yes, but in a state parliament, Senator Abetz, and these issues have been matters of federal jurisdiction and the federal parliament for several years. When we dealt with the second wave of industrial relations reforms, the very comprehensive report that was produced by the Senate inquiry at that time reflected on a number of interesting issues. I have gone back to the joint statement that was prepared between the Australian Democrats and the Labor Party at that time, because I thought it
gave us some very good issues to reflect on. At that stage we said:
The need to review the impact of the current Workplace Relations Act, as a major part of the Terms of Reference of this Inquiry, was agreed by all members of the Committee. It is therefore unfortunate that many important issues were not adequately canvassed in the Majority Report.
The majority report was essentially the government report. It continued:
Labor and Democrat Senators agree that a number of matters need close consideration in the context of the operations of the current act. These include that;

• industrial relations law should include a social justice agenda—There has not been much change there—
• all workers need to be covered by an industrial instrument.
• Australia meets its international obligations.
• the industrial relations system should be focussed on the prevention and settlement of disputes through negotiation in the first instance.

However, as we hear from employers time and time again, their ability to resort to the commission in the latter instance is what is becoming more and more problematic in how the system operates today. Senator McGauran, that was the example I gave you of the Master Builders Association in Queensland. It is their principle concern. Going back to the other principles that should be in place in the system, the list continued:

• the ability of workers to be able to balance their work and family lives must be promoted.

We know what little activity has occurred in that area, particularly since the interdepartmental committee leaked a report a couple of weeks ago. No activity has occurred. Even the interdepartmental bureaucrats are strongly recommending that to government, but there has been no action. The list continued:

• the needs of workers vulnerable to discrimination are adequately protected.

Unfortunately, this is not the case. There is one area where we have finally made progress—that is:

• adequate standards for Victorian workers are provided.

Finally:

• there is a strong and independent industrial relations commission.

So we have had one very small area of progress where we have removed the ghetto that existed for Victorian workers, but on all of the rest of those points we have had essentially no progress at all. Why is that, one might ask? The reason is the government’s attitude. Let me remind Senator Santoro of some of the rhetoric that comes from those within his party. We cited this reference at the beginning of chapter 4, which related to issues pertaining to the standing of the Australian Industrial Relations Commission. The Prime Minister said back in 1992:

As I’ve said before, I’m going to stab it ... in the stomach ... He was referring to the Australian Industrial Relations Commission. This is the Prime Minister’s attitude to the Australian Industrial Relations Commission: ‘I’m going to stab it in the stomach.’ Yet, again, it does not represent the views that employers are arguing for. Their perspective was represented by Bob Herbert, who recently retired from the Australian Industry Group. This perspective was also put forward at the start of chapter 4 in this report. It stated:

Firstly, we do have a unique institution in this country. It has served us well for 100 years. You have to think long and hard about changing its role. We think that the balance that is now in the current legislation between conciliation and arbitration is about right.
But the government seeks to effect further changes. Why is that? There is another reference to chapter 8 that I thought was very interesting and perhaps Senator Santoro should contemplate this. Susan Halliday, who was appointed by the Prime Minister, John Howard, as the Sex Discrimination Commissioner, said this to a Senate inquiry in 1999:

It is fair to say that many employers will say that they can now be trusted to manage their employees without a third party and, my goodness, I think I have even written that rhetoric. But the reality is that I know some who can be trusted and some who cannot, and often the ones who cannot are the ones where we have least coverage industrially to do something about protecting their workers, and that is what concerns me.

What concerned Susan Halliday on this occasion was that the government was quite happy to spout the rhetoric of a bargaining system when it knew that the bargaining system would leave some groups vulnerable. Where there was actually some industrial militancy, for instance, in the construction industry or the maritime industry, then it would seek to intervene. That is exactly what happens. There is no honesty in this government’s industrial relations agenda. If it wants a bargaining system then let us have a fair one.

Senator MURRAY (Western Australia)
(11.53 a.m.)—The Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 has provisions which first formed part of the Workplace Relations (Registration and Accountability of Organisations) Bill 2002 but were excised from the bill to facilitate its passage. We should recall that those provisions were very much not to the liking of Labor then and are obviously not to the liking of Labor now.

The bill aims to ensure that officers and employees of registered organisations abide by the rulings of the Federal Court of Australia and the Australian Industrial Relations Commission—an obviously commendable objective. But what does the detail say? Specifically the bill creates a number of new civil penalty provisions applying to the officers and employees of organisations who subvert an order or direction of a court or tribunal. It provides for the automatic disqualification of persons for five years—unless leave has been obtained from the Federal Court—from holding office, election to office or appointment to office if the court has imposed a pecuniary penalty on that person for matters outlined in the bill. It provides for the minister or a person authorised by the minister in writing to apply for a court order in respect of an alleged contravention of the civil penalty provision of the Workplace Relations Act. These are serious provisions and extend the powers under the act quite considerably.

We should note when we are debating these matters that there are already serious disqualification provisions in the Workplace Relations Act. It is not as if we are debating a situation where there is a void in the law or in the penalties. If we look at the current disqualification provisions in the Workplace Relations Act 1996, they are, however, limited to offences that are criminal or relatively serious in nature. These include matters such as failing to comply with electoral official requests for information, interfering with ballots so as to commit electoral fraud, or threatening or discriminating
against anyone seeking the conduct of an
election for office. The Bills Digest correctly
states that it is arguable that adding the fail-
ure to comply with civil obligation orders
such as return to work orders will lower the
threshold.

The government argues that this bill will
provide more effective sanctions, yet we al-
ready have sanctions at section 178. The
question is—and I think this was the theme
of Senator Collins’s speech—whether there are,
if not intended consequences, uninten-
tended consequences which would severely
limit the ability of union officials to do their
job. That is the essential argument before us.
We did touch upon the existing sanctions at
section 178 in an earlier debate this week.
The Democrats attempted to increase the
penalties in section 178 in another bill, but
both Labor and the coalition voted them
down. There is an interesting swing around
of positions on these things as we proceed
through these bills.

As I said in my speech in the second read-
ing debate for the Workplace Relations
Amendment (Codifying Contempt Offences)
Bill 2003 yesterday, the Democrats do be-
lieve that the rule of law must apply and
have supported, in many instances over the
years, strongly enforcing the rule of law. If
the law is being flouted and it is not a ques-
tion of enforcement or the resources needed
for enforcement, we will support stronger
law. But increased sanctions must only be
justified where there is sufficient evidence
that a real and significant problem exists.

We are not presented with sufficient evi-
dence, in our view. That does not mean that I
am dismissing or condoning those defiances
of the law that occur and the occasions
where they occur. I am sensitive to the finan-
cial impact this can have on employers or
industries. But ultimately it is the courts and
sometimes the magistrates themselves rather
than the judges that determine these matters.
There have been instances where people who
have damaged property have been brought
before a magistrates court and have been
either fined or let off, so the law is working.
The question may be, of course, whether the
penalties are adequate, but that is a different
issue. We have to be realistic. We have to
recognise that there needs to be a balance
struck between preventing financial loss to
the employer and causing the loss to em-
ployees of one of the weapons at their dis-
posal, namely the weapon of direct action.

For the Democrats to even consider such a
serious penalty as proposed in this bill, we
would have to see evidence of rampant or
repeat offenders of noncompliance of court
and commission orders. As we have noted at
other times, these matters are before the Sen-
ate committee inquiry into the Cole royal
commission and its consequent legislation,
and we do think that the conclusions of that
committee should influence the view as to
how much evidence there is of rampant or
repeat offenders of noncompliance. We
would urge the government to provide that
committee with as much evidence on that
front as possible. In a sense, this bill comes
before it should and, in a sense, its consid-
erations are also part of that bigger Cole is-
sue. As discussed already in my speeches in
two second reading debates to previous bills
this week, the government has not provided
us with sufficient evidence at this time, and
we do not see that that evidence is in the
public arena.

I want to briefly outline the concerns we
have with the three proposed areas of the bill
and then I want to go on to discuss the prob-
lems of the bill in the context of what I refer
to as the bigger picture. I will start first with
the scope of orders and directions for which
offences and disqualification could apply.
The proposed provisions of this bill apply to
any order or direction of the commission or
court. In their submission to the Senate inquiry into this bill, the ACTU argued that ‘orders and directions’ were ill defined in the Workplace Relations Act and used loosely in the functioning of the Industrial Relations Commission. This, the ACTU argued, may lead to uncertainty, as parties will not know whether an order or direction of the IRC or a court is an order or direction attracting a civil penalty for noncompliance.

If we are going to envisage a situation where serious penalties shall apply, the circumstances under which those penalties kick in do need to be carefully defined. This is especially the case, given that the IRC will often make recommendations to parties—for instance, to conference—with a suggestion that failure to do so may lead to them imposing an interim award on the parties. The policy problem, which the ACTU also raises, is that the application of the provisions to all orders and directions has the potential to impose onerous penalties for minor breaches—for example, a failure to comply with a procedural deadline. In response to this, the government have argued that commissioners surely would not impose a penalty for a minor breach. However, there is no guidance for commissioners as to what type of order or direction a penalty should apply to if breached, and it is with the penalties which might be on the cusp of falling one way or another that you need to be careful. We are therefore cautious about the effects of this provision. We do acknowledge that this area could possibly be tightened up to address these concerns.

With respect to the disqualification provisions, I note that the existing disqualification from holding office under part 4 of chapter 7 of the Workplace Relations Act applies only in cases of conviction for certain criminal offences, including fraud, intentional violence, certain ballot offences and offences in relation to the formation, registration or management of an association or organisation. This bill would extend the application of automatic disqualification to civil penalty provisions. Another area in which I have responsibilities is the Corporations Law. There is no similar provision in the Corporations Act, where it is the regulator who has to make out a case for disqualification. The government argue that disqualification can only occur for breach of these duties where the Federal Court, in its discretion, considers that the conduct warrants the imposition of a pecuniary penalty. As outlined above, the commission has no guidance as to what orders and directions penalties should apply to and, even if more guidance were given, automatic disqualification for a civil offence would still be very serious.

The government has argued that there is a process to appeal the automatic disqualification. I would like to point out here that, in the case of breaches of civil penalty provisions under the Corporations Law, the regulator, ASIC, carries the onus of satisfying the court that disqualification is appropriate. This should be contrasted with the proposal in the compliance bill that the onus and cost is on the disqualified person to convince the court that he or she should be given leave to hold office. Maybe the reason that those two are so different is that, in the case of the Corporations Law, at least we have the sanity of a national regulator, whereas in the case of industrial relations matters we have not so much insanity but a lack of wisdom which results in a dispersed inspectorate and a dispersed regulatory ability.

The final area of the bill relates to the minister gaining authority to seek orders. Currently, applications for orders for breaches of penalty provisions can be made only by the Industrial Registrar or an organisation. The government argue that the amendment is in recognition of the costs and delays that may be involved in enforcing
orders and directions and that parties are sometimes pressured not to pursue available sanctions and remedies. However, the provision appears to be contrary to the government’s espoused philosophy of keeping third parties out of industrial relations, which the Democrats have supported wherever it is appropriate. There does not appear to be a similar provision in Corporations Law. Again, instead, it is the regulator that pursues such matters.

Instead of the employer having to pursue matters and to be put in some commercial and perhaps commercially political embarrassment, if I can use that phrase, we think there should be circumstances which would enable the Industrial Registrar to monitor the payment of a penalty and the compliance with an order and notify nonpayment or non-compliance to the Federal Court for further action. In other words, we advocate proper monitoring and automatic referral back to the very body which we think should enforce these laws. It is quite plain to us that there are circumstances in industrial relations behaviour where employees or employee organisations or employers or employer organisations can find themselves under some stress not to force an issue because of the commercial consequences. Frankly, it should be taken out of their hands, and we think the Industrial Registrar should be given a greater role to play in this.

In addition to the issues I raised earlier, I also think we should examine the big picture in considering this bill and indeed other workplace relations bills that are before the parliament. First, the Senate has to consider whether the proposed offence is justified and, importantly, what effect it will have on the legitimate role of unions and union officials, which is to protect the rights of employees and to pursue their interests. It is very important to maintain the ability of the men and women who are union officers, both paid and unpaid, to do an essential job without an unreasonable fear as to the risk of doing that job.

One has to wonder what impact this bill could have on the ability of union officials to perform their job and adequately represent employees. I am referring to what I think Labor might categorise as intended consequences, namely restricting their abilities even more, or unintended consequences, namely closing down what is a flexible and, in my view, a fairly well-operating environment. So how are union officials meant to represent members who want to renegotiate wages and conditions, and protest unconscionable behaviour, and who might face the situation of losing their job or being made redundant, or workers who have their working conditions unilaterally changed or who feel they need to apply pressure in terms of work and safety issues or whatever? How are they to behave when they are in fear of being disqualified from their positions? We must bear in mind, as I have said earlier, that we do have disqualification provisions for proper cause already in the act.

Everybody, even Labor, gets irritated with some unions and some unionists sometimes. But that is a part of life. In the end unions and employer organisations play an absolutely essential and valuable role in Australian society. We know that occupational health and safety, productivity, efficiency and good working standards are better on sites or in organisations or enterprises when unions and employers are able to work productively together. We know that compliance with the law occurs when these things are policed by unions and employer organisations. A World Bank report last year showed that in highly unionised areas there was less inequality, decreased wage discrimination against women and minorities, and improved economic performance. The great virtue of the Australian system is that industrial dispu-
tation is recognised as an essential part of the bargaining and market process, and parties to disputation have procedures and the opportunity to work matters through. So the bill is concerning if it shifts that balance, if it affects that outcome, and the government do themselves a disservice if they do not recognise those—perhaps unintended, perhaps intended—consequences.

Yes, the bill does apply to registered employer organisations, but employer associations or organisations are rarely direct participants in industrial action—it has no practical effect on them. The bill has gone down the path of addressing an area but ignoring other areas. We are happy to discuss the principles that surround these matters, but I must return again and again to a theme I am trying to hammer home hard in the workplace relations and industrial relations arena, the circles in which I move and the environments in which I operate. I am a firm believer that we need one unitary system of industrial relations. We cannot have any system of industrial relations unless we have strong regulators which are able to enforce the law and are sufficiently resourced to do so.

In contrast to other sectors, where the national interest is paralleled by national laws with a national regulator, such as finance, where there is APRA and the Reserve Bank, Corporations Law where there is ASIC, competition law where there is the ACCC and tax where there is the ATO, in workplace relations you do not have the national interest served by a national law and you do not have a national regulator. My view is that many of the provisions and penalties of the existing act would be far better exercised and far better implemented if only there were somebody to enforce the law as it is at present. My concern is that the government keeps seeing a problem and introducing more law when the real problem is something quite different. The real problem is that no-one is enforcing the existing law. No-one is doing the job that has to be done right now to make sure that entitlements are paid, that wages and conditions are observed, that health and safety is looked after and that people do not defy court and commission orders and other principles. We really do have a strong act. The penalties can certainly be improved and, as you know, we voted for that to happen, although the bill went down overall. But I do have a serious concern that we are going in an antilibertarian direction when we should be going towards enforcing existing law and making sure we have the regulatory instruments to carry through the law as it stands.

Senator LUDWIG (Queensland) (12.13 p.m.)—May I say in response to that issue of a unitary system, where Senator Murray raises the issue about national matters and national issues, that the experience I have had is that disputes tend to be, unfortunately, local. Usually the best people to deal with them are those on the ground at that local dispute in the local area, rather than those dealing with them from a national perspective. That is not to say that there is not a need for uniformity or some way of ensuring that there are similar laws. But what I have mostly found in my experience—and it goes back some years now—is that in many instances these sorts of things are in fact local, and without local experience, local knowledge and local considerations taken into account when dealing with many of these things they are simply not going to be resolved. A dispute in Mount Isa is not going to be resolved if you have to fly from Mount Isa to Melbourne because the national office happens to be in Melbourne. But that aside, I do understand the direction in which Senator Murray is going.

The Workplace Relations Amendment (Compliance with Court and Tribunal Or-
Bill 2003 is designed to once again attack unions and otherwise try to provoke legitimate unions to respond to unworkable legislation. The bill seeks to provide a means by which the minister can seek financial penalties for noncompliance with orders of the Australian Industrial Relations Commission and the Federal Court. It also provides a default disqualification of officers and employees of registered organisations who are fined as a consequence of the penalty provision mentioned.

The reason for this bill seems to be that this element was not proceeded with at the time the Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002 was dealt with—and probably for good reason. I think the reason is as valid today as it was then: it is unnecessary and it is unworkable. This was highlighted back then. The arguments were put then, and I think that the reason the government dropped it then was that they were also persuaded that it was unworkable and unnecessary. It seems to me that in bringing it up again now Mr Andrews, the Minister for Employment and Workplace Relations, either feels it necessary to have another tilt at the windmill or, alternatively, has riding instructions from Mr Howard to have another tilt at the windmill. In any event, he is tilting at the windmill.

The Bills Digest suggests a lack of compliance with orders issued under section 127 of the Workplace Relations Act as one reason. However, when you read the report on this bill by the Senate Employment, Workplace Relations and Education Legislation Committee you see that very little evidence has been put forward to substantiate a provision as onerous as this being put in place to deal with those matters. The idea of an independent tribunal, the Industrial Relations Commission, is that it have the necessary powers within its own jurisdiction to enable it to deal with workplace relations, whether on a national basis—as Senator Murray might suggest—or at a local level.

The provisions are enforceable in the Federal Court under section 127(6) of the Workplace Relations Act anyway. The scheme of the federal act, which is similar to those of the states, has provisions which are designed to ensure that an independent tribunal has the necessary powers to both issue orders and enforce those orders and, if necessary, allow the participants in the system to consider whether or not Federal Court action should be taken. These matters rely on the parties to make judgment calls given the nature and length of the dispute and what the actual disobedience in relation to the dispute might be, rather than have a third party such as the minister decide—persuaded by other interests or other reasons—to act in relation to a dispute.

What the parties should be doing is getting over the dispute as quickly as they can and getting back to work—dealing with those sorts of issues rather than subsidiary issues whereby either party might have to deal with a minister who wants to enforce a particular order once the dispute itself has long gone. You might even have the ridiculous situation where both parties are asking the minister to desist, should this bill become law. You need to see that the parties are not left in the position of being unable to deal effectively with the dispute on their own terms, settle it and get on with their work where it is needed, letting the angst or anger that may have surrounded a particular matter slide into the background.

The reason for the additional provision is apparently that employers are, as the minister might put it, reluctant to enforce their rights in that court. It is suggested that the present law does not seem adequate. However, I think the onus is on the minister, if he is se-
rious about putting this bill up, to be able to say: 'Here is widespread disobedience in relation to orders. Here is a pattern of disobedience. Here is something that requires addressing.' There is none of that. That has been highlighted in the committee report, and I will refer to it should I have time.

In addition, it seeks to allow a person to go directly to the Federal Court seeking orders if the original order is not complied with, and the enforcement is available in the form of an injunction in the Federal Court. That is already there and available. The parties to the dispute are able to deal with it under the Workplace Relations Act. In circumstances where industrial action is being taken with the intent to coerce someone to make, vary or terminate a certified agreement—section 170NC—or is being taken during the life of a certified agreement—section 170MN—the parties may go directly to the Federal Court to seek an injunction. If the injunction is not complied with, a person may be exposed to a prosecution for contempt of court, which is punishable by fines or imprisonment. That is within the act as it stands.

There are also common law actions available to employers. These are generally referred to as economic torts. They include interference with contract, intimidation, conspiracy and interference with trade or business by unlawful means if they take unprotected industrial action. So you would have to say that the scheme of the Workplace Relations Act is comprehensive. Now we have the minister saying, 'Notwithstanding those provisions, I want to be an arbiter.' If Mr Andrews wants to be commissioner, I am sure the commission could invite him to come along or he could certainly put the cap on himself and go there. I do not think that is what he wants to be, but that is what he is setting himself up to be—or at least he will pass the enforcement provisions to his department. If he does not feel up to doing it himself in his own name, he wants the department to run around with a big stick.

The question is: why is the government pursuing this agenda? This bill has been around for some time. I think it was introduced back in February 2003. It was first introduced by Mr Abbott, who took over the reins from Mr Reith. I think I said the same thing then in relation to another bill as I have now. There was a unique opportunity for Mr Abbott to break with the past—to break with the views held by Mr Reith in relation to workers and workplace relations which were negative and wrong—and to start a reasonable dialogue about industrial relations and take a cooperative approach. Mr Abbott chose not to do that. That was his decision. There is nothing I can do about that. I think it was wrong, I think it was short-sighted and I think it was a very poor decision to make.

Mr Andrews has been offered the same choice. He has the same ability to take a cooperative approach in industrial relations and to do something different. He could say, 'I am the Minister for Employment and Workplace Relations and I do not have to follow Mr Reith and Mr Abbott.' Unfortunately, it appears that he is going to fall into line and march to the same tune. It is a shame, but it is really not surprising, because all along the instructions have been coming from Mr Howard. When you see that pattern develop over time, I do not think you can jump to the conclusion that they all have the same view. I think they have been following the song sheet given to them by Mr Howard. It is probably time Mr Howard broke with the past and actually put the hat on himself and said, 'Not only am I Prime Minister but I am also minister for everything.' That seems to be what the coalition allow him to do. It appears to be a particular Liberal tradition to be a follower rather than to strike out, do some-
thing more innovative, talk to people, be co-
operative and deal with issues as they arise.

When you break down the reasons for the
bill, I suggest they disappear. There is no
reason to put forward this bill. It is not fixing
an existing widespread problem. It is not
fixing a slip in the legislation. It is not ad-
ressing a wrong that might exist. It is sim-
ply an onerous provision which is being
placed before the Senate to highlight again
how tough the coalition government is on
workplace relations—or how tough Mr An-
drews is. I do not think it actually proves that
at all. At a minimum, you would expect that
the government could demonstrate that the
present powers are deficient or lacking in
some way, but the explanatory memorandum
does not go there. The government cannot,
and have not in this debate, point to any
great deficiency. The government have pro-
duced some rubbery figures about who has
not complied with court orders, but that does
not actually highlight what the issue is. They
have simply plucked out figures and said,
‘Here is a number of court orders that have
not been complied with.’ But they have not
provided a snapshot of the reasons, such as
both parties disengaging from the order
themselves, or the parties settling the dispute
by deciding to not proceed with the orders
because the primary aim was to get back to
work or, in other words, to move on.

It sometimes strikes me that this govern-
ment has no workplace relations agenda.
Some of these matters really came from con-
sideration of the provisions of the earlier bill,
the Workplace Relations Legislation
Amendment (More Jobs, Better Pay) Bill
1999. It was colloquially referred to as the
More Jobs Better Pay legislation. As I said
earlier, it related in part to the registration of
organisations, and it is now a separate piece
of legislation here. That was also a favourite
tactic of Mr Reith: if he could not get an om-
nibus bill, he would slice it up and deal with
it in a piecemeal fashion to take the time of
the Senate. I think the Liberals hanker for the
days when workers were expected to tug
their forelock and say, ‘Yes, Sire.’ It seems to
me that is the only reason you would seek
the type of legislation that is now before the
Senate. A number of bills have been intro-
duced, all of them designed to provide some
punitive measure against workers or their
unions.

As I have said, we have many workplace
relations bills before the Senate. The gov-
ernment has struck another hole. It is not
simply a hole in the need for the bill but a
hole in its legislative agenda. All these bills
have been hanging around for some time,
and I doubt if the government is particularly
serious about any of them. The reason for the
bill can only be either to fill the program as
the government has no real legislative
agenda or that the minister is trying to fill up
the program on behalf of his colleagues be-
cause they do not have any legislative
agenda. The only other possibility is that Mr
Andrews is trying to make a name for him-
self and whip up a bit of hysteria amongst
unions by doing a bit of union bashing. Per-
haps I should give him a little more credit
than that. Reith tried it and failed; Abbott
tried it and failed. I do not think Mr Andrews
would do it a third time, but it is always po-
tentially open to him to consider it. Either
way, I suspect Mr Andrews is hoping that
recycling the ideological agenda of others
might help. In fact, it is counterproductive
and reflects badly upon him.

Industrial relations in Australia is in need
of fairness, honesty and integrity—qualities
which I think are lacking in the government.
On the other hand, we have a government
that promotes greed in the corporate world
but that tries to enforce strict compliance in
the workplace relations area, where the rules
and legislation are designed to ensure that
the work force is shocked into complying
with the wishes of their bosses. The government is not really serious, in my view, about this bill. There are many other areas it could turn its mind to addressing rather than attacking unions or workplaces with this type of legislation. If the government were really serious, it could look at the corporate world and deal with that.

The real sting in this legislation is that the minister, it appears, wants to be an industrial police person. The bill states that the minister is to be the person to make an application under this part for a contravention of these provisions. The minister has, it seems, taken the view that the employers are incapable of engaging in constructive dialogue with their employees about structuring a win-win in the workplace. I think at the end of the day what Mr Andrews is really saying is that he has no confidence in the ability of employers to deal constructively in the workplace with industrial relations. There appears to be no great desire by the employers, or no stampede by the employers, to support Mr Andrews on this bill.

I alluded earlier to the Employment, Workplace Relations and Education Legislation Committee report. The committee dealt with three bills, but its report on this bill states at paragraph 1.36:

Further, ACCI supports the provisions of the bill, but indicates in its submission that two amendments could be made to enable the Senate to endorse the bill—by limiting automatic disqualification to certain types of non-compliance or by providing for a general discretion to order disqualification.

What they are really saying, as to the main thrust of the bill, is that they would rather amend it than see it introduced in the form that it is currently in. The ACCI have indicated their view on these sorts of things and I do not think the bill finds general support among other employers. The government has been at pains to point out how necessary the bill is but I think on the whole it has failed to convince anyone that it is really necessary. It is likely that, given the opportunity, the minister will in his summing up plead his case, but I do not think he will be able to demonstrate that there is a need for this type of legislation, and the support that he might otherwise garner is not there to demonstrate its need either.

The bill does nothing to ensure that there is equity in the workplace. The bill does nothing to ensure there is integrity in the workplace. The bill does nothing to ensure there is even good-faith bargaining in the workplace. One of those areas dealing with good-faith bargaining is something that the minister could champion if the government so desired. In February, the Howard government decided to advocate in the wage case before the Australian Industrial Relations Commission a $10 a week increase. The states supported a $20 a week claim, which also had the backing of federal Labor. This case provides a stark contrast. On the one hand you have a government that says to workers, ‘What we want to do is introduce punitive provisions. What we want to introduce will ensure that you do not get a fair increase in wages.’ On the other hand you have a government that says, ‘Trust us, we know what’s best.’ I think the writing is clear: this government has failed to deal with workplace relations and has failed to turn its mind to how to ensure that there is cooperation in the workplace.

When you look at comparisons with the corporate world, you see that this government has done nothing to rein in the greed and excesses that exist there. So on one hand you have the government saying, ‘Look, we don’t want workers to get more than a $10 increase,’ but, on the other hand, you have the ex-CEO of Southcorp, Mr Keith Lambert, who took home a $4.4 million package after only 18 months in the job; David Hig-
gins, the ex-CEO of Lend Lease, who took home $8 million, despite his company recording a huge loss that year; and David Murray, who took home $2.5 million from the Commonwealth Bank, despite a slump of 24 per cent in the profits of the bank that year. I think the government sometimes misses the message, but the people in the community do not: they understand very well what those figures mean and how much those in the corporate world are getting away with in terms of corporate greed and excesses—and this government is doing nothing about it. They also know what this government is trying to do in industrial relations, which is counterproductive, hurtful and designed to ensure workers do not get a fair and even break. That position that the Howard government has adopted is not lost on the community. It does not sit well. It is a sad story when the government intervenes in the commission but does nothing about the corporate greed that runs amok. (Time expired)

Senator Ferris—And what about the teachers strike?

Senator Nettle—That’s right. I am sure that the power workers and their unions—the Electrical Trades Union and the Australian Services Union, who have recently been threatened with draconian essential services legislation by the Victorian Labor government—would question that allegation by the Prime Minister. So would the New South Wales rail workers and train drivers faced with a Labor government that has attacked train drivers and tried to shift the blame for a failing rail system onto the workers. I am sure the hospital nurses who had a stop-work meeting called by the Australian Nurses Federation at Moonee Valley racecourse in Melbourne this week would have a view different to the Prime Minister about the role of the Bracks Labor government. So would the New South Wales TAFE teachers who, along with students, are pursuing a campaign, led by the NSW Teachers Federation, against increased fees and attacks on public education by the NSW Labor government. They, despite opposition from the state government, will take industrial action next week—and the Australian Greens support them.

I am sure that the Australian Education Union, which led primary and secondary teachers yesterday in the teachers strike, a Victoria-wide strike, would beg to differ with the Prime Minister as the state Labor government attempts to make teachers work more for less. I take the opportunity to put on
record the support of the Australian Greens for the teachers and the Australian Education Union as they defend their interests and the interests of students—and their parents—in the public education system. The system needs to be defended rigorously, as we see time and time again this government pouring public funds into private and non-government schools at the expense of public school education. We saw it again this week, with the government boosting funding for the non-government sector by $362 million. This is at a time when 70 per cent of students are in the public education system, yet we see this government providing the public education system with only 30 per cent of total federal funding for our schools sector.

This government has been attacking, and continues to attack, public education. The Greens will always support the rights of teachers, unions and the public education system. We express our solidarity with the Victorian teachers and the New South Wales TAFE teachers and with the many students and parents who have been on the streets this week—and will be again next week—in seeking to stand up and defend a strong public education system in this country.

The Prime Minister’s agenda is clear. He wants to turn industrial relations into an election issue. He describes it as his job to ‘drive home the risk’ of his government losing the next election. He can say what he likes. We have heard it all before. We heard it all with the government’s attack on the Maritime Union of Australia and we continue to hear it with this government’s multimillion dollar splurge on a royal commission witch-hunt against the unions in the building industry. But working men and women in this country will not believe the Prime Minister. His tired excuses and fear mongering are not working any more. He is running out of lies, and this bill—as well as other industrial relations bills before the Senate—will be seen for what it is: an illegitimate grab for unjustified powers to attack unions’ right to organise.

It is not the first time that we have seen these provisions. The government tried to introduce these provisions as part of the Workplace Relations (Registration and Accountability of Organisations) Act 2000. The government withdrew the provisions at the time so as to ensure the support of the opposition in passing other elements of the bill. We should not be seeing deals on this bill, and I am glad that senators who have spoken in this chamber have expressed their opposition to this bill. Let me place on the record that I am proud of the Greens’s opposition to the government on industrial relations and on a range of other matters.

**Senator Abetz**—You oppose everything.

**Senator NETTLE**—Senator Abetz can add up as many times as he likes how many times the Greens have voted against the government, because I am proud of that record. I am proud to stand up against the attacks of the Howard government on workers and on those who come to this country to seek asylum. I am proud to stand up on a whole range of issues on which the Howard government is attacking working Australians, rather than supporting them, which is what we should see the government doing.

I will turn now to the detail of this legislation. The bill seeks to amend schedule 1B of the Workplace Relations Act in the following ways. Firstly, it requires the automatic disqualification for five years of persons—unless leave has been obtained from the Federal Court—from holding, from election to or from appointment to office if the court has imposed a financial penalty on that person for breach of provisions relating to the keeping of records, auditing and reporting to members.

Secondly, it seeks to create a number of new civil penalty provisions applying to offi-
cers and employees of organisations, including doing anything which would cause an organisation to contravene an order or direction of the commission or the court; doing anything which would contravene an order if it had been made against him or her rather than the organisation; contravening an order or direction applicable to the officer or employee; and, as an officer or employee of the organisation, being involved in any one of the above contraventions.

Thirdly, it seeks to create a civil penalty provision applying to members who breach an order or direction applying to them. Finally, it provides for penalties of up to $11,000 for an organisation and $2,200 for an individual. The workplace relations minister has said in relation to this bill:

People of a mind to defy the commission or the court ... will face heavy fines and possible disqualification from office, if this government gets its way.

It is clear that the minister and the government want the power to wade into any industrial dispute and take the side of the employers against the workers. There is no semblance of impartiality or responsibility on the part of the government. It is our view that a balanced perspective on industrial relations should not support this approach. The workplace relations minister has said in relation to this bill:

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The International Labour Organisation’s Committee on Freedom of Association is very clear on this issue. It states that even a criminal conviction should not be a barrier to union office unless it is a criminal act which, by its nature, is such as to constitute a real risk for the proper exercise of trade union functions. Clearly, minor civil penalties, whilst onerous for the recipient, do not justify disqualification. The ACTU, in evidence to the Senate Employment, Workplace Relations and Education Committee, compared the provisions of the bill to provisions of the Corporations Act relating to the disqualification of company directors. They said:

... automatic disqualification of company directors and officers occurs only in the case of serious criminal offences, a significantly more limited...
The Agricultural and Veterinary Chemicals (Administration) Amendment Bill 2004 and the Industrial Chemicals (Notification and Assessment) Amendment (Rotterdam Convention) Bill 2004 make provision for Australia to meet our international obligations on the importation, manufacture and export of active constituents or chemical products. In August last year the government announced that it had initiated the process of ratifying two treaties on the management of chemicals, those treaties being known as the Stockholm Convention on Persistent Organic Pollutants and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. The titles are certainly a mouthful, but these are very important international conventions we are signing up to.

Under these conventions, Australia is required to undertake certain action in relation to pesticides and industrial chemicals related to their importation, exportation, manufacture and use and is also required to establish certain provisions for the collection and use of information related to pesticides and other hazardous chemicals. In brief, these conventions put requirements on countries, particularly those that are exporting chemicals to other countries, to ensure that the appropriate information regarding their hazardous nature, their impact upon human health and other effects are communicated.

The amendments in these bills provide new penalties for not supplying the required information or for supplying misleading or false information. They also require that records be kept for up to four years. I understand that these are not catch-all information bills but relate to those chemicals identified in those international agreements. The Labor Party supports the government’s decision to ratify these treaties and therefore we will be supporting the bills before us today.

The World Health Organisation has noted that during the 1990s about one million people across the world were poisoned and a further 20,000 died each year after coming into contact with dangerous pesticides. That is an alarming figure and it is certainly one we should be cognisant of to ensure that our environment and people, particularly those involved in agriculture, are not affected by the improper use of agricultural chemicals. Of course, all levels of government have an important role to play.

I recall that when I was a union official there were campaigns being run in the United States by Caesar Chavez, the leader of the US farm workers, who organised the farm workers in California. Many of them were very poor people, including immigrants from other countries, particularly South America. There were some terrible practices that went on in the agricultural sector over there, including the indiscriminate spraying of pesticides and chemicals whilst the work-
ers were actually in the fields. Some of the actions that were taken by the employers at the time in seeking to prevent the union from trying to rectify these terrible practices included resorting to violence against the workers and the officials. I am glad to say that the efforts of Caesar Chavez to fix up the industry will long be remembered.

The provisions of this legislation will certainly strengthen our reputation and position as a producer of safe and clean food. The use of chemicals and pesticides in Australia is substantial. Avicare, the peak industry body representing the agriculture and veterinary chemicals industry, estimates that the industry as a whole has annual sales of $1.9 billion and that it directly employs over 2,000 people. These people are employed in large and small businesses across the length and breadth of this country; many of them are employed in rural and regional Australia. There is, of course, a growing public debate in Australia and throughout the world on the use of chemicals and pesticides in the production of food. It is really a debate that cannot be ignored by farmers and by the manufacturers of chemical products. They must engage sensibly in this debate.

It is a fact that Australian agricultural production systems have been developed in the past with the use of chemical fertilisers and pesticides. In key sectors their use is important in maintaining the enormous gains in productivity that have been achieved over the past three decades. Chemical fertilisers and pesticides are important to the overall profitability of farm enterprises, and I believe it is fair to say that farmers’ understanding of and skills in the use of chemical fertilisers and pesticides have improved dramatically over the past two decades. Farmers and their representative organisations have taken an active role in educating fellow farmers and workers about the use of chemicals and pesticides, and governments of all political persuasions at state and federal level have also played their part in improving awareness of the use of chemicals and fertilisers.

All governments must continue to play a strategic role in ensuring that, if chemicals and fertilisers are used in the production of food, they are used in a safe manner and in the national interest as well as in the interest of the farming community. I must say that Australia’s position in the international marketplace is indeed a strong one. We have an image as a clean and green supplier and that has propelled international demand our way when things have gone wrong in other countries.

In conclusion, I want to highlight a shift in the attitude of this government to the quarantine regime in this country and the potential impact of that changed approach on rural industries and chemical use. In recent weeks the Minister for Agriculture, Fisheries and Forestry, Mr Truss, has approved pork imports from a wide range of countries and has signed off on draft assessments that support the importation of apples and bananas.
opposition to these decisions by the minister, with significant question marks over the science on which they were based. If the minister has got it wrong and the industries have got it right then, clearly, importing these products may well introduce a number of diseases not present in this country. If that happens, clearly the use of chemicals and pesticides to combat such diseases will skyrocket. That of course will then be the end of our reputation as a clean and green producer of food. That is why the government must get its quarantine regime back on track. It must get science back into the debate. I would urge the parliamentary secretary to convey these views to the minister directly. I know that as a farmer herself she would be vitally interested in that.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.53 p.m.)—I would point out again that those recent remarks by Senator Forshaw have nothing to do with this bill. These bills are essential to fulfilling the Howard government’s intention that Australia ratify both 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. These bills are a very important step for Australia to be making and they enhance Australia’s credentials in this area. I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

Third Reading

Bills passed through their remaining stages without amendment or debate.
came from Labor. When the office of the Attorney-General was questioned on this matter Labor was told that the Attorney-General consulted the Aboriginal and Torres Strait Islander Services, ATSIS, the prescribed agency created by Mr Ruddock on 1 July last year in some respects against the advice of the Australian Government Solicitor. I would point out that ATSIS is an administrative body not a representative body. I am not sure whether Mr Ruddock expected a pat on the back from Labor for consulting an executive agency of government—an administrative body not a representative body—but, if so, he will be a long time waiting. Mr Ruddock understands more than any other person in the country that ATSIS does not represent Indigenous interests. As I said, it is an administrative body.

As a result of administrative changes introduced by Mr Ruddock as Minister for Immigration and Multicultural and Indigenous Affairs, ATSIC cannot issue directions to ATSIS on any matter. As an agency of the government, ATSIS undertakes the work of the government, and not ATSIC. That much is confirmed by the advice Mr Ruddock received from the Australian Government Solicitor in April last year. It is also confirmed by the recent advice to the ATSIC board from Mr David Jackson QC. I will explore this matter further at another time, but in the context of the current bill I want to note the government’s failure to consult Australia’s peak Indigenous representative body, a body which under the legislation is charged with providing advice to government. This body was not asked for any advice on this matter by the government. But Labor did seek advice from ATSIC. We understand that ATSIC does support the extension of the life of the committee and we are mindful of that in taking our decision to support this legislation.

I want to note another matter raised during the debate on this bill in the other place. The matter concerning the workability of the native title system relates to the role of native title representative bodies. We are all aware that these bodies have a crucial place in the native title system. During the debate in the other place, Mr McMullan said that it was desirable for the committee to have a close look at the support for these bodies. In the short time that I have had the responsibility for reconciliation and Indigenous affairs matters on behalf of the opposition, I have received numerous representations on funding issues associated with the operation of native title representative bodies, and I do hope that the extension of the committee’s life will give it an opportunity to address these matters in some detail.

I commenced my remarks by noting comments made by Mr McMullan and Mr Snowdon relating to the future consideration of native title issues. In that regard, I foreshadow that Labor will support the second reading amendment to be moved by the Democrats, calling on the government to give consideration to the future of the committee no less than six months before its expiry. I must say I am looking forward to considering that matter in government. I am pleased to indicate Labor’s support for the passage of this bill.

Senator RIDGEWAY (New South Wales) (1.00 p.m.)—I also rise today to speak on the Extension of Sunset of Parliamentary Joint Committee on Native Title Bill 2004, the purpose of which is to extend the operation of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund until 23 March 2006. The Democrats support this bill. The committee has played a vital role in the parliament’s oversight of the developments of native title, and its continued existence as a monitoring body, in my mind at least, is vital.
When the Mabo decision was handed down, many Indigenous people were heartened by the prospect that native title legislation would enable them to get a result that would deliver better legal protection of our cultures, especially in relation to significant sites and objects. We did not see that aspect of Mabo, certainly in how the legislation was formed, eventuate. Whilst we ended up with the Native Title Act, its amendments following the 1996 Wik decision have rendered it nonbeneficial in its effects on Indigenous people by licensing governments to racially discriminate against Indigenous peoples. So, in many ways, I regard it as a spectacular failure in delivering on its promise. When the Australian parliament enshrined the 10-point plan in law, it compromised the basic legal principle of equality before the law and undermined the goodwill and the potential for Indigenous advancement that had been embodied in the Mabo and Wik decisions. I think it reminded us of just how vulnerable Indigenous rights are and how erroneous the assumption of a level playing field is.

The system is clearly flawed—which is no news to anyone in this chamber—but, having said that, it is important to state that there have been some important runs on the board in terms of native title outcomes over the last 10 years. This is particularly so for ordinary Australians, both black and white, who have had to grapple with native title issues at the local level. While good working relationships have been developed between Indigenous communities, local governments and other interest holders in some areas, there are many more stories of ongoing frustration and despair at the persistence of discrimination, historical denial and disrespect. It is therefore extremely important to make sure that the monitoring mechanisms remain in place to oversee the implementation of this act, the effectiveness of the various bodies that exist under the act and the progress of the agreements that are made under the act.

We have been assured by the government that native title is becoming settled and more bedded down. They say that recent decisions in the cases of Ward and Yorta Yorta have clarified many of the principles underpinning the act. They say that as the understanding of these issues strengthens so does the agreement making process. This is the rationale used for saying that there is no need for a parliamentary committee to continue its monitoring process for any more than the next two years and that a decision on any further extension of the committee’s life would be up to the next parliament. I cannot agree with the government’s assessment that everything is now settled down in native title. Sure, there are the success stories, but taken as a whole the anecdotal evidence suggests otherwise. Native title and its associated processes will be settling in for some time to come. I attended the national native title conference in Alice Springs last year, as did Senator Johnston—and I believe that he is still the chair of the joint parliamentary committee—and I think it was fairly clear from all of the stakeholders involved at that conference that there are still many issues that need to be resolved.

It is important that a committee such as the Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund remains in existence as an ongoing review and monitoring body. I think this is especially important given the government’s desire in another bill to assimilate the specialist position of the Aboriginal and Torres Strait Islander Social Justice Commissioner of the Human Rights and Equal Opportunity Commission into a generalist commissioner position. I personally consider this to be a retrograde step not only because of the social justice commissioner’s important role in promoting respect and understanding of the
human rights of Indigenous people—and, indeed, of all of us—but also because of their responsibility to examine legislation, or proposed legislation, and other enactments for their impact on the human rights of Indigenous Australians.

It is in this context that the social justice commissioner reports yearly on native title and, along with the existence of the joint committee, the role provides a vital monitoring mechanism for the operations of the act. If the government is also proposing to do away with the social justice commissioner, who looks at this question, then I think it highlights the need for someone else to look at it—and the joint parliamentary committee has that role. If the bill is not passed in this sitting, the committee will cease to exist on 23 March and this important monitoring mechanism will no longer exist. I personally regard the extension of the committee by another two years as arbitrary. Why not extend it by five years or six years, as has previously been done? It is a time frame that has been plucked out of thin air. Neither the former minister, Mr Ruddock, nor the government have provided any rationale for this decision. Hence, the Democrats are putting forward a second reading amendment. We will support the bill. I thank senators in the chamber for their support for this legislation. The government will be supporting the Democrat amendment, and I commend the bill to the chamber.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

AUSTRALIAN CRIME COMMISSION AMENDMENT BILL 2003 [2004]

Second Reading

Debate resumed from 4 December 2003, on motion by Senator Hill:

That this bill be now read a second time.

Senator GREIG (Western Australia) (1.09 p.m.)—The Australian Crime Commission Amendment Bill 2003 [2004] seeks to make a range of changes to the way in which the Australian Crime Commission operates. Senators may recall that the ACC was established to replace the National Crime Authority, the Australian Bureau of Criminal Intelligence and the Office of Strategic Crime Assessments. The purpose of the ACC is to
collect and analyse criminal intelligence and to investigate federally relevant crimes. The original legislation proposed by the government raised some very serious concerns. However, significant improvements were made when the government chose to adopt 13 of the 15 recommendations made by the Parliamentary Joint Committee on the National Crime Authority. The bill was further improved when the government supported amendments moved by the Democrats in the Senate.

The bill before us contains a number of amendments designed to deal with practical difficulties which have arisen since the ACC commenced operations on 1 January 2003. Many of the amendments are minor and uncontentious. There are some which the Democrats welcome—for example, the addition of the intergovernmental committee to the list of bodies on which certain duties, functions and powers under state laws may be conferred. During debate on the original legislation, I expressed the serious concern of the Democrats that the primary oversight of the activities of the ACC—previously the NCA—was being transferred from the intergovernmental committee to the board of the ACC. While the IGC comprises elected ministers who are accountable to the parliament, the ACC board comprises a range of police commissioners and agency heads. This transfer of responsibility was significant because it was essentially a transfer of oversight from an elected ministerial group to an unelected board of police commissioners and public servants, which lacks the same level of accountability, certainly to the parliament. This was of particular concern, given that it included a transfer of power to authorise the use of coercive powers, and this was an issue raised by a number of submissions to the committee. For example, the Law Council of Australia noted:

The idea of a police force having a power to compel a person to attend a ‘hearing’ and be compelled to provide answers is simply unheard of in Australia.

It further suggested:

The potential for police interest to dominate key decisions may undermine public and governmental confidence in the ACC.

Mr Denis Lenihan, a former CEO of the NCA, noted in his submission that, in determining whether an investigation or operation is a special investigation or operation, the ACC board must consider whether ordinary police methods of investigation into the matter are likely to be effective. He asked the question:

Is it not paradoxical—or even suspect—that persons from those very agencies whose methods have been ineffective will now be in the position of authorising the exercise of powers designed to remedy those defects?

During debate on the original legislation, I expressed the Democrats’s view that we would like to see the power to authorise special investigations and operations retained by the IGC, and this remains our position. However, we do welcome the additional conferral of powers on the IGC through this bill. There is of course a retrospective provision in the bill, which dates back to the commencement of the original legislation. The Democrats have a long and proud record of opposing retrospective measures, particularly where they affect the rights and liabilities of individuals, although we do note on this occasion that the retrospective provision contained in item 17 of schedule 1 is essentially a transitional provision aimed at facilitating the transfer of power and operations from the NCA to the ACC. Item 17 will, for example, operate to ensure that any causes of action which a person may have had against the NCA will not be affected by the changes to the name and constitution of that organisation.
The explanatory memorandum explains that item 17 also fulfils an undertaking made by the Minister for Justice and Customs to the Senate Standing Committee on Regulations and Ordinances. That is because it will facilitate the transfer of telecommunications warrants from the NCA to the ACC. That issue was previously dealt with under the Australian Crime Commission establishment transitional provisions regulations, and the regulations and ordinances committee had expressed concern that it was contained in delegated legislation.

In closing with these few remarks I will take the opportunity to express the Democrats’ concern that we are yet to see the first annual report from the ACC. This issue was recently canvassed during budget estimates, and the ACC indicated that the delay has been caused by the requirement for the report to be signed off by the various stakeholders. The Democrats appreciate that the membership of the ACC is broad and that it encompasses different levels of government. Of course it is important that the annual report is agreed upon by all stakeholders; however, we do find the excessive delay in producing the report a little ironic, given that the primary justification for the establishment of the ACC was to institute a more efficient and effective regime.

At the time of the original legislation, it was unclear whether the establishment of the ACC would actually produce the gains and efficiencies claimed by the government. There is some reason now to doubt this. When the report is eventually released, it will provide an important insight into the operations of the ACC since its establishment and a vital tool to the parliament in ensuring the accountability of the new organisation.

The ACC has had some notable successes since it commenced operations. I note, for example, the seizure of some 735 firearms on 15 November last year, following a long-term investigation. I take the opportunity to reaffirm that the Democrats will continue to monitor closely the operations and effectiveness of the ACC. It is an organisation that exercises incredibly invasive powers, which I have previously discussed, so scrutiny is ongoing and important. Whilst we retain some of our original concerns in relation to this organisation, we will always be open to considering genuine proposals to improve the way in which it operates.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.16 p.m.)—I thank senators for their contributions to the debate on the Australian Crime Commission Amendment Bill 2003 [2004] and I table a correction to the explanatory memorandum. This bill will make some minor adjustments to the Australian Crime Commission Act 2002, the Administrative Decisions (Judicial Review) Act 1977 and the Australian Postal Corporation Act 1989. The need for these amendments has been revealed through practical experience since the establishment of the Australian Crime Commission on 1 January 2003 and through the preparation of corresponding state legislation. The amendments are necessary to ensure that a workable legislative framework is in place to enable the Australian Crime Commission to effectively combat serious and organised crime across Australia. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.
INDUSTRY RESEARCH AND DEVELOPMENT AMENDMENT BILL 2003

Second Reading

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

That this bill be now read a second time.

Senator CARR (Victoria) (1.18 p.m.)—

The Industry Research and Development Amendment Bill 2003 makes a number of constructive changes to the administration and powers of the Industrial Research and Development Board, and the bill will be supported by the opposition. However, that is subject to the second reading amendment, which I will return to later in my remarks. This bill does not absolve the government from blame for the R&D stop-start problems that they themselves have created. They have caused a lot of uncertainty for many innovative small businesses and they should not be trying to shift the blame onto the Industry Research and Development Board. I hope this bill does fix those problems, but the problems should not have occurred. They occurred because of actions of the government, not of the board.

The most arresting feature about Australia’s research and development performance under the Howard government is that business expenditure on research and development has fallen nearly every year since 1996. Private sector expenditure on research and development as a percentage of GDP remains below what it was under the previous Labor government. This is directly contrary to international trends and experiences. It is an indication of how it is that we are slipping behind the rest of the world. This is not a sign of a modern, advanced economy. We must invest more in research and development because it is one of the key drivers of future productivity.

The OECD has noted the clear correlation between the increased intensity of business funded R&D as a percentage of GDP and productivity. The OECD has also observed that increases in the share of business R&D in the overall R&D effort of a country are also a key factor in productivity trends. Under the Hawke and Keating Labor governments, this trend went up consistently. Under Labor, business expenditure on research and development rose steadily as a direct result of government policy designed to encourage such a trend.

Our general performance in research and development is also evidence of the Howard government’s comprehensive failure to provide support to public sector research. Australian research under this government has fallen behind that of our international competitors. We have failed to invest in our well-being and in our future. Not even the much heralded Backing Australia’s Ability reforms have proven effective in sufficiently turning around the problems emerging in this sector of the economy.

After the 2004 federal election, Labor hopes to be in a position to reverse this trend and to correct the government’s failures. As we look at where we stand now by international standards in terms of private sector and commercial and public sector R&D policy, we can see a situation that desperately needs to be turned around. We need to have the courage to evaluate our own performance against the backdrop of global realities. That reality includes the fait accompli of what the government is trying to impose as part of the US free trade agreement. We ought to understand the broad-ranging implications of that agreement. It is a reality that includes the continuing buoyancy of the Australian dollar. Irrespective of the day-to-day trends, the continuing rise in the dollar has imposed considerable pressures on our competitive capacities, particularly for our exporters.
On the national scene we face many challenges and problems—not just economic challenges but environmental and social problems as well. We need to lift our research performance to address those issues. We will not advance the welfare of our citizens or the prosperity that they deserve unless we do. The bill before the parliament goes to private sector research performance. There are at least 23 individual companies, based in the United States, Germany, the United Kingdom, Japan and elsewhere, which all invest greater amounts in those countries than they do in Australia. We have a policy framework that does not encourage private sector investment, and the private sector is not responding well by international standards. We cannot expect a strong performance from business unless it has the resources available to do so, and that is where the government can intervene to assist.

We cannot expect a strong business R&D performance unless the policy parameters are available to facilitate genuine collaboration between the public and private sectors with regard to research. I think it is important to evaluate where we stand with regard to these issues. If we look at public sector research agencies such as the CSIRO, the situation is, quite frankly, very poor. Many of our young researchers are being forced overseas. Many of our young researchers simply do not have access to the research infrastructure that is needed to ensure that they are able to perform at the top of their field.

Public research agencies are generators of strategic research. They simply do not have the capacity to deal with real world problems facing this country and Australian industry, whether it be in the environment, manufacturing, agriculture or advanced technology developments, simply because the money that is being provided is not sufficient to maintain capacity with regard to our research infrastructure. The recent mapping report, produced by the Chief Scientist, highlighted those difficulties.

The Howard government has fallen down in the discharge of its responsibility in public sector research funding and policy. In my judgment it has pursued an agenda that is far too narrow. It has given priority to short-term commercially orientated projects which, in many cases, have not produced the goods. It has neglected the crucial research areas of the social sciences and humanities. It has pursued competition, rather than encouraging collaboration which would maximise the effective use of scarce resources, including in particular precious human resources.

We have to face up to simple facts. We have a deteriorating research infrastructure in this country. Scientists are increasingly having to use patched up and makeshift equipment. Access to advanced IT facilities is far too limited. There are places in this country where our broadbanding capacity is 1,000 times behind that of our international competitors. University libraries are reeling from the effects of continuing funding cuts. They have had to cut back drastically on acquisitions and services. It is no wonder that our senior scientists and other scholars are heading off overseas at breakneck speed. They do not have to go to the United States. Countries like Singapore offer hugely more attractive research facilities than we can afford to provide. Increasingly it is the case that private firms are choosing to set up manufacturing in Singapore because we are not able to provide that research infrastructure in this country.

We have a weakening research capability. There has been a continuing downward trend in the research capability of many universities outside the select group of eight, of which four or five are performing extremely well. The government rammed through the Senate in the sittings last year a series of higher education measures that will leave
regional universities and those in outer metropolitan areas so much the weaker. In a number of key institutions in the outer regions of Sydney and Melbourne, this funding package actually undermines their long-term financial viability. The University of Western Sydney and Victoria University of Technology have been badly hit by the changes that the government forced through the Senate last year.

There is an erosion of public research agencies such as the CSIRO. Last year they asked for a $120 million increase in their budget allocation, but they got $20 million. For three years in a row they have sought triennial funding to give them some security, some measure of confidence, but they have been knocked back. This year they are asking for $170 million. We will see how they go very shortly. If we look at our overall national investment in R&D in comparison with the United States, the United Kingdom or Canada, we are falling behind. We are slipping behind our major competitors in key international performance indicators, such as publications and the capacity to attract world leading scientists and researchers. Increasing numbers of our experienced researchers are obliged to work overseas. There is a wastage of our intellectual property, where increasing numbers of our great ideas are being commercialised offshore. We are exporting jobs as a result of our failure to turn good ideas into jobs in this country.

We see a poor uptake of Australian inventions by Australian business in this country. There is an extraordinary break in the cultural understanding both in universities of business and in business of universities. The net result has been a loss of opportunities for innovation in products and services and for improvements in productivity. We see an extraordinary imbalance in the short-term and long-term research needs of our cooperative research centres, our universities and our public research agencies. We have a situation where, in particular, the humanities and the social sciences are essentially left out of the equation. If anyone in their right mind tells you that you can undertake major research in this country today without an interdisciplinary approach, then they are missing the whole point. How can you address the big questions like salinity by concentrating only on one aspect of a scientific inquiry? There is a whole range of social and other measures that need to be examined on issues such as that. We need to have the insights of psychology, organisational management, economics, foreign languages and business cultures. All of those things are left out of the current priorities that the government has set for its research spending.

We see a massive decline in the quality of maths and science teaching in our schools. We have a situation where there are far too few people being attracted to the enabling disciplines of science, engineering and technology within our schools and universities. We have a situation within our primary schools where it may well be that up to half of our teachers are not qualified in maths and science yet are taking children in those studies. How can you inspire and encourage people to take up these very important disciplines when the teachers are not properly qualified to teach them?

We have a problem regarding the atomisation of the relationships between research funding agencies and research institutions. Essentially, the approach to the funding of research in this country of the different agencies of government and our public institutions is extraordinarily disjointed. No wonder it is almost impossible for the private sector to understand how these things are actually funded when there is so little understanding apparent within the public sector itself, and particularly within the main managers of the public sector—the government.
It is no wonder that we have a massive array of reviews under way by the government; some 10 separate reviews into research funding were undertaken last year by the government. Four or five key reports have been suppressed by the government and have been sitting on the minister’s desk since October last year. No wonder these reviews have been undertaken in such secrecy—the government is beginning to hear the message that the situation with regard to research funding in this country is a long way short of what it should be.

In the forthcoming months there will be a major debate in this country about the direction of research funding. We are looking forward to the government’s statements with regard to Backing Australia’s Ability II; we are looking forward to seeing just how much money is allocated. The department of education has given me an estimate that $1 billion per year will be required just to maintain the funding programs of the current Backing Australia’s Ability. We look forward to seeing how much of that continues into the new period. We all understand that the financial cliff is approaching, because the money has not been put in the budget beyond the current forward estimates period.

Labor will put forward very strong alternatives to the way in which the government is proceeding. We will be seeking to encourage the public to take a far greater interest in these issues, because these are the key drivers of economic growth by driving productivity improvements. These are the keys to providing us with some protection from the shocks of the international marketplace. There are fundamental needs that require the reform of research funding and policy in this country. This bill tinkers; it is a tinkering bill. It is designed to fix a few problems of the government’s own creation. That is why we are moving a second reading amendment to this bill, which I understand has the support of the chamber. I move:

At the end of the motion, add “but the Senate notes the importance of research as a driver of economic growth and condemns the Government’s failure to stimulate private sector investment in research and development and to adequately invest in public research and development”.

Senator STOTT DESPOJA (South Australia) (1.34 p.m.)—I indicate formally that the Democrats will be supporting the second reading amendment that has been circulated in Senator Carr’s name on behalf of the opposition. We certainly agree with the sentiments contained in that amendment. If I ever doubted the worth or power of second reading amendments, for me today has been another reminder of how they can have an impact: the launch of the ALRC’s review paper into gene patents and human health—of which I am sure most senators are aware—is the consequence of a second reading amendment I moved in 2002 to the human cloning legislation. That will be another significant debate in the science area, biotechnology in particular and more specifically the patenting of genes and gene sequences—something that members of this chamber know I have been rabbiting on about since 1996. Perhaps, as a consequence of this inquiry, we might actually have legislation in this field—if not debated then at least introduced—but, having said that, I do have a bill on the Notice Paper.

In relation to the Industry Research and Development Amendment Bill 2003, Senator Carr is right: we should be having a much broader debate in this country about the requisite funding for research and development and industry assistance, and of course related issues such as science, biotechnology, higher education and other things. The Democrats will be supporting the legislation today. We welcome the bill as it puts in place some
necessary measures that will improve the operation of the R&D Start program. These measures are necessary as a result of government-created problems, as the previous speaker indicated, and specifically because of the fiasco with the R&D Start program that occurred in 2002 when the scheme was effectively closed down for eight months—that is, from April through to November of that year—because of an over commitment of funds.

As Senator Carr alluded to quite strongly, over the past 20 years Commonwealth investment in research and development through its agencies and universities has been in constant decline. Despite the efforts of this government through the Backing Australia’s Ability program and in part the R&D Start program, Australia’s business expenditure on R&D, or BERD, in 2002 had still not recovered from changes to the R&D tax concession in 1996. The changes to that tax concession were strongly opposed by the Australian Democrats for many of the reasons that have come through today. At that time, we predicted that it would have a deleterious impact on investment in R&D in this country, particularly on private sector investment in research and development. Unfortunately, those predictions came to fruition.

The attempt by the government to arrest some of that decline through the Backing Australia’s Ability measures—if a somewhat belated and inadequate response—was welcomed by the Democrats. At that time, I was happy to negotiate with the then minister, Dr David Kemp, to pass that legislation through the chamber with some badly needed improvements in relation to R&D definitions et cetera. People in the industry know what those changes were but, despite the attempts of that package to arrest the decline in R&D spending, we still have a long way to go.

In the year 2000, Australia spent 1.48 per cent of our GDP on R&D, ranking us 13th out of 22 OECD countries. However, our business expenditure on research and development was only 0.72 per cent of GDP, ranking us 15th—well below the OECD average of 1.56 per cent. We have failed to address that decline, and Senator Carr has indicated that we are going to need many more measures and resources. Certainly ‘son of Backing Australia’s Ability’ will be the next part of that process. Like the Labor Party, as they have indicated today, the Australian Democrats will scrutinise and monitor that process very closely.

A number of organisations have indicated their concern about the lack of money spent on research and development in this country and the lack of resources to develop the innovative culture to which we all aspire. The Academy of Science recently expressed their concern at the continual decrease in Australia’s overall expenditure on research and development. It is clear that this government does not understand the economic impact that research and development can have, while other OECD countries are spending more on R&D. We only have to look at the EU, which recently announced a target of spending three per cent of GDP—three per cent of their gross expenditure—on R&D. At a time when they are doing that, the Howard government is freezing funding to R&D programs for up to eight months at a time and disrupting businesses who have been planning research investment based on the R&D Start program.

Last night a number of us met with Engineers Australia and, in particular, young engineers at a function. They were expressing to politicians—and certainly to me directly—their concern at the difficulty of recruiting graduate engineers in Australia, partly because of the shortage of students entering engineering courses but also because many
graduates in Australia have decided to take high-paying jobs overseas. Senator Carr has also talked about the fact that we are seeing those graduates go offshore. This is still a very real problem. I know people have mocked the so-called brain drain, but it is a reality and something that needs to be addressed. There are a number of ways we need to address it. R&D funding is one way and the education sector as a whole is another, whether it is science teaching and science teachers in particular or, more broadly, encouraging a climate in which people can actually access education that is also publicly funded.

Senator Carr also talked about the damaging—and in fact regressive—higher education reforms that passed this chamber last year and about the fees and charges that are sky-high at the moment. Yes, we are one of the highest charging countries in the industrialised world when it comes to public university education. I woke up this morning to see on the front page of my home town paper, the Advertiser, the headline ‘Full uni fee rise’. What does that mean? It means that Flinders University, an institution that has previously had quite a long held commitment to access and equity in higher education by resisting the temptation to raise fees, particularly in relation to full cost undergraduate fee paying courses, and that indicated previously that it was not necessarily going to introduce or increase fees by the 25 per cent that is now allowed for under the legislation that passed last year, is going to increase its fees. But what have we seen? In a confidential document, which I understand on ABC radio this morning Vice-Chancellor Edwards has pretty much confirmed, Flinders University is considering a full 25 per cent across-the-board fee hike.

How duped are those Independent senators—the very senators who came into this place and gave us what amounted to as near assurances that Flinders University specifically was not going to introduce or increase its fees? When I talked about my concerns for my home state of South Australia, Independent senators indicated that South Australia was going to be okay. They alluded to some kind of information they had been given by vice-chancellors that the fee increases were not going to happen. How duped are they, and what shame they have brought on our state and other states? More importantly, what have they done to the hopes of aspiring students, particularly those from disadvantaged backgrounds?

You cannot talk about research and development, you cannot talk about innovation and you cannot talk about an educated and enlightened society without first ensuring that you have very basic access to education—education that is accessible based on your brains and not your bank balance. How we have changed the culture in this country when it comes to these issues. We need a government that is serious about publicly funded education and we need a government that is serious about research and development funding—funding that will help drive our economy through innovation and provide younger Australians, such as those young engineers that I was privileged to meet last night, with employment prospects. Hopefully this bill, albeit described as a tinkering bill, will fix some of the problems. It will lead to a more effective and stable assistance mechanism for businesses to invest in R&D through improvements to the administration of the R&D Start program.

The second reading amendment is supported, and the concept of condemning this government for failing to stimulate private sector investment in R&D and adequately invest in R&D at a public level is something that we support. We will be testing this government’s bona fides over the coming months as we deal with the second large an-
nouncement or instalment of the BAA funding. I look forward to hopefully seeing an increase in these measures but also a change in the culture. We are becoming a nation that talks about innovation but does not genuinely reflect that in the policy making and the funding mechanisms that we have.

Senator GEORGE CAMPBELL (New South Wales) (1.45 p.m.)—When I first looked at the Industry Research and Development Amendment Bill 2003, which is before the chamber, I wondered just what it was all about and why the government was going to the extent of introducing it when, for all intents and purposes, it had appeared for many years that the IR&D board was operating effectively. It was only upon taking a much closer look at the legislation that the underlying purpose of the bill became apparent: to clean up the fiasco that occurred in 2002 with the R&D Start program. I have spent many hours in Senate estimates questioning officials and the minister about why we got ourselves into a mess with the R&D Start program, and I have not been able to get a sensible answer from either the department or the minister as to why it occurred. We had to wait until a bill such as this was brought into the chamber to understand that it was an administrative fiasco within the department that led to the R&D Start program being frozen in that year.

It is worthwhile going back to refresh the chamber’s memory about what happened because, as Senator Carr said earlier, it had significant consequences for many of our small companies around this country. Expenditure on the R&D Start program is kept at $180 million a year and is supplemented from the budget. In April 2002 the R&D Start program was suspended due to what the government said was an overcommitment of funds. No new applications were considered, and new approvals were suspended until additional funding became available. The program resumed in November 2002—a freeze of some seven months. The minister at that time announced a review of the disbursement of the R&D Start grants by AusIndustry, and this bill is the direct result of that review.

The bill proposes to fix the problems that existed where the board was making decisions and allocating funds—certainly, in the government’s view, allocating too many funds. That resulted in what the government claims was an overcommitment of R&D Start funding, leading to the disgraceful situation where from April to November no new applications were considered. It became farcical, because the minister at the time, when asked whether the R&D Start program had been frozen, indicated that it had not been frozen; it was just that no new applications would be considered. Moreover, as it transpired, those applications that had been lodged in the lead-up to and during that period had to be resubmitted. So many small companies in this country, which in many instances provide the impetus for research and development, were making plans and financial commitments on the basis that they would be eligible for R&D Start program funding, and then realised that they would not—that they were going to be left in the lurch.

This government has been doing a lot of analysis and stocktaking of the various programs that were introduced under Backing Australia’s Ability. Most of those have spent very few funds and will, I think, be repackaged as part of this government’s political agenda in the lead-up to the next election—again, without any additional commitment of funds. I wonder if any time has been spent trying to assess how many small companies in this country were effectively put to the sword because of the mismanagement of the R&D Start program during that period in 2002. I know of a few, but no-one has done a stocktake across the whole of our small busi-
ness community to determine how many companies were seriously impacted by the mismanagement of that program.

This is a classic example of this government’s approach to industry policy. I do not want to go into great detail about the many industry policy disasters there have been under this government. There was the COMET funding fiasco and the Syntroleum debacle. But I am concerned about a story I read in the paper this morning that said that Mitsubishi are now reconsidering their position and that they may well withdraw from this country. If that occurs, we will lose what was a very significant commitment to a new R&D facility in the auto industry in the city of Adelaide. This is another set of circumstances where we are seeing, on a continual basis under the management of this government, the withdrawal of R&D facilities across the board. We have seen BHP withdraw its R&D facilities and we have seen Telstra withdraw its R&D facilities over the period that this government has been in power. We now see the potential for another major facility—that run by Mitsubishi—to also be withdrawn.

I want to comment briefly on what I think are two very significant indicators of whether a government’s innovation policies are effective. They are business expenditure on research and development, and the current account deficit. This government has failed to encourage and sustain innovation by the private sector. The OECD average national R&D expenditure is 2.17 per cent of GDP. Australia’s is a pitiful 1.48 per cent and is out-ranked by countries such as Iceland and Canada. When we look at business expenditure on research and development—or BERD, as it is more commonly known—it is even worse. When Labor left office, BERD was 0.87 per cent of GDP. This represented a 172 per cent increase in BERD compared to when Labor took government in 1983.

What has the government done since 1996? If you look at page 7 of the Bills Digest No. 87 you will see that despite what this government says, it has not got the BERD up anywhere near what it was in its peak in 1995-96. We have asked again serious questions about what is occurring in this area. At the last estimates we were told of a new measurement that had been introduced, which I am still trying to get three economists to understand, to show that BERD has been increasing over that period. I forget the name of the way they measured it, but it was a chain measurement process that I certainly do not understand and, as I said, three economists have had a look at it and they do not understand. It is simply a way of playing with the figures to try to make them look better than they are. Within three years of coming to government the coalition’s policies sliced BERD by more than 25 per cent. It has risen slightly since then but, as I said, it is still below the peak that it was at in 1996. The average annual rate of increase in BERD was 12 per cent in the 1990s, so the fact that BERD went backwards under the coalition in the 1990s is even more amazing.

What is the result of the government failing to support innovation? The end result is simple: a reduction in the competitiveness of Australian industry. Without constant innovation Australian manufacturers face great hurdles to export successfully. This decline in innovation, when coupled with an appreciation of the Australian dollar, has led to a series of record current account deficits. But what has the government done to both recognise this problem and take action to try and deal with it? It has refused to do anything, even to consider alleviating the pressures that Australian manufacturers are suffering as a result of the significant increase in the dollar in the past 18 months. This is despite the fact that one of the most significant industry associations in this country, the
AIG is saying that there is a massive problem. The result? A current account deficit of $1.69 billion in January and $2.55 billion in December 2003. In the seven months to January exports of non-rural and other goods were down by $5.6 billion. That is a 10 per cent decline compared to the corresponding period in 2002-03. Last year’s current account deficit of $24 billion was the largest in our history, yet we have a government that simply sits back and does nothing to ensure that, when there are significant shifts like this, action is taken to ensure that the position of our manufacturers, our exporters, is not unnecessarily disadvantaged.

As I said at the start, the Labor Party are supporting this legislation and, as Senator Carr has indicated, we are moving a second reading amendment. We have to keep in mind that this is simply plugging another gap in our innovation and industry policy fabric which is being caused by this government’s ineptitude and incapacity to put in place a sustainable policy framework that will last over the long term and provide the framework within which Australian industries, Australian innovators, can get on with the job of developing and growing sustainable industries that will last into the long term.

Senator TROETH (Victoria— Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.56 p.m.)—I seek leave to incorporate my remarks on the Industry Research and Development Amendment Bill 2003.

Leave granted.

The speech read as follows—

I am pleased to advise that under this Government Australia’s innovation and R&D performance is impressive and growing.

Indeed, Australia’s innovation performance has contributed to strong economic growth in recent years; 3.5% a year over the past five years.

Our productivity performance is also impressive—multifactor productivity grew by 2.8% over 2001-02.

Businesses are recognising the value of R&D—business expenditure on R&D (BERD) rose 13% in 2001-02, up to $5.546 billion, with increases in all major sectors.

This is the highest level recorded and is the second successive year of significant increase.

Australia’s BERD to GDP ratio also increased from 0.73% to 0.78% in 2001-02—a clear indication that the Government’s R&D and innovation policies are working.

Industry associations such as the Australian Industry Group have commented favourably on the improvement in BERD, in recent years and point to the importance of innovation as a major competitive driver.

Government support for businesses undertaking R&D is extensive, and includes programs such as COMET, BIF, IIF, the Pre-Seed Fund, the Innovation Access Program, the Innovation Awareness Program, a variety of sector specific schemes and R&D Start.

The House of Representatives Standing Committee on Science and Innovation’s recent report, Riding the Innovation Wave, The Case for Raising Business Investment in R&D observed that the Commonwealth set aside over $5.4 billion for expenditure on science and innovation in 2003-04.

The Government, through R&D Start alone, has provided more than $1.7 billion support to businesses undertaking R&D since the program’s inception in 1996.

The R&D Start Program is associated with many well known success stories, including Cochlear and Norwood Abbey.

The House of Representatives report concluded that the Government’s introduction of programs such as COMET, BIF, IIF and R&D Start shows that ‘R&D policy over time ... has evolved in ways that much better meets the needs of SMEs’.

We are not resting on our laurels—we have recently taken stock of our science and innovation system, with the outcomes included in the report,
Mapping Australian Science and Innovation. We have also reviewed a range of innovation programs under Backing Australia’s Ability, and the Government is currently considering policy initiatives to improve Australia’s R&D and innovation performance.

The Report on Mapping Australia’s Science and Innovation, which was commissioned by the Prime Minister, found that Australia’s science performance is among the strongest of all countries, and has been leading-edge in a number of scientific fields. It notes that Australia has invested heavily in ‘public good’ research and that the commercial and non-commercial benefits of this have been considerable.

The Mapping Report finds that Australia’s level of government expenditure on R&D is relatively high by international standards. According to the Report, government support for science and innovation has become more strategically focused, “signalling strong policy interest and recognition of the links to economic, social and environmental outcomes”.

Australia’s level of government-financed expenditure on R&D is high by international standards. In 2000 the Government invested 0.71% of GDP in public sector R&D, compared to an OECD average of 0.64%.

In 2000-01, Australia’s total gross expenditure on R&D (GERD—the total expenditure on R&D, both private and public, within Australia) was 1.53% of Gross Domestic Product, compared to just under 1.0% in 1981. Gross expenditure on R&D as a proportion of GDP is now around 50% higher than in 1981.

Senator TROETH—I indicate that the government will be opposing Senator Carr’s second reading amendment.

The ACTING DEPUTY PRESIDENT (Senator Chapman)—The question is that the amendment moved by Senator Carr be agreed to.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.
if the prices in the US fall by 10 per cent for the 33 horticultural products, an additional duty of 30 per cent shall be applied? If prices fall by more than 75 per cent, an additional duty of 100 per cent will apply. Minister, why did the government agree to such pernicious measures in this deal, which will continue to deny Australian farmers free access to the US market when they get free access right now?

Senator HILL—Why does the Labor Party oppose an agreement that significantly improves access for Australian horticultural producers? Labor seems to imply that, if it had negotiated the agreement, it would have got a better outcome, but Labor had 13 years and did not negotiate one of these agreements. The Howard government, by contrast, has done it with Singapore, has done it with Thailand and has now done it with the United States. The Howard government has been prepared to get in there and negotiate an agreement—hard negotiations—to achieve a better outcome for Australian producers, which was more than Labor was ever prepared to do. Labor still philosophically opposes free trade agreements. (Time expired)

DISTINGUISHED VISITORS
The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the advisers box of a distinguished former Treasurer for the state of Tasmania, the Hon. David Crean, MLC.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Superannuation: Reform

Senator KNOWLES (2.04 p.m.)—My question is to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Could the minister please inform the Senate of the Howard government’s initiatives to provide Australians with more choices in deciding how and when they retire and, if those initiatives are not adopted, what other alternatives there might be?

Senator COONAN—I thank Senator Knowles for her interest in this matter which is vital to all Australians. Australia has a world-class superannuation system that is admired by countries across the globe. There are, however, many challenges facing us as a nation, including the ageing of Australia’s population and the implications that will have in areas such as health, aged care and our living standards in retirement. People are living longer and demanding higher standards of living in retirement while, at the same time, birth rates are falling.

The ageing of Australia’s population does not just have consequences for people whose retirement is imminent; it affects their children and their grandchildren. It will not only affect them; it will affect their families. To help address the issue of Australia’s changing demographics, the Treasurer last week announced a range of measures to make Australia’s superannuation more flexible and to give Australian workers more choice about when and how they retire. The skills and experience of older Australians transitioning to retirement will make them valuable employees well into the future. From 1 July next year, Australian workers who have reached their preservation age of 55 will be able to supplement their income by accessing their superannuation as a non-commutable income stream. It will help provide Australian workers with a higher standard of living and give them more choices about when and how to retire.

If you listen to the Labor Party, if you are nearing 55 you should up stumps and retire because, according to them in the debate that has ensued over the last couple of days, you have reached your use-by date—you no longer have anything to contribute once you
have reached 55. But the Australian government, which looks beyond these populist catchcries and the next electoral cycle, believes that older Australians have much to contribute and deserve some choice about when they want to retire. The initiatives announced last week are not about forcing Australians to work longer, as Labor claims, but are about giving Australians more choice about their retirement.

Choice, it must be said, does seem to frighten those on the opposite side of the chamber. Labor senators would prefer to prescribe to Australian workers how and when they retire and would write them off when they turn 65. As usual, Labor is inconsistent. Labor senators on the now extant Senate superannuation committee recognised that part-time work could be an integral step towards final retirement—a gradual transition from work to retirement. But now Labor senators have started this headline grabbing campaign about ‘working until you drop’. This of course attacks and contradicts the very statements of the opposition leader, Mr Latham, but it does show old Labor’s true colours: the ‘one size fits all’ approach to all Australians; not choice and flexibility but just more regulation and red tape.

Apart from making no economic sense, we can only wonder what may be in store for some senators on the opposition benches—Senator Ray, Senator Hogg, Senator Cook and possibly Senators Denman, Buckland and George Campbell. Having reached the grand age of 55, are we about to see the imminent retirements of these worthy souls? This example demonstrates just how untenable Labor’s notion of compulsory retirement is. This government is all about providing more flexibility for older Australians whether they want to work, whether they want to retire or whether they want to be semiretired. This government will continue to put in place flexible policies that will meet the needs of all Australians.

Trade: Free Trade Agreement

Senator CONROY (2.09 p.m.)—My question is to Senator Hill, representing the Minister for Trade. Can the minister confirm that the text of the US trade deal released today outlines a process that requires generic drug producers to notify a patent owner if they are intending to introduce a generic drug to the market? Won’t this requirement give rise to legal action by US drug companies to prevent the introduction of generic drugs onto the Australian market? Can the minister guarantee—

Government senators interjecting—

The PRESIDENT—Order! Senators on my right: there is too much noise across the chamber.

Senator CONROY—Can the minister guarantee that this trade deal will not delay the introduction of generic drugs onto Australia’s Pharmaceutical Benefits Scheme or will not blow out the cost of that scheme to Australian taxpayers?

Senator HILL—I have not yet read all of the 1,100-odd pages but I can assure the Senate that the determination of the Howard government to protect the PBS was successful. I can also assure the Senate that particular effort was put in, successfully, to protect access to the market of generic drugs.

Senator Conroy interjecting—

Senator HILL—I think Senator Conroy can be confident that the Howard government would have negotiated a very good outcome. The contrast with Labor of course is obvious. Labor is trying to pick shortcomings in an 1,100-page document that provides better access for Australian producers to the giant United States market. That is what Labor is doing—quarrelling about the small issues within a massive achievement.
The contrast is that Labor in its 13 years did not even try to negotiate a bilateral agreement with the major economies of the world—did not even make an effort.

Senator Cook—That is not true.

Senator HILL—Senator Cook interrupts—he was the trade minister. He failed. He did not believe in it. Labor still does not believe in bilateral agreements. Labor keeps all its eggs in the multilateral basket and if that does not work, where is the advantage to the Australian producers? It does not exist. Any fair observer would applaud the fact that the Howard government takes advantage of multilateral trade opportunities but does not accept that as enough and goes out there and negotiates bilateral agreements to get further benefit when it can be achieved. It has been achieved through agreements with Singapore and Thailand and it has now been achieved through an agreement with the United States. It would be much better if Labor came on board, processed the legislation that will soon be forthcoming and facilitated the early entry into operation of this agreement so that all Australians can be the winners.

Senator CONROY—Mr President, I ask a supplementary question. Minister, is it a fact that the text of the US trade deal says: Australia shall provide opportunities to apply for an adjustment to a reimbursement amount. Will the minister now inform the Senate precisely what the impact of the concession will be and what opportunities will be provided for an adjustment to the reimbursement amount?

Senator HILL—On the issue of generic drugs, I am advised that the provisions will not adversely affect generic drug companies entering the market with new generic pharmaceutical products that have come off patent. That is the assurance that the honourable senator wanted and I am very pleased to be able to give it to him.

Australian Defence Force: Remuneration Arrangements

Senator JOHNSTON (2.13 p.m.)—My question is to the Minister for Defence and Leader of the Government in the Senate, Senator Hill. Will the minister update the Senate on new developments in the government’s ongoing commitment to deliver better pay and conditions to the men and women of the Australian Defence Force? Will the minister also advise the Senate of his awareness of any alternative policies on that subject?

Senator HILL—As the Senate would be aware, this government takes a keen interest in the pay, conditions and welfare of Defence Force personnel. In keeping with this commitment, Major-General Barry Nunn undertook a review of the Australian Defence Force remuneration in 2001. The review made about 60 recommendations, 26 of which have already been implemented within Defence. I am now pleased to advise the Senate that, as a result of recent cabinet consideration, the government has decided to progress further reforms to the ADF pay structure.

Some of the most valuable and highly skilled professionals within the ADF currently receive a proportion of their total pay in the form of allowances. These allowances recognise the unique qualifications and skills that are possessed by groups including pilots, submariners, clearance divers and special air service soldiers, as well as the hazards they face in the performance of their duty. Historically, these allowances have formed part of income for taxation purposes but have not attracted superannuation contributions, I am pleased to announce that the Howard government has decided to make the qualification and skill elements of these allowances superannuable. This decision applies to the flying allowance, submarine service allowance, special action forces allowance and
specialist operations allowance paid under section 58H of the Defence Act.

In some instances it will increase retirement income by up to 30 per cent. This decision will take concrete effect once the necessary legislative changes are enacted over the coming few months. In addition, we have decided to retain the Defence Force Remuneration Tribunal as the primary mechanism for determining pay and allowances and to retain the position of the Defence Force Advocate. Reforms to maternity leave entitlements will also be progressed to align these provisions with those in the rest of the Australian Public Service.

The Labor Party revealed yesterday that they do not share the government’s commitment to providing a comprehensive set of salary allowances and conditions of service for the men and women of the ADF. However, combined with recent changes to veterans’ entitlements, the implementation by the government of these additional Nunn review recommendations shows the Howard government’s determination to provide the highest quality facilities, services and employment conditions to those who have served in the past as well as those who continue to serve today.

Asia Pacific Space Centre

Senator FAULKNER (2.16 p.m.)—My question is directed to Senator Minchin as the Minister for Finance and Administration and as the Minister representing the Treasurer and the Minister for Industry, Tourism and Resources. Can the minister confirm that the contract with the Asia Pacific Space Centre to build the Christmas Island spaceport prevents the government from withdrawal until December 2005? Is this irrespective of any progress on the project? Given the minister’s personal explanation to the Senate yesterday, can he now advise how much of the $100 million from the Treasurer’s advance is potentially payable to APSC? Will the minister now table the contract in the Senate?

Senator MINCHIN—I did mention in the previous answer I gave to Senator Carr on this issue that the government, with strong support from people like Senator Carr, Senator Schacht and others at the time, supported a space project on Christmas Island through a rigorous process of the award of a strategic investment incentive grant. The total grant, as I said, was $100 million. About $68 million of that was for common-use infrastructure on the island, such as the airstrip and things of that sort, and then $31.4 million was payable, subject to a lot of conditions, to APSC for spaceport infrastructure.

I went on to say that no funds have been paid to APSC at all because they have not met any of the preconditions or milestones that are required of them before any of the money becomes available. Some of the preconditions to any transfer of funds relate to intergovernmental considerations, including security and safeguard issues; financial closure; government approvals relating to environmental and other issues; planning and approvals frameworks relating to maritime and civil aviation clearances for safety; and submission of an application for a space licence from the Space Licensing and Safety Office. If all these five conditions were to be achieved, that would trigger an initial payment of $6 million. Subsequent payments of $10 million and then $15.4 million are based on construction milestones.

The intended timetable has not been met, as I said before, because market conditions have substantially changed and APSC, as they have acknowledged and as I have acknowledged—and I have expressed my profound disappointment about this—have not been able to achieve financial closure and get the financial backing they need for this pro-
ject to proceed. The only funds actually expended by the government were that we went ahead with the construction of the additional port for $4.7 million largely because, as the opposition knows, we are proceeding to construct a detention centre on the island. That will necessitate this additional port being built. Anyone who has been to Christmas Island would realise that the normal port is unusable for several months of the year because of weather conditions. This additional port facility on the other side of the island, which has now been constructed and which I have visited, is a great asset for the island and for the economy and welfare of the island as well as being of great importance in terms of the detention centre we are building.

Three hundred thousand dollars has been expended on road design work, which was primarily related to the activities of the Asia-Pacific Space Centre, but no further work has been undertaken on that basis. The question of whether that road should be built anyway is a matter that my colleague Senator Campbell might want to consider in due course. Again, I express my profound support for this project and my earnest hope, on behalf of the government, that APSC will ultimately find themselves in a position to proceed. I do acknowledge the support we had from the opposition at the time. We would love to see this project proceed. The government has been rigorous in its application of the strict conditions such that, as I say, no money has changed hands, no money has gone to APSC and no money will... (Time expired)

Senator MINCHIN—I would have to get back to you on the detail of the due diligence process. I will also get back to you on the question you asked before about the contract. I am happy to get you some further information on that. I did say in the answer I just gave that the preconditions to any payments to APSC were ‘financial close’. In other words, they had to satisfy the government that they had the finance properly in place before the project could be built. They have not been able to satisfy that prerequisite. It was also a prerequisite that they had to submit an application for a space licence, which has not yet occurred. There were five preconditions—all of which had to be met and none of which have been met, as I understand it—before the first payment of $6 million towards a spaceport infrastructure could be paid. The government continue to work with APSC in the hope that it will be able to meet these preconditions, because we would love nothing better than for Australia to be part of the space industry. (Time expired)

Trade: Free Trade Agreement

Senator RIDGEWAY (2.23 p.m.)—My question is to the Minister representing the Minister for Trade, Senator Hill. Minister, the text of the recently released free trade agreement includes an exemption for ‘services supplied in the exercise of governmental authority’. Is the minister aware that the agreement uses the same definition as the GATS—that is, ‘any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers’? Isn’t this clearly ambiguous given that so many essential public services either have been privatised or are in the process of becoming so under this government and many are supplied in a competitive environment? Can the minister guarantee that the government has not compromised the ability of governments at all levels in Australia to de-
liver essential public services to their communities? If there is no effective exemption for public services, can the minister guarantee that these have not been sold out?

Senator HILL—I would be confident that I could give that assurance but I think it would probably be better to get a more authoritative version from Mr Vaile. My confidence is based on this fact: why would the government want to sell out the capacity to provide services? It does not make sense and therefore I would have thought it was highly unlikely, but I will get a response from Mr Vaile as quickly as possible.

Senator RIDGEWAY—Mr President, I ask a supplementary question. In annex II of the agreement, there is a very general reservation for Australia—we reserve the right to ‘adopt or maintain’ any measure with respect to a number of services including public education, health and child care. If the government have recognised the importance of these services to the extent that they have secured a reservation in the agreement, why didn’t they go one step further and exempt essential public services from the agreement entirely? Why have other essential public services such as the provision of water, waste disposal and energy services not been mentioned in this annexure reservation?

Senator HILL—I will add that to my first request to the minister. Of course, I should remind the Senate that there are two parliamentary inquiries pending into this agreement, at which there will be an opportunity to debate the detail, including such issues as the one that has been mentioned. I suggest, with respect, that that might be a better occasion to work through the text than questions without notice.

Asia Pacific Space Centre

Senator CARR (2.26 p.m.)—My question is to Senator Minchin as the Minister for Finance and the Minister representing the Treasurer and the Minister for Industry, Tourism and Resources. Can the minister confirm that, at the time of the cabinet approval for a strategic investment coordination grant for $100 million to the Asia Pacific Space Centre in 2001, the secretary to the cabinet and head of the cabinet policy unit responsible for coordinating whole of government strategic policy issues was Mr Paul McClintock? Can you confirm that Mr Paul McClintock is the son of Sir Eric McClintock, who, at the time of the cabinet decision, was a member of the Asia Pacific Space Centre advisory board? Did Mr Paul McClintock make any declaration of interest in relation to this commercial matter?

Senator MINCHIN—I wondered where the opposition had been coming from on this issue. Now they want to slander Paul McClintock apparently. Off the top of my head, trying to recollect who held what position when, my recollection is that Paul McClintock may have been secretary of the cabinet at the time. As industry minister at the time that these negotiations were taking place, I can say that the secretary of the cabinet had no direct role whatsoever. The submissions in relation to the negotiations with APSC were done with me and the then strategic investment coordinator. I took a submission directly to cabinet and the cabinet approved a strategic investment incentive grant on the terms and conditions which I have just outlined in my answer to Senator Faulkner. I remind you that it was not a $100 million grant to APSC: $68.6 million was for infrastructure on the island and the rest was for spaceport infrastructure. I repeat that the only money that has been spent is for the wharf on the island. I will have to get further information about Sir Eric McClintock’s role at the time. My recollection is that he may well be currently on the advisory board of APSC. Whether he was on the board at the time and whether there was even an advisory

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board at the time that this matter went to cabinet, I cannot recollect but I am happy to find out for you.

Senator CARR—Mr President, I ask a supplementary question. Is the minister aware of any presentation by departmental officials, including the assistant secretary of the department, to the Russian space agencies or the Russian government that inferred that the Asia-Pacific Space Centre was in fact an Australian government agency? Can the minister confirm that this assistant secretary was removed from the department shortly after this misrepresentation and subsequently took up the position of executive director of the Asia-Pacific Space Centre? In his new position with the Asia-Pacific Space Centre, what contact with the government did he have regarding the $100 million strategic investment coordination grant?

Senator MINCHIN—I keep hearing 'he'—I am not sure whom Senator Carr was referring to when he said 'he'. I will have to go back and have a look at the Hansard to see if I can work that out and get him an answer. The Russians are important to this project because they supply the rockets. At no stage was there any suggestion that this was a government entity of any sort. Obviously, it was important to the Russians in their negotiations with the Australian government that the government had made a decision to support this project through the strategic investment incentive, but at no stage was there any suggestion on the part of the government that this company was anything other than a private company being supported by the government with the offer of this infrastructure if certain very serious and stringent preconditions were met.

Health: General Practitioners

Senator HARRIS (2.30 p.m.)—My question is to Senator Ian Campbell, the Minister representing the Minister for Health and Ageing. Minister, what is the current number of overseas-trained doctors practising in Australia, what is the number of GPs who have left Australia in the last three years, what is the number of students enrolled currently in all medical schools and universities across Australia and what is the number of GPs who have ceased practising in the last three years?

Senator IAN CAMPBELL—I thank Senator Harris for the question and I thank him for indicating that he may ask a very detailed question. Even with the brief warning that he gave me, I do not have all of those facts at my fingertips.

Senator Chris Evans—Even when they give you the question, you can’t answer it. It’s outrageous!

Senator IAN CAMPBELL—Comrade, it is a very important question.

Honourable senators interjecting—

Senator IAN CAMPBELL—It is Comrade Evans I was talking to.

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left, come to order. Senator Campbell, ignore the interjections.

Senator IAN CAMPBELL—I will, Mr President—most senators are on my left. The details of the question do relate to very important matters that are before the parliament at this time. Senator Harris talks about the number of overseas-trained doctors in Australia. Amongst the government’s measures to ensure that there are more GPs available to ensure that people do get affordable health outcomes and can do it in their own areas is MedicarePlus, which is being opposed by Labor in the Senate but which will put in place a number of initiatives to ensure that there are more doctors available and particularly that there are doctors available in re-
ional and remote areas, which I know is at the nub of Senator Harris’s question.

In relation to overseas-trained doctors, the government, through the MedicarePlus arrangements, want to see 725 new overseas-trained doctors come into service. We are seeking to achieve that through recruitment strategies that reduce red tape in approval processes and assist employers and overseas-trained doctors in arranging placements. We are improving training arrangements and support programs and creating opportunities for doctors to stay longer or, very importantly, to obtain permanent residency through changes to immigration arrangements. That deals with the overseas doctors.

Senator Harris asked a long question, and I will certainly provide details to him on notice that I cannot provide in the four minutes available to me. There are also important measures to create new medical school places, and Senator Harris asked about that. The government, through the MedicarePlus initiatives and other packages, is making available 234 new, publicly funded places in medical schools across Australia. Very importantly for Senator Harris and for the people of Queensland, whom he represents, there will be 50 new places in Queensland. That is very important, as Queensland is one of the areas where shortages have been identified. Of course, Senator Harris will know—because he has been working very constructively with the government to come to a MedicarePlus package that helps the people of Queensland and helps people in rural and remote parts of Queensland—that the bonding system ensures that the people who get these places do have to give service in the areas that are in most need.

It is commendable that Senator Harris takes an interest in bringing new doctors into service by increasing medical school numbers, by ensuring that we have systems to bring in overseas-trained doctors and by ensuring that we have, for example, as part of the package, the Rural Retention Program, which ensures that doctors have incentives to stay in rural areas. This is in concert with the program to fund practice nurses, which, again, makes it easier for rural doctors to handle those loads, particularly where the GP to patient ratio is higher. (Time expired)

Senator HARRIS—Mr President, I ask a supplementary question. Minister, what is the average doctor-patient ratio in Rural, Remote and Metropolitan Areas, RRMA, classifications 1 and 2—that is, urban areas? What is the average doctor-patient ratio in RRMA 3 to 7—that is, primarily rural areas? What process is the government putting in place to remedy the unacceptably high patient-doctor ratio in general practices?

Senator IAN CAMPBELL—I have answered in broad terms some of the questions in relation to the Rural Retention Program. The answers for the particular areas that the senator refers to I do not have at hand, but the national average ratio of full-time GPs to patients is one to 1,388. There was a report in the Adelaide Advertiser on Monday, about which I was expecting a question from the opposition all week, containing a figure of one to 746. The difference between the opposition and the government is that we have a range of programs. We are investing billions of dollars in programs to ensure that doctors go to areas of shortage. It is a comprehensive package involving new university places, overseas doctors, the Rural Retention Program, increased vocational training for practice nurses and bringing GPs out of retirement to upskill them and encourage them to go back into service. It is a good program.

Thanks for the question. (Time expired)

Asia Pacific Space Centre

Senator CARR (2.37 p.m.)—My question is to Senator Minchin, the Minister for
Finance and Administration, the Minister representing the Treasurer and the Minister representing the Minister for Industry, Tourism and Resources. Can the minister confirm that the chairman of APSC’s advisory board is Mr Jim Longley, the former New South Wales Liberal member for Pittwater? Can the minister confirm that Mr Longley is a close personal friend of the Prime Minister? Did Mr Longley lobby the Prime Minister to support the Treasurer’s advance for the $100 million strategic investment coordinator grant?

Senator MINCHIN—I cannot confirm or deny that. I cannot really comment on the question of whether or not Mr Longley is the chairman of the advisory board—I honestly have no idea—and I cannot comment at all on whether or not Mr Longley happens to be a friend of the Prime Minister’s. Senator Carr can ask the Prime Minister that, if he likes, when he next sees him. I cannot remember the other part of your question.

Senator Carr—Did he lobby the Prime Minister?

Senator MINCHIN—As I said, I do not even know whether or not Mr Longley is the chairman of the advisory board. What I am happy to do is stand here and proudly defend the very rigorous process by which the government came to the determination that this is a project which it should support. I think it is a tragedy for Australia that we have not been able to fully engage effectively and adequately in the space industry. Geographically, this country is ideally located to be a vital part of the world space industry.

There have been a number of failed attempts, many of which occurred when the other side were in power. When we were approached about this project we saw the enormous potential benefit of it, and I think it is a great credit to this government that we are prepared to have in place a strategic investment incentive program, which the other side is going to ditch, that is available to support very important strategic projects of this kind. For Australia to be able to set up on Christmas Island a world-class space port capable of launching satellites from that very strategic and important location I think would be an enormous advance for Australia. It would be an enormous fillip for the Australian economy, for Australian technology and for all the space related industries, many of which are in my own state. I repeat: the opposition welcomed this at the time. The Labor Party around Australia welcomed this at the time. On 20 June 2002, Senator Carr himself said of APSC:

It is important that this country does more in regard to space industries. We have enormous potential in regard to the development of our own capacities in that regard.

He said that there is a very important opportunity here. We agreed with Senator Carr, we agreed with former Senator Schacht and we agreed with the hundreds of people who lobbied us to do what we could to support this project from both sides of politics. Lots of people lobbied us to ensure that we did seek to support this project. We have a very, very rigorous strategic investment incentive process. The overwhelming majority of applicants for support fail because they do not satisfy the very strict criteria that are involved. We were satisfied that this project would go to another country if we did not provide support. We put in very strict preconditions to the transfer of any support—which I have outlined and which are very rigorous—and, as I say, no money has changed hands.

This is a pretty desperate and grubby attempt by the opposition, who have nothing else to talk about, to try to sully the name of APSC and all those associated with it. We have had names dragged through here today—Mr Longley, Sir Eric McClintock, Paul...
McClintock—quite deliberately leaving a stain on those people, which I think is very unfair and unfortunate. I think the opposition should be talking about future policy for this country, and one of the future policies of this country should be that we do everything we possibly can to develop a space industry. That is certainly our government’s intent. We do want to see this project succeed. We are working closely with the company in the hope that it can achieve financial closure. We have put a lot of time and effort into the question of technology and safeguard arrangements with Russia. Wouldn’t it be fantastic if we really could establish a relationship with Russia that involved an Australian company, developed, I might say, by an outstanding success story? (Time expired)

Senator CARR—Mr President, I ask a supplementary question. I ask the minister to comment in his capacity as former minister for industry as well as the minister representing the current minister for industry. Does the minister acknowledge that there is a difference between support for the space industry and acknowledging that there is no excuse for poor management of government projects? Can he confirm that he was personally lobbied by former senator John Herron to support this project? Further, how many other members of the ministry lobbied you as minister to support this project?

Senator MINCHIN—I have a pretty clear recollection of former senator Chris Schacht lobbying me pretty heavily for this project when he was a Labor senator. He was a great advocate for the space industry, and he put a lot of persuasive arguments to me. As I said in my previous answer, there were hundreds of people very keen to see this project proceed. Whether former senator John Herron was one of them I have no recollection whatsoever. As I say, from people such as former Senator Schacht down, there were lots of people who wanted to see this project proceed. Senator Carr himself welcomed the government’s support for this project and earnestly hoped that it would succeed. Former Senator Schacht attended dinner with us and the Russians when this project was being discussed. So there is plenty of Labor support. I was surprised that Senator Carr was not at dinner with the Russians as well. We should have sent you an invitation, Senator Carr. I know you would have enjoyed it very much because you have a lot in common with them. As I say, I am disappointed with the slur that has been cast on this company, a company founded by a great Korean success story, an immigrant from Korea, David Kwon. He has built a great story for Australia and he has been very successful in this country, and I am sorry about the slur you are casting upon him. (Time expired)

Health: Program Funding

Senator ALLISON (2.44 p.m.)—My question is to the Minister representing the Minister for Health and Ageing. Is the minister aware that last year Sexual Health and Family Planning Australia provided over a quarter of a million clinical services in sexual and reproductive health—including sexually transmitted infections, pregnancy and contraception—and provided family planning training to around 20,000 doctors and health workers? Given the importance of these sexual health services, why has the minister in the last few weeks delayed any future funding of family planning associations, reportedly because he does not yet have a position on them? How can the minister not have a position on the funding of sexual health and reproductive planning?

Senator IAN CAMPBELL—It is Senator Allison who is alleging that; I have not seen anything that would lead me to believe that that is the case. I am informed that family planning services are covered by Commonwealth-state agreements called the pub-
lic health outcome funding agreements, which have a very clumsy acronym which I will not attempt. The next five-year agreement currently under consideration should start from July this year and is worth $1.3 billion, which is a very significant commitment to those public health outcomes. The most effective stream of funding for a whole range of services, including family planning services, is part of this consideration. Under these arrangements all Australian governments have responsibilities and obligations in relation to the range of services covered by those public health outcome funding agreements. The government is very happy to hear the views of family planning organisations about the most appropriate arrangements for them. I say that on behalf of the government and on behalf of the minister. But I hope they understand that, while the Commonwealth, state and territory governments will take organisations’ interests into account, our main duty is to the wider public interest.

Senator ALLISON—Mr President, I ask a supplementary question. If the minister could answer why it is in the public interest for family planning associations not to be funded, I would be grateful. Given that the family planning network has been established and funded for over 20 years and that in the last three years funding was only $14 million nationally, will the minister commit to the funding of family planning in the next three-year period to make sure that these services are not jeopardised?

Senator IAN CAMPBELL—The Commonwealth’s contribution has been substantial. I have told you about how we reach an arrangement. The post-July period is due to be concluded subject to those consultations. Senator Allison, as a typical person with no feeling of financial responsibility to taxpayers, would say, ‘Just write them a cheque and don’t get any outcomes or responses.’ We have spent, for example in her state of Victoria, $2.557 million in the past year and $2.28 million the year before that, which had increased from $1.947 million the year before. So it is a significant commitment: $1.3 billion across the whole of Australia. But Senator Allison says, ‘Just give them a blank cheque.’ The state health officials and the Commonwealth health officials want to make sure that we get public health outcomes for the money. I think all taxpayers and recipients of those services would like to be assured that the Commonwealth and the states ensure that we get good value for money from those service deliverers. That is what we are looking to achieve. (Time expired)

Ministerial Staff: Salaries

Senator ROBERT RAY (2.48 p.m.)—I direct my question to Senator Abetz, the Special Minister of State. Can the minister confirm that, until 30 January this year, 28 of the government’s own staff were being paid a salary over and above the salary band limits set by the government itself for staff under the MOP(S) Act? Can the minister also confirm that nine of these 28 staff receiving salaries above the odds were either in the Prime Minister’s own office or in the cabinet policy unit? What justification does the government have for paying 28 of its own most senior staff thousands of dollars above the government’s own salary limits and, in one case, that of a senior adviser to the Prime Minister, $47,000 above the limit?

Senator ABETZ—The Prime Minister approved new salary bands for both ministers’ and office holders’ senior staff on AWAs on 30 January this year. Ministers and office holders were advised of the new bands on 19 February 2004. There has been no secrecy about the revised salary bands. The revised ministerial senior staff salary bands were provided to the opposition and the Australian
Democrats at the same time the ministers were advised.

Senator Robert Ray—You were asked about prior to 30 January. Answer the question!

Senator ABETZ—Senator Ray should really stick to his blonde jokes rather than trying to ask questions of this nature. This is the first change to the salary bands for senior ministerial staff since 26 July 2000. The salary bands for office holders’ senior staff were last reviewed in January 2003 to bring them into line with the equivalent ministerial salary bands. That relativity has been maintained in the new bands. The new salary bands were approved in view of the high level of responsibility and skill expected of these staff and the need to ensure that appropriate salaries are available to new staff.

The salaries being paid to ministers’ and office holders’ senior staff have increased through the annual performance review process over the past four years. The bands had not kept pace with salary movements. Indeed, the need for a review of the salary bands was highlighted by the former Leader of the Opposition, the Hon. Simon Crean, MP. In a letter to me on 17 September 2003 Mr Crean requested that the salary bands be revised as they had been static for some time and the band restrictions ‘will create a difficulty in the next year’s performance review decisions’. In an undated letter to me received on 28 November 2002, Mr Crean described the upper limit of the salary band as ‘an artificial ceiling’.

In determining the new salary bands the remuneration of equivalent APS classifications was considered, and the new bands are on par with those of the APS senior executive service. Under the performance review framework for senior staff of non-government office holders, it is open to the Leader of the Opposition or the Leader of the Australian Democrats to ask the Prime Minister to approve a salary above the top of the relevant salary band. The Prime Minister approved a salary above the band for a senior staff member of a member of the opposition in 2002. The former Leader of the Opposition also requested two other salaries above the band as a result of the annual performance review in 2002. These were overtaken by a subsequent increase in the salary band, which made the Prime Minister’s approval unnecessary.

The current Leader of the Opposition, or his office, has been advised on at least three occasions since 2 December 2003 that he is able to request that the Prime Minister approve a salary above the top of the band. Ministers may also request that the Prime Minister approve a salary above the top of the relevant salary band if they feel that the skills and responsibilities of the staff member warrant the higher salary. As I have indicated in my letters to the relevant office holders, I intend to review the senior staff salary bands each year, following the annual performance review, to ensure that they remain appropriate.

Senator ROBERT RAY—Mr President, I ask a supplementary question. Would the minister like to confirm that the upper band for senior advisers has gone up by 31 per cent? Will this be the sort of rise that MOP staff employed under part IV of the MOP(S) Act will be entitled to? Isn’t it true that eight government staffers, as we now speak, are being paid above these massively revised bands? Why don’t you just come clean with the fact that these salaries for your staff blew out when every other person in this building abided by the salary bands?

Senator ABETZ—It is always tragic when you see a former senior defence minister descend to asking questions of this nature. Having been in charge of the Collins
class submarine, he has fallen down to Centenary House, and today he has made his name by interjecting blonde jokes during question time. He has got a full and detailed answer, a lot more detailed and full than he expected from me. I was prepared for this sort of cheap shot from Senator Ray. In the few times that he actually does come into this chamber to make a contribution, you can always bet your bottom dollar that it is going to be for the cheap shot. At the end of the day, we as a government are treating the opposition staff a lot more kindly than they ever treated us when we were in opposition.

Trade: Free Trade Agreement

Senator NETTLE (2.54 p.m.)—My question is to the Minister representing the Minister for Trade, Senator Hill. Given that the free trade agreement has attached at least 25 side letters making significant commitments in a range of areas, from foreign investment to education services, will the minister explain the legal status of these side letters? Will, for example, future governments be prevented from returning Telstra to full public ownership by the text of one of these side letters, and will the important task of collecting and providing blood plasma for use in Australian medical services be opened up to US corporations as discussed in the exchange of letters on blood plasma products?

Senator HILL—Again, these are the sorts of questions that one would have expected before each of the two parliamentary inquiries.

Senator Robert Ray—You don’t know the answer. What are you doing here if you don’t know the answer?

Senator HILL—If you think it is reasonable to ask questions of this sort of detail on a 1,100-page document which has been released in the last 24 hours then I suggest you are off with the fairies.

Senator Robert Ray—Don’t bag us over it.

Honourable senators interjecting—

The PRESIDENT—Order! Senator Faulkner, I am on my feet and I am trying to get some order in this place.

Senator HILL—What I was quietly saying is that two parliamentary inquiries are going to have the responsibility of working—

Senator Chris Evans interjecting—

Senator HILL—You can ask questions, but questions without notice of that sort of detail on a 1,100-page document released in the last 24 hours are, with respect, ridiculous and totally out of order.

Senator Brown—Mr President, on a point of order: the minister has been asked to answer a question from Senator Nettle, not from the interjections of the opposition. The key point to that question was the status of 31 attached letters and the legal impact that they have in this.

The PRESIDENT—What is your point of order, Senator Brown?

Senator Brown—The point of order is that that is a very direct question and the minister ought to be able to answer it.

The PRESIDENT—The minister has three minutes to answer the question. I ask him to return to the question. There is no point of order.

Senator HILL—I will refer the question to the Minister for Trade.

Senator NETTLE—Mr President, I ask a supplementary question. The minister has earlier today in question time been waxing lyrical about this government’s experience in trade agreements. Surely the question about side letters, which have occurred regularly in trade agreements for several years now, is something that the minister can answer here.
today. What is the legal status of these at least 25 side letters that are part of the US-Australia free trade agreement and that have been part of trade agreements for many years previously?

Senator HILL—I have already said that I will refer the question to the Minister for Trade to give a considered response.

Migration Review Tribunal

Senator LUNDY (2.58 p.m.)—My question is to Senator Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs. Can the minister confirm that the Canberra office of the Migration Review Tribunal will be closed on 30 June 2004 and that as many as 60 staff have been relocated to Sydney or made redundant as a result of their functions being relocated? If so, why was this closure never announced publicly and what now will be the impact of the Howard government’s decision to centralise these services in Sydney? How many millions of dollars will it cost to relocate these MRT staff or to make redundancy payments to them?

Senator VANSTONE—I can inform the senator that I am not aware of the particular detail that she is talking about, but I am aware that Immigration do try, in the same way that Centrelink and a number of departments do, to centralise their service delivery sometimes in particular places to get specialisation. My state of South Australia has been the particular beneficiary of that in past years before I took on this ministry in certain areas of function delivery; other states look after other areas of function delivery. I will take the question on notice and get back to you.

Senator LUNDY—Mr President, I ask a supplementary question. Can the minister confirm that the Canberra MRT is currently the location of the central office of the tribunal, housing its own complement of staff, servicing and resourcing other centres and housing the central library and legal services section? What measures have been taken so that these services previously provided by the Canberra MRT are still available to clients and case officers?

Senator VANSTONE—I will take that question on notice.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator CONROY (Victoria) (3.01 p.m.)—I move:

That the Senate take note of the answers given by ministers to questions without notice asked today.

Today we have finally seen the text of the free trade agreement between the United States and Australia, which has been delayed for the last few days. The key commitment that this government will not give about this text concerns this question: why won’t you refer it to the Productivity Commission? If you are so confident that this deal is so good and there are so many ‘big bucks’ in this deal, as Senator Ian Macdonald says, let us put it to the independent test: refer it to the Productivity Commission. That is all it takes: one letter. But, no, what are this government intending to do? They are going to commission some economic analysis. You may think to yourself: why would they want to commission separate economic advice when all they have to do is refer it to the Productivity Commission and not pay a cent? So why do they want to set up their own tender process that will cost taxpayers extra money? You have to say the answer is very simple with this government. It is because they want to put in the fix. They want to control the terms
of reference, they want to control the money and they want to control the outcome.

We know this because the Prime Minister has already said that he has got advice that this is a good deal for the economy. He has already said that before he has commissioned this new independent evidence. He therefore does not need to spend any money. He would not be able to set the terms of reference with the Productivity Commission, because if there is one organisation in this country that has modelled free trade agreements and has examined this issue up hill and down dale it is the Productivity Commission.

The Productivity Commission do not need any advice from the government about how to conduct a review and what the terms of reference are; they have done it many times before. That is why we will not see this matter referred to them. They are truly independent, they have done it before and they do not need the government’s help in setting the terms of reference. This economic advice that the government want to tender out is simply putting in a fix to give them the answer that they have already predetermined. So let nobody take any notice of the process that they are going through: it is a fix and we all know it is a fix.

What have they got to hide? There are a number of things that have come to light in the text today. Bear in mind that it is less than 10 hours since this text was actually released and it is 1,000 pages, so we are still working our way through it. What is the new information that has come up in the last 10 hours? We have seen extra detail on the Pharmaceutical Benefits Scheme. We asked Senator Hill, ‘Give us some assurances, Senator Hill, because we would actually like to know them.’ Of course, he did not because he has not read it. He has looked at it a couple of times in cabinet but he has not got a clue what is in it. That is typical.

What are the terms laid out in these side letters to do with the Pharmaceutical Benefits Scheme? What is this new appeals mechanism to do with the level of reimbursements? For those who are not familiar with trade jargon, the level of reimbursements is the taxpayer subsidy that goes to the US drug companies. So we asked a simple question today: ‘Tell us, Senator Hill, what is this new mechanism? Will it allow the US drug companies to increase the levels of subsidies from Australian taxpayers through the government to these US drug companies?’ That is all we asked—a simple question—and he did not know the answer. In fact, he did not even understand the question, although it was a fairly straightforward question.

If we have agreed to a system that allows American drug companies to get in through the back door and get increased subsidies from taxpayers, that means every single Australian out there, because of this US trade deal, will be forced to subsidise American drug companies more than they are now. The Labor Party has made it quite clear from day one that that is unacceptable. If we have a situation where the US free trade agreement sabotages and undermines the PBS, then we will vote it down. We have said that from day one and we continue to say it today. So we asked a simple question today: just give us that assurance; just tell us that there is not going to be an increase in taxpayer subsidies to American drug companies because of this deal—and we got nothing, just blather. We saw that as soon as it got hard they wanted to take the questions on notice. He did not want to answer a simple straightforward question on the most politically sensitive issue in this document. (Time expired)

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (3.06 p.m.)—We have seen today from Senator Conroy and his col-
leagues—both in question time and now in taking note of answers to questions—the Labor Party’s true colours under the leadership of Mr Latham: they want to be wreckers; they want to drag down the Australian economy. We have seen today two lines of attack, if you could possibly call it that. One was on the free trade agreement, which is designed to boost Australia’s economy, to create new opportunities for companies in Australia to sell goods into the biggest, most successful market in the world—new opportunities for thousands of products and services—and to protect the Pharmaceutical Benefits Scheme.

Senator Conroy, after a couple of days in estimates committees, has been trying to find a reason to vote against it. His whole life is about trying to find a reason to vote against it. The Labor Party want to bring down the free trade agreement. They want to hurt the Australian economy and hurt the prospects of Australians who could have more jobs, more economic security, better quality lives and better opportunities because of the work the Australian government has done in negotiating access for thousands of goods and services into that US marketplace. But Labor want to oppose it. They are negative, carping, whining and whinging, and they are bringing things down. They are not building; they are wrecking. That is Labor’s way.

The Labor Party say, ‘We might have done a better deal.’ We remember the previous trade minister, Senator Cook, who is about to get to his feet. He would not have been able to do it. The previous government could not have achieved a free trade agreement because when the previous trade minister went away on trade missions he gave specific instructions to his entourage—his minders and the departmental officials in the Department of Foreign Affairs and Trade—that he was not to be woken too early in the morning and that he could not have his first meeting until, I think, 10 o’clock. He needed to have a nice warm cup of tea first. He could not have a breakfast if he had had a dinner the night before.

Government senator interjecting—

Senator IAN CAMPBELL—And he could only have four meetings a day. If Mr Vaile had done that he would still be over in Washington. I think Mr Vaile attended mass on three Sundays in a row and worked through the night, day after day. Senator Cook would not be back until 2008 if we had sent him to do the job. So Labor would not have got a free trade agreement—although, whatever else his hotel would have done, it would have made a lot of money out of cups of tea.

The other concern I have today is that the Labor Party is not only trying to bring down the whole Australian economy by opposing the FTA but also trying to bring down the economy of Christmas Island, a small but very important part of Australia. We have seen them attack Phosphate Resources Ltd just before Christmas by voting for, I think, a Green motion to oppose a access by PRL to five very important new leases to ensure that the mining operations—the number one enterprise on that island—can go on for some years. Clearly, it is a crucial business for the island. It is a crucial enterprise that employs a great majority of the people on the island. Labor have said, ‘No, we’ll join with the Greens and stop you getting access to further resources.’ At a time when that company is under pressure because of the exchange rate and hot competition from other parts of the world in the phosphate market, what do Labor do? Labor belt them while they are down. While the government is there trying to help PRL get through a difficult stage in the world market by putting new port facilities and infrastructure on the island, they want to bring that company down.
The Labor Party are not content to bring down Phosphate Resources Ltd, an important company for the island; here they are today trying to destroy the other enterprise that this government is trying to get up—that is, the space station development run by APSC. It was always going to be very difficult to get that enterprise up. So what did the government say? Did we say, ‘It’s all too hard. We’re not going to help you. We won’t build infrastructure and we won’t give you support’? Of course we did not. We want to see a space facility built on Australian soil and Christmas Island is a very good place to build it. The Christmas Islanders are keen to see it built but Labor’s approach is to drag that business down too and not to give them any support just when they need it. Right when they need bipartisan support from Australia to ensure that the Russians know that they have support and to ensure that investors from Korea and other places know they have support, what do Labor do? For short-term, pathetic political objectives, they want to drag that project down, and drag down the names of the McClintock family as well. It is a disgrace and it is typical of Labor. If it is typical of the new Labor under Latham then they have not really gone very far.

Senator COOK (Western Australia) (3.11 p.m.)—I will put my record of meetings on the table against any minister in this government and I am pretty sure that the record of what I actually did will outshine the lot of them. There is an unfortunate strand running through parliamentary debate from the government at this stage of the political cycle, and that is that if you do not know the answer you bluster, shout down others, and try and drag red herrings across the debate. There is no better exponent of that in this chamber than the Leader of the Government, Senator Hill. We saw an example of bluster and shout-down today. He made a number of assertions in answers to questions about the free trade agreement which are just not true. I want to go through some of them—I will not have time to go through all of them, there were so many—and correct the record.

Firstly, he said that Labor should not obstruct the early entry into operation of this agreement. Labor has no intention of obstructing anything about early operation of this agreement, but through you, Mr Deputy President, I remind Senator Hill that there are two parties to this agreement. The other party is the US Congress and they have enshrined in their legislation a period of debate and consideration of up to five months. We have plenty of time in Australia to give this free trade agreement a proper examination because the Americans will not do anything for five months. They have to lay it on the table for 90 days and they have another 60 days to consider it. There is a reasonable possibility—it is a small possibility and I hope that it does not occur—that they may not deal with it at all if it becomes a contentious issue within the US presidential and congressional elections this year. So it is not true that Labor is obstructing anything; to say that is misleading.

Secondly, Senator Hill said that Labor had 13 years to make an agreement like this and did nothing. That is equally untrue and equally misleading. Labor set up the Cairns Group to negotiate trade liberalisation for farmers. Labor participated in setting up and delivering the outcome of the Uruguay Round. That round was not with one country; that round was with the whole of the world, including the biggest economy, the United States. Comparing the outcomes of the Uruguay Round to this feeble agreement is like comparing an elephant to an insect. We got the elephant; you got the insect. It resulted in real gains for all markets, including the sugar industry.
The other thing that Senator Hill said that is not true and is false and misleading is that we only believe in multilateralism. Labor believes multilateralism is the best way of achieving trade liberalisation because it affects everyone else. I remind the Senate that Labor concluded the Australia-New Zealand Closer Economic Relationship, which is a template for all bilateral trade agreements for this country. It has stood the test of time. It is a truly comprehensive agreement that covers all elements of the joint economies and has succeeded in integrating them. It is not a partial agreement like the US one, where areas are off limits.

Labor set up APEC. APEC is basically a trade configuration that covers 2.224 billion people in this part of the world and it has got the goals of free trade by 2010 and 2020. The question hanging over the trade debate is: ‘Why did the Liberal party led by Mr Howard neglect and sell out APEC, which covers 2.224 billion people, for a trade agreement with one country that covers 239 million people?’ The benefits to Australia if we had concentrated on delivering free trade in APEC, as the Labor government obtained a commitment to do by 2010 for developed countries and 2020 for developing countries, would have been far greater. They would have dwarfed any outcome that has been achieved here.

Of course, Labor wanted to push ahead with joining CER to AFTA, the ASEAN free trade agreement. We now have a configuration with China talking to ASEAN of 10 plus one and China, Japan and Korea talking to ASEAN of 10 plus three. But, thanks to the bad stewardship of this government on trade matters, Australia is excluded from that. This is the fastest growing market in the world. This is the area where we send 49 per cent of our exports. This is the area where the potential to increase our exports is far greater than anywhere else—and what has happened? We are excluded from the deal because this government pursued another course of action where there are minimal gains, and they have got a minimal outcome. So let us not have from the government any reflection on the Labor Party’s trade record. It has been far more devoted to achieving the real interests of this nation than anything that has happened here. That leaves me with just Mr Howard, and I may not have time to deal with him. *(Time expired)*

**Senator CHAPMAN** *(South Australia)* *(3.16 p.m.)*—In the questions asked of the government today in relation to the Asia Pacific Space Centre, the Labor Party clearly show that, when it comes to policies regarding space science and the space industry, they are lost in a black hole and have probably returned to the Dark Ages. It is interesting to recall what happened with regard to space science and industry policy when Labor were in government. In about their first seven years they spent $34 million in support of space industry initiatives and achieved absolutely nothing as a result of that expenditure. In marked contrast, in their latter years in government they ran Australia’s space program down to nothing, to a big fat zero. I well recall in the budget estimates committees following Labor’s last budget in 1995—fortunately their last budget for many years—asking questions about the space program and finding that in the forward estimates there was absolutely no provision made by the Labor government for space programs. It took the election of the Howard government in 1996 to restore some sanity to this area of policy, to make some funding provision for space programs and to start the much-needed revitalisation of the space industry and space science area in Australia which has occurred since that time.

This clearly demonstrates that Labor has absolutely no understanding of the importance to a 21st century economy of space
science and the space industry, not only in terms of the direct benefits it offers in areas like agriculture, environmental monitoring and communications but also in the indirect flow-on benefits that a viable space industry provides. It is to the great credit of the Howard government that it is funding programs relating to the space industry. In my view, the government could do more in this area but the fact is that it has provided funds for space industry development as opposed to the former Labor government running those programs down to a big fat zero. That is a marked contrast between us and the opposition with regard to this issue.

We see as a consequence Labor simply engaging in carping and error-riddled criticism. That has been evident today in their criticisms, as Senator Ian Campbell said a few moments ago, of the Christmas Island spaceport. It is a part of Australia that desperately needs support and encouragement and the government is providing that, yet all we get from Labor is carping criticism with regard to the possible winding up of the Asia Pacific Space Centre company. As I understand it, it is true that a notification of the filing of an application for a winding up order has been lodged with ASIC by that company, but it is also true that the Asia Pacific Space Centre continues to work towards obtaining investor funding to develop the spaceport on Christmas Island.

It is also true that the government, much to its credit, agreed to a $100 million strategic investment incentive package covering common use and space port infrastructure on Christmas Island. But, in contrast to what Labor used to do in government when they would provide funds and then not have any idea of what happened with those funds, this government has kept a close watch over the Asia Pacific Space Centre’s efforts to obtain investor funds to establish the spaceport. Importantly, the government funds that have been allocated—the $31.4 million—have not as yet been paid because, quite correctly, the government laid down preconditions and milestones that had to be achieved by that company before any government funding would be provided to it.

As yet those preconditions have not been met. They relate to various aspects of the development of that program but they have not been met, so the taxpayers’ money has not yet been provided to that company. The company’s intended timetable has not been met because market conditions have changed since the project was initially planned. There is still the opportunity for that project to succeed, provided investor funds can be obtained in the current market conditions. The conditions set down by the government will ensure that taxpayers’ money is not wasted but, on the other hand, they will be available to give much needed support to this project and much needed support to the development of the facilities at Christmas Island as a great boost to that regional economy. So we see here quite a clear contrast between the Liberal-Nationals government on the one hand and the Labor Party on the other hand with regard to this very important area of policy, an area that is critical to any 21st century—

(Time expired)

Senator CARR (Victoria) (3.21 p.m.)—I would like to speak today in this debate about the space scam at Christmas Island. I am gravely concerned about the way the Asia Pacific Space Centre project has been managed by the Howard government from day one. It is a great matter of concern to me. I know it is a great matter of concern to the Labor Party and it ought to be a great matter of concern to the Australian people—and I think that in due course it will be.

Here we have a situation where the government has extended access to $100 million of taxpayers’ funds essentially for a project
which may well never get off the ground. Labor support the joint use facilities. Obviously there is a need for a port on Christmas Island and there is a need to extend the airport. There is a need for roadworks. But that development has only partially begun. We also say that Labor strongly support the need for high-skill, high-wage industries such as the space industries, and we say they should be encouraged in this country. We also say, though, that this does not justify poor management by government. It does not justify dodgy administrative practices by government. It does not justify secret deals being done in such a manner that we see no real product coming out of the expenditure of very large sums of money. We believe there should be investment in research. We say that we should be investing in complementary industries that allow us to develop a competitive advantage.

I do acknowledge Senator Minchin’s statements that this is a risky business. I also acknowledge his direct personal sponsoring of the spaceport project. I know that speculative projects sometimes deserve backing. But that does not excuse the government for poor management. The Christmas Island spaceport project has been mishandled by this government. It has been mismanaged by the Prime Minister, by the Treasurer in his use of the Treasury advance, by the industry minister—both the former minister and the current minister. Senator Minchin, in his capacity as the former minister and also in his capacity as the finance minister, has direct responsibility for this project. We know that over $100 million has been expended on this project insofar as they have been provided in the forward estimates and there is a capacity for this government to actually provide a taxable grant to APSC. We know that contracts on a deed have been issued which do not provide for a schedule of works to be completed. We do not see these sorts of contracts in any other major project.

Here we have a situation where the government has provided access to these funds conditional on a number of very perfunctory measures being undertaken, such as safety. Of course those things have to be done. These measures are not a schedule of works; they are not a formal process to ensure that proper milestones have to be met. Not even a space licence has been applied for. We do not have proper controls in this contract and we have a situation where the government cannot get out of the contract until December 2005, irrespective of the progress that is made. That leaves the money and the people of Christmas Island in limbo.

There are a couple of possibilities available to us as to why this occurred. Why did such a speculative project get support in an area where there is such congestion in the marketplace? Is it because the government was blinded by the prospect of involvement and the glamour of space? Was it because people were anxious to get their hands on a casino? Was it because of something much grubbier? Was it because serious questions were not able to be answered? For instance, was it because the Prime Minister came under undue influence by the then secretary of the cabinet, Mr Paul McClintock, whose father, Sir Eric, was on the APSC advisory board at the time? Was it because the Prime Minister was unduly influenced by his personal friend and political associate from the Liberal Party Mr John Longley? Was it because of Mr Borbidge’s involvement? We do not know the answers to these questions but I am very concerned about this. Was it because of the lobbying of Senator Herron and other ministers in this government? What pressure was brought to bear to ensure this $100 million grant and this deed were put forward in such a way with so little concern for the
normal milestones that should occur in these sorts of contracts? (Time expired)
Question agreed to.

NOTICES
Withdrawal

Senator MACKAY (Tasmania) (3.27 p.m.)—At the request of Senator Sherry, pursuant to the notice of motion given by me earlier today, I withdraw business of the Senate notice of motion No. 1 standing in the name of Senator Sherry today.

DELEGATION REPORTS
Parliamentary Delegation to Japan and the Republic of Korea

The PRESIDENT—I present the report of the Australian parliamentary delegation to Japan and the Republic of Korea, which took place from 8 to 19 December 2003.

(Quorum formed)

Senator JOHNSTON (Western Australia) (3.32 p.m.)—Mr President, I seek leave to move a motion in relation to the report that you have tabled of the Australian parliamentary delegation to Japan and the Republic of Korea.

Leave granted.

Senator JOHNSTON—I move:

That the Senate take note of the document.

The delegation went to Japan and South Korea on behalf of this parliament from 8 to 19 December last year. The delegation was led by the President of the Senate. May I say, Mr President, how delightful it was to have the delegation led by you in all of the various meetings and engagements that we had with the various dignitaries and other important people whom we met in Japan and South Korea. Mr President, not only was it a delight; it was an honour to see the way you conducted a parliamentary delegation. The other members of the delegation were: the Senator the Hon. Nick Bolkus; Mrs Margaret May, the member for McPherson in Queensland; Mr Paul Neville, the member for Hinkler in Queensland; and Mr Brendan O’Connor, the member for Burke in Victoria. We were also accompanied by the Usher of the Black Rod, Ms Andrea Griffiths, and the President’s private secretary, Mr Don Morris. It was a very hardworking group that made up the delegation.

Japan and South Korea are exceptionally important countries for Australia. Whilst we were in Japan and South Korea we became aware of the enormous change that is evolving, given the strength of the Chinese economy. Iron ore and liquefied natural gas are two of the principal components of the economic rebuilding of the Japanese economy. LNG forms an absolutely crucial and vital part of day-to-day life in both South Korea and Japan, particularly Japan. Japan has nine nuclear-powered power stations and, in addition to that, very large power stations driven by Western Australian LNG produced at this stage by Woodside with, hopefully, Gorgon coming on line in the next 10 years.

So the connection between Australia and Japan and Australia and South Korea is one where we are a reliable supplier of important raw materials and energy resources to those countries. In South Korea we saw the level of drive that is being given to South Korea through the Chinese quest for the consumption of steel and for shipping. The effect of the Chinese ‘economic miracle’, as I think one is bound to call it, has been to lift the Japanese economy—particularly the Japanese export sector—out of the doldrums, where it has been for more than 12 years. The South Korean economy continues to grow and remains one of the most vibrant in East Asia.

With regard to the specific visits we undertook whilst we were in Japan and South Korea, at the Toyota factory, just out of
Kyoto, it was quite remarkable to see the just-in-time industrial philosophy of the production line manufacturer. To see how raw iron ore, as produced in Western Australia by Hamersley Iron and Mount Newman Mining, is pressed out into car bonnets and car doors and to see the finished product all on one production line was simply astounding. We also had the delight of going to Kyoto, the old Edo capital of Japan, a most beautiful, fabulously clean and vibrant regional city and the host of the World Expo next year. I think the Expo will be sensational for the Aichi prefecture.

Whilst in South Korea we visited POSCO Steel. At POSCO Steel we saw six blast furnaces taking raw material, predominantly from Australia and in the form of iron ore again, and casting it into steel slabs and then pressing it out into hot rolled coil. At the Daewoo car factory, towards the end of our delegation's visit, we saw the cradle-to-grave scenario of iron ore from Australia being turned into hot rolled coil steel and then being pressed out into car bonnets and car doors. It was quite an exceptional insight into that process. Being from Western Australia, I know what it is like at Mount Newman, Mount Whaleback, Tom Price and Paraburdoo. I have seen the raw ore on the train going to Karratha, Wickham and Dampier. Then to see it being loaded into the blast furnaces at POSCO and ultimately turned into motor vehicles is simply to see an industrial miracle.

Further to this, Daewoo Shipbuilding and Marine Engineering at Busan employs 20,000 employees in the shipbuilding yard. We saw a 900-tonne capacity gantry crane. That is something that I had not imagined was possible. This crane can be seen for some many, many tens of kilometres away from the site. It has a huge capacity. The dry dock facility at Daewoo has the capacity to produce more than three 300,000-tonne ore tankers every five weeks. This is just a phenomenal engineering feat. These tankers are huge. To be able to produce more than three of them every five weeks when this huge dry dock is flooded is again a great credit to the achievement of the South Koreans since the devastation of the war in 1953. We also saw the newest North West Shelf joint venture's LNG transport ship that goes on line later this year. Lastly, as I have already mentioned, we saw General Motors Daewoo, a joint venture between General Motors and Daewoo. General Motors, through its Australian owned company, is managing and running the Daewoo car manufacturing plant near Seoul in South Korea.

The trip brought home to me and I am sure to the other members of the delegation the extent of the stress and strain of having insecure borders. The near proximity of North Korea to South Korea, which is a very vibrant, progressive democratic state, is something that has to be seen to be understood. We visited Camp Bonifas at Panmunjon. Many of us went to stand momentarily in North Korea. We saw the level of tension that is visibly in existence between those two countries. All of the young people aged 19 have to do 2½ years national service in the army in South Korea, so South Korea has many people under arms serving in its defence forces.

We also had the fascinating experience of visiting one of the four tunnels which were constructed surreptitiously by the North Koreans back in the 1970s and early 1980s. These tunnels extend for more than 20 kilometres. They are 300 metres below the surface and they were designed at an inclination to come out just in the near vicinity of Seoul. The intention obviously was to mount some form of insurgent attack via these tunnels. Knowing a little bit about mining, I can say that they would have consumed an enormous amount of explosive, not to mention the level
of labour and resources required to construct them. Having walked along one of them for some three or four hundred metres I can say that it was an insight into the psyche of the North Koreans back when such a surreptitious and obviously aggressive undertaking was commenced. It did give the delegation an insight into the type of tension that exists on that border. There is simply a cease-fire. There has been no peace settlement. That is a fact that people should remember: it is simply a situation of a cease-fire, which has existed since 1953.

Lastly, it was a great honour also to attend the United Nations war memorial at Busan where you, Mr President, laid a wreath commemorating the 339 Australian casualties. It was most important for us and a very significant event for me personally as a relatively new senator. Thank you.

Question agreed to.

COMMITTEES

Economics Legislation Committee
Membership

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

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (3.42 p.m.)—by leave—I move:


Question agreed to.

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

Message received from the House of Representatives returning the following bill without amendment:

Norfolk Island Amendment Bill 2003 [2004]

SUPERANNUATION: REFORM

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

That the Senate—
(a) condemns the Liberal Government for the underlying thrust of its recently-announced retirement incomes measures, that Australians should forget full-time retirement and work longer and longer—in reality, work until they drop;
(b) while acknowledging that the Government’s announced policies may be of value to some retirees, considers that they must be implemented with a guarantee that:
(i) current access ages for superannuation, 55 for those born before 1 July 1960, phasing up to a retirement age of 60 for those born after 30 June 1964,
(ii) current eligibility ages for the age pension of 62 and 65 years, and
(iii) indexation of the age pension to Male Total Average Weekly Earnings, shall be maintained;
(c) notes that:
(i) Australia does not face a retirement incomes ‘crisis’ resulting from the ageing of the population, because of the efficiency and effectiveness of the combined operation of the age pension and the 9 per cent superannuation guarantee contribution, and
(ii) there is active discrimination occurring in the workforce against those aged 40 and over who are seeking meaningful full-time employment and for whom retirement is the only option; and
(d) is of the opinion that:
all Australians are entitled to retire at a
time of their choosing to enjoy rest,
recreation, community activity and
family, at their leisure, and

for many Australians, it is impractical
to expect them to work beyond the
current retirement ages because they
will not be able to find either full- or
part-time work, or the nature of their
employment involves a mandatory
retirement age or is of such a
physically and mentally stressful nature
that employment beyond the current
retirement age is not possible.

It is very clear from the events of the past
week or so that the government have no third
term agenda, never mind a fourth term
agenda, for the people of this country. We
have been waiting for some 2½ years for the
balancing work and family package that was
promised. They may well bring it in. They
may well put it on the table. Then again, they
may not. One would have to believe that that
has been well and truly buried in the bottom
drawer, if not taken back to Launceston by
the former minister responsible for putting
that report together.

The government have failed in so many
areas that they have created circumstances
where the Treasurer is now talking about an
ageing crisis. They have failed in industry
policy, they have failed in education policy
and they have failed in economic policy. The
result of that is the Intergenerational Report
and the promotion by the Treasurer of the
new policy agenda more commonly known as ‘work till you drop’. What have we got
out of it? The government have been project-
ing very significant headlines and have been
out there making massive policy announce-
ments. But all we have simply got is a report.

As a result of the report, however, we now
have the Treasurer saying that there is going
to be no such thing in the future as full-time
retirement. The reality is that, despite what
the Treasurer is saying about the ageing cri-
sis and despite what has been in the newspa-
pers over the past week or so, there is no
crisis. Even the Intergenerational Report
makes the point that, in terms of retirement
incomes, Australia does not face a significant
problem with its ageing population. We
know, for example, that at the moment about
11 per cent of Australians are over the age of
65. We know that in about 25 or 30 years the
proportion of Australians over the age of 65
will double to approximately 22 or 23 per
cent. But there is a solution, and there has
been a solution in place to deal with this cri-
isis since 1987, when the then Labor govern-
ment introduced universal superannuation
for everyone. I make the point that it was a
policy that was vehemently opposed at the
time by the current government. They did not
want to see superannuation introduced and
universally applicable across the whole of
the work force. I am reminded that the Labor
Party had proposed to take the superannua-
tion guarantee charge from nine per cent to
15 per cent in order to increase the level of
retirement savings and to ensure security for
older Australians in their retirement over the
longer term.

But who abandoned the additional six per
cent going into superannuation? No-one
other than the current Treasurer, Mr Costello.
He dropped it in 1997 despite the fact that it
was funded and despite the fact that it was
provided for in the then budget and has been
provided for in budgets ever since. It was not
dropped because of a budget deficit. It was
not dropped because the funding was not
there to provide for it. It was dropped be-
cause Mr Costello and the Liberal and Na-
tional parties did not like and could not come
to grips with the fact that all Australians
were getting access to superannuation and
that that would provide them with the secu-
ritv they wanted and needed in their old age
in the future. The impact is that Australians
have 40 per cent less in superannuation savings today than they should have. Yesterday in this chamber, we heard the Assistant Treasurer, Senator Coonan, trying to explain what the Treasurer meant when he said:

There’s going to be no such thing as full-time retirement.

Senator Coonan demonstrated that she had no idea what the Treasurer meant and I suspect a substantial majority of the Liberal-National Party government have no idea what the Treasurer meant by that statement.

It is pretty clear to the Australian population what the Liberal Party’s approach is. They are saying: ‘We do not want any more full-time retirement. We want you to keep working longer and longer.’ There will be no cost to the public purse because you do not collect an age pension when you are in Rookwood. Pensions are not paid in cemeteries. This government knows—there have been reports done about it; one was done for the then industrial relations minister in New South Wales, Mr John Fahey, which clearly demonstrated this—that when people retire early their longevity tends to be greater than that of people who work to a later age and work longer.

The reality is that, if the policy framework now being promoted by the Treasurer is introduced, there will be significant pressure taken off the public purse. There will be fewer and fewer people collecting the pension because they will be dropping where they are working. They will be carrying them out of the workplaces in wooden boxes and taking them straight to the cemeteries. That is the policy strategy that is being promoted by this government. This is a new Liberal Party agenda for the third and fourth terms. However, there is one person in the country whom the Treasurer would not like to see working any longer and whom he is very keen to put into retirement and see out of the work force. That is the person occupying the big suite at the back of this building—the Prime Minister—whom the Treasurer sees as holding down his job and stopping his opportunity to work till he drops for the nation. He is very keen to see the Prime Minister take early retirement. But, of course, he is not concerned about the situation of ordinary Australians in that set of circumstances. If he were, he would have taken concrete action to fix the situation and ensure that people had adequate income for their retirement.

He has, however, pointed to what we all know as a mathematical truth: the later you retire, the more years you have to build up your savings and the fewer years you have to actually run them down. One would say that this is an extension of that famous statement made by a former Liberal Prime Minister: ‘Life wasn’t meant to be easy.’ This Treasurer is determined not to make life easy for working Australians. He is determined not to give working Australians the opportunity to leave the work force at an earlier period and to enjoy an adequately funded retirement.

Senator Ferris interjecting—

Senator GEORGE CAMPBELL—I hear Senator Ferris chirping away; the budgie is chirping in the background again. I suppose we will have to put up with it for the next 10 minutes or so while I go through these pretty important points. What is the real problem that underlies what the Treasurer is saying when he talks about working until you drop? The real problem is that there is a shrinking labour supply that we are not fronting up to as a community and that this government has not adopted any policy framework in order to deal with. Ross Gittens wrote yesterday that the Treasurer is not concerned about the effect of ageing on the federal budget, and that is correct. But he never goes out of his way to demonstrate this—and why? It is because the Treasurer
has built his career on exploiting the public’s economic misconceptions, not correcting them. The real concern of the government is the shrinking labour supply. That is why they want to keep older Australians in the labour market longer. Let us say they want to see a set of circumstances where people are working until they drop.

Senator Watson interjecting—

Senator GEORGE CAMPBELL—I have seen a statement today. Senator Watson, you may not have read it, but it was on the AAP wire. Treasurer Costello said that Australia is close to full employment. He said that the unemployment rate is down to 5.7 per cent, that five per cent is full employment and that therefore we are close to getting there. That is what he said. There is an official unemployment rate of 5.6 per cent, which he says is effectively full employment.

Senator Watson interjecting—

Senator GEORGE CAMPBELL—Let me give you some figures about the state of employment in the economy today, Senator Watson. There are 600,000 Australians who are out of work today—that is a work force waiting in the wings which is an instant solution to the ageing population. There are over 500,000 working Australians who do not have sufficient work and want to work more but are condemned to part time and casual work because of the employment strategies of this government. There are hundreds of thousands of people over 40 who want work but are unable to find it and, in fact, are parked on the disability support pension and have been for a long time. This is what you call full employment, Senator Vanstone. This is what your Treasurer defines as full employment. The reality is that what the Treasurer is proposing is not a real solution to these issues; it is a fallacy. Getting more people into the work force is the key to tackling unemployment and to providing an instant work force to replace our ageing work force as they retire.

Working until you drop is the soft option to the ageing population and shows that the government has given up on getting the unemployed and those not in the labour force into work. To address the ageing population the government must increase the participation of all workers or potential workers. In an op-ed piece, for example, last Friday in the Australian Financial Review the BCA said: ... while the focus on raising mature age participation in the workforce is important, encouraging participation across the entire population compounds the benefits. There are a number of key issues that have to be addressed if we want to confront the issue of a shrinking labour supply as our community ages. One is getting more young people into work to support our ageing population. There are still far too many young people in this country who are not in a job or have never experienced a position in the work force.

The second issue is to improve the job outcomes for all unemployed workers, especially the mature age unemployed, and to tackle age discrimination at work. We know, or we should know, that there is significant discrimination occurring in this country against the 40-pluses in terms of their capacity to get into the workplace if they are unemployed. There are plenty of examples around the country where it is happening. I can rattle off a series of people I know personally who have applied for job after job after job. They have the qualifications and live in an area where there is a shortage of metal tradespeople and the best they have been able to do is get a job as a labourer. This is because there is very significant discrimination. They have come to that conclusion themselves. One person said to me, ‘As soon as I tell them my age”—this particular
person is 47—‘that’s the end of the interview. No job opportunity available.’ There are plenty of examples like that. Yet this government has done nothing to confront the issue of discrimination against aged people in the work force.

The third point is to tackle the increasing underemployment issue. There are far too many people in the Australian work force who are getting substantially less than a full week’s wages and who would like nothing more than the opportunity to work a 38-hour week but who do not have that available to them. The fourth point is to get greater workplace flexibility and a better balance which will increase the participation of women and jobless families. The fifth point is to give mature age workers the opportunity to balance their work and retirement.

The sixth point is to make sure that older workers are not making the step from work into unemployment when facing retrenchments. The reality is that, when retrenchments occur in this country, we all know the first people that are targeted are the older people in the work force. Many of them hold important positions in the workplace and have had long years of experience. It does not seem to matter these days to employers whether you have that experience or not; the fact that you are in the mature age bracket means you are the first target.

Let us look at some other issues related to this: work force participation rates in Australia are extremely low, particularly for those aged 55 and over; 49 per cent of people in the age group 55 to 64—or over a million people, if you want to use those terms—are not in paid employment; 33 per cent of people aged between 50 and 64 are in receipt of government support payments; and the average duration of unemployment for people over 50 is two years—a year longer than for younger people. The reality is that the path for too many mature age workers after retrenchment is either unemployment or simply withdrawing from the labour market. Retrenchment and unemployment must be tackled in order to get more mature age workers participating in the labour force. The House of Representatives Committee on Employment, Education and Workplace Relations inquiry report entitled Age counts said:

... mature-age workers being retrenched, frequently experience more significant emotional trauma than younger people. They also are in danger of longer periods of unemployment.

One of the challenges we have as a nation is to get young people into jobs. That would be a much more effective way of tackling the labour supply shortage than the government’s simple strategy of work till you drop. More young people would substantially ease the pressure on an ageing work force.

Youth unemployment in this country is still far too high—with something like one in five teenagers out of work. However, the government’s only policy to help these kids is Job Network. Job Network is probably the only network in the country that is not working. It is in absolute shambles. The government have been in constant denial about the state of Job Network since they introduced it. Job Network is failing to get young people into jobs. Only 19 per cent got full-time jobs after completing intensive assistance and 57 per cent were unemployed, in further assistance or so discouraged that they left the work force.

Over one in five unemployed Australians spend more than a year out of work. The number of long-term unemployed jumped by 6,000 since December 2003 to reach 124,000 at the beginning of this year. This government has spent some eight years managing unemployment, not tackling unemployment. Job Network has massively failed to get un-
employed people back into the labour market. Instead of promoting a policy environment of work till you drop, which is seeking to penalise those in the work force who have contributed substantially to this nation’s security in the longer term, and blaming the victims—the students and the unemployed—this government would be better off developing a policy strategy aimed at creating opportunities for all of those unemployed people to get back into the work force. (Time expired)

Senator WATSON (Tasmania) (4.04 p.m.)—Mr Deputy President Lightfoot, I hope you have the opportunity of joining this debate because we might see a little more enlightenment following your great experience. The thrust of Senator George Campbell’s motion must be very worrying to all thinking Australians. The attitude of the ALP towards the Treasurer’s initiatives gives one the impression that the ALP are now living in a time warp. Where are the fresh ideas of the Keatings and the Hawkes of this world? You have taken a backwards step. The troglodytes have taken over the ALP—and this is upsetting. The new ALP in the Senate are ignoring the demographic trends of what is happening. If we follow the prescription of the senators from the other side, it is likely that we will deteriorate into a Japanese type economy with stagnation, very little growth and not much hope. This is sad.

We have a rapidly ageing population—this should be a warning to all Australians—and we must prepare to make changes to meet the challenges of that ageing population. What are those challenges? With an ageing population there is a greater demand for age pensions and health and aged care spending. A number of years ago the Intergenerational Report was produced alongside the budget by the Treasurer. It showed a number of projections, including that over 40 years the proportion of aged people over 65 will almost double to about 25 per cent but at the same time—this is where the real worry is—the growth in population of the traditional work force, which are aged from 15 to 64, is expected to slow to almost zero. So there will be a huge demand for skills from aged people. They will be in demand as they have never been before. Business will require them. There will be new opportunities.

If we allow the prescription promulgated by the ALP, it will have a profound effect on the economy. The majority of these people have great skills, will add to productivity and will add to the growth of the economy whereas, if you allow a build-up of an aged population without new injections, you will find a situation where aged care spending will have a negative effect on economic growth. Australia, as a young, vibrant country, cannot afford to turn the clock back and ignore the realities of life, as the ALP would have us do. It is rather frightening.

Yesterday Labor was saying that Australia’s retirement income system was moving into crisis, but today there is no such crisis—and I welcome that. Perhaps that is one of the big virtues of having a debate—at least it brings some reality or enlightenment—and I welcome that. Others say it is a flip-flop attitude, but I welcome any progress or change. But I worry because Labor is still running the line that the Liberal-National Party wants all people to work until they drop. This is a lie: it is a misrepresentation, it is inaccurate and it is a fabrication. But what it does show is that we have now returned to yesteryear’s entrenched values and attitudes, which must send a terrible message to those approaching or in retirement.

What does it tell these people? It tells them that, under Labor, they have a use-by date, they are not wanted, they are not useful, they cannot make an economic contribution and they will effectively be allowed to wither on the vine. That is not very encouraging for
people who are going to live longer because of the advances in medical technology. In other words, Labor are saying to the aged, ‘We’re going to relegate you to the scrapheap without opportunity, without hope.’ We are providing an opportunity for hope, recognising the needs of older people, because we know that under the current arrangements most people, as a result of living longer, will not have enough retirement savings. It will be a matter of economic necessity for a number of people—because not all people have the opportunity to work continuously for a 30- to 40-year period—to accumulate sufficient savings. A lot of women fall into this category because they come into the work force late or because they have broken periods in the work force. Many of these people want to have an opportunity to build up some savings in their retirement years.

Senator George Campbell failed to recognise what is already available. If people work on a little later than the normal retirement years, they can actually get an increased pension. That is already available. What the Treasurer is doing in this announcement is extending that principle that is already there. Rather than by a government augmentation, by virtue of accessing the work force again people will have income which they will be able to use to maintain a standard of living.

Recently I had the opportunity of conducting an international forum. One of the themes that I presented was that in Western countries, with people enjoying higher standards of living, they will also expect a higher standard of living in retirement. Measures must be taken by all in the Western world to achieve that, otherwise there will be a great disillusionment of people in retirement. I am worried that the Labor Party is putting in a roadblock against providing new opportunities to enter the work force for the people who cross that threshold of mandatory retirement. I think this is sad.

But what is our package about, in contrast to the dismal scene I have just pointed out that is available under the Labor Party? We have provided some enlightenment, some hope and some opportunity. We are providing flexibility. We are providing adaptability. We want to change the retirement income system. We want to provide financial changes in terms of the packages that are offered. We recognise an increasingly important role for older Australians—not a diminished role, as the ALP would have it. How do we do this? It is all about providing some choice. It is not about regulation. It is not about prescription. It is not about compulsion. It is not about red tape. These are the things that deregulation has thrown away. It appears that the Labor Party want to return to all this—red tape, prescription and compulsion—which is typical of Labor Party policies. Where is the enlightenment? Where is the hope? Where is the choice?

We in the Liberal Party are not about denying Australians the opportunity to retire at the time of their own choosing, as the Labor Party would suggest. The Labor Party are ignoring the reality of the demographic changes that are occurring. This is the worrying thing for Australia, and voters should think about this: with a pension system, you need time. You have got to accumulate savings over a long period of time, and we are ignoring this. The Australian population is ageing. It is a reality, and the challenges that go with it need to be addressed.

The new package recognises that the superannuation system needs to be more flexible to cater for changes in preferences of the work force as people age. For example, it allows for part-time and flexible work arrangements. It will allow easier access to superannuation and enable older workers to
retain some connection with the work force—again, if they choose—and not pre-
scribe them out of it once they cross that line. The concept that people will work until
a certain age and then retire permanently
from the work force will in future become
less relevant for many Australians. Under the
high unemployment regimes Australia suf-
fered under successive Labor governments it
was easy for some employers to neglect
these values, but with employment growing
steadily this is no longer the case. Things are
changing.

The government believes that older work-
ners have skills and experiences which make
them valuable. They will add to productivity,
add to economic growth and not necessarily
be regarded as a charge on the budget or on
society. The opportunities for older Aus-
tralians to remain in the work force are likely
to grow as the population ages and employers
increasingly value these skills. There is
likely to be a shortage of skills in the future
because of the falling birthrate. That is a fact
of life and a recognition of what has hap-
pened demographically. Already, many Aus-
tralians with specialist knowledge have cho-
sen to remain in the work force on either a
part-time, casual or consultary basis. In this
way, there is a dual benefit: they can retain
their skills, including their social skills, and
impair those skills to the more junior or
newer employees. It can be a means of pass-
ning on corporate knowledge within an or-
ganisation. It also must allow older workers
to gradually wind down their hours of work
and enjoy more leisure time. Westpac is an
example of an organisation encouraging this.
It is beginning to realise that older people
can be re-employed because of the value of
the skills they are bringing, and I welcome
that.

It is unfortunate that in the past some peo-
ple over the age of 40 have been discrimi-
nated against in the work force. Our super-
annuation committee recognises and con-
demns that practice and approach. However,
with companies such as Westpac the situa-
tion is changing. It is becoming more
enlightened and it is recognising the eco-
nomic and demographic realities of today
and the future. Under the previous Labor
government those over 40 had little hope, but
under the present government unemployment
is now below six per cent and there are in-
creasing opportunities for those over 40 to
find work. Given the speed with which the
labour market is changing, it may well be the
case that in the near future labour and people
skills will be in short supply. In parts of Aus-
tralia they are in short supply even now. The
opportunities for older people to remain in or
rejoin the work force are increasing and are
exciting. They are providing new hope and
new opportunities to save and have a life in
retirement or semiretirement. People will not
be regarded as a charge on society, and they
will not have no hope and no means of im-
proving themselves or their lot in life.

Under a Labor government, with their
high unemployment and changing and uncer-
tain policies, mature age workers were rele-
gated to this use-by date, making them feel
unwanted, unneeded and unlike. In our age-
ing society people are living longer, but un-
der Labor older people were regarded only as
a charge on society. What would happen if
Labor were in government again? Older
people would suffer reduced living stan-
dards. They would be denied an opportunity
for a better life. How disgraceful. They
would be alive but not really living to their
full potential, as they should. On the other
hand, this government initiative will ensure
that the superannuation system caters for
changing workplace arrangements. It recog-
nises that older Australians want more flexi-
bility, want more choice and want higher
living standards. We are providing greater
opportunities in this transition from work to retirement.

What are we really doing? What are we offering? We are offering a range of measures. We are removing the work test for superannuation contributions before age 65. We are simplifying the work test for those over 65. We are making it easier for individuals in the transition to retirement. In terms of choices for the financing of that retirement, we have introduced a new concept of the growth pension that will apply from 20 September 2004. In other words, we will provide an opportunity for a pension that is market linked and payable for the life expectancy of the individual. Again, we are increasing the opportunities available for retirees and this will raise the level of competition in the income streams market, and that I welcome. There will be changes to the assets test and exemption for complying income streams.

It has been noted that there are a number of quite rich people who have taken advantage of the assets test regime to take complying pensions. We have reduced the opportunity for double-dipping by the very rich by reducing from 100 per cent to 50 per cent the exemption on products purchased after 20 September 2004. The current 100 per cent exemption for such income streams has been regarded as extremely generous and has provided the opportunity for exploitation. We are taking away that opportunity for exploitation; we are providing a greater degree of fairness to ensure that those who need it most get the benefit.

We are also reducing red tape, for example in small SMFs—the concept applying to allocated pensions and new market income streams. In the past these funds had to have not only an audit certificate but also an actuarial certificate. We are going to reduce the need for the actuarial certificate because, now that we have moved to a simpler scheme of accumulation in the provision of an allocated pension, there will be reduced costs. This has got to be better.

We have a number of integrity measures. From 2004, superannuation funds will be required to start paying benefits to a person as soon as practicable after they reach 75. What will be the effect of this? It will ensure that superannuation benefits are used for retirement purposes and not for estate planning purposes. We are providing an opportunity for older Australians to be able to participate in the work force in their retirement years. This will provide them with extra money, which will improve their standard of living and quality of life—rather than providing them with fewer opportunities, as the Labor Party would have.

What have the Labor Party called for in this motion? They want us to maintain current access for superannuation and current eligibility for pensions. We have not indicated that we are going to take this away. What is this motion all about? It is all about creating scare tactics. At no stage during the Treasurer’s announcement of the new retirement income measures was there any mention of these provisions not being maintained. (Time expired)

Senator WONG (South Australia) (4.24 p.m.)—I rise to speak in support of the motion moved by Senator George Campbell, which condemns this government for the underlying thrust of its recent announcement. This was made clear in a number of comments by the Treasurer—that the answer from this government to the challenge posed by Australia’s ageing population is that Australians have to forget full-time retirement and work longer and harder. In reality, what that means is: work till you drop. After listening to Senator Watson’s contribution, you would be forgiven for thinking we were ar-
guing about a range of measures—unemployment, past Labor governments’ employment policies and so forth. But what we are actually arguing about and debating today is the approach that has been taken by the Treasurer—his injunction to the Australian people that the way they should deal with the issue of their retirement savings is to work longer and harder.

What has the government actually done? Everyone in this chamber would acknowledge that Australia’s population, as shown by particular demographics, is ageing and that the challenge posed by that over the next 40 years is an important one. But what is good to remember is that this challenge is not a new one. This issue has been on the policy horizon for some time. It was certainly something that underpinned the thinking of the Hawke and Keating Labor governments. It is a legitimate issue that government policy should address; it is an important issue. But what have we seen from this government on the issue of how we deal with Australia’s ageing population to ensure our population has adequate retirement incomes and that those who are retired do not place an undue burden on the tax system?

I will tell you what the Treasurer has done; he has requested another report. It is not a bad report, but it is simply another report analysing and discussing the problem. It seems to be something that is contagious in the Treasury portfolio. I note the Assistant Treasurer is very adept in her portfolio in asking for yet another report when it comes to corporate law reform, and we have seen a similar approach taken by this Treasurer. The reality is the government’s position can be reasonably characterised as lots of talk but very little action. The action it has taken has been ineffective or, at times, completely wrong.

There is probably no greater example of how ineffective this government has been when it comes to the issue of superannuation than that of children’s superannuation. I will digress for a moment to remind senators that this was one of the centrepieces of the Prime Minister’s announcement in his 2001 superannuation policy. Children’s super was going to be one of the ways in which this government addressed the issue of Australia’s retirement income and savings policy. This was one of its great answers to some of the important questions facing Australians when it comes to retirement incomes. The centrepiece of this policy was children’s superannuation policy accounts. I believe it forecast 470,000 accounts; it was going to be a great thing for the Australian people. What have we seen? We have seen around 500 accounts. Frankly, that aspect of its policy has been a complete dud and it is indicative of the ineffective policy approach the government has taken in this area.

What is the policy proposition that we say is wrong? It is very simple. It comes down to what the Treasurer has been on about when he has been on the wires trying to trumpet this policy that really is not much of a policy and does not really deal with the important issues—that is, the Treasurer’s indication that he believes the way to deal with our retirement incomes challenge is to make people work longer and harder. I am sure most people in this place would be aware that on 26 February the Treasurer, in answer to a question about people retiring, said on the ABC:

“We need you in the work force; stay here.

He then said:

Those days are over. I guess my message is this: there is going to be no such thing as full retirement.

Senator Watson, who preceded me in this debate, seemed to indicate that the ALP was
misrepresenting the government’s policy and misrepresenting what the Treasurer said. It is there in black and white, Senator Watson. The Treasurer said:

… there is going to be no such thing as full retirement.

I am sure all those Australians approaching retirement, making plans for retirement, looking forward to a well-earned rest after years in the work force and perhaps hoping to do other things such as unpaid or volunteer work—all those things that so many Australians do now in their retirement—would have been rather disturbed to hear the Treasurer saying, ‘Now what we want you to do is work longer and harder; there is no such thing as full retirement.’

This is one of the fallacies on which the government seem to be approaching this issue. They seem to assume that what happens now in Australia is that people retire and they do not do anything or they do not do anything useful. I think any senator or any member of parliament who has had anything to do with volunteer groups, volunteer associations, community associations or community activities would know that a great many of these organisations—organisations which do so much that is worthwhile in our community—are staffed by and receive contributions from people who have retired. Most Australians already engage in an active retirement. They do things for the community, they do things for their family and they do things obviously for themselves—which they are entitled to do. After all, they have spent a lifetime in the work force. But what they hear from this government and the Treasurer is: ‘No, we don’t think there is any such thing as full retirement; we want you to stay in the work force.’

I return to the debate on the policy issue of the superannuation and retirement income measures. The Treasurer in his very good report and analysis—it has few answers but it is a reasonable analysis—identifies the demographic challenge facing this country. He announced what I and the Labor Party say are useful measures, but they really only tinker around the edges. When it comes to dealing with the matters in this debate, when it comes to dealing with the challenge faced by the ageing population and when it comes to dealing with Australians’ retirement income, the central issue in this debate is that of adequacy—that is, ensuring people have adequate savings in their superannuation or have other means to ensure that they have a reasonable retirement income.

The central issue that government needs to address if it wants to properly deal with the issue of the ageing population is adequacy: how do we ensure that we have adequate superannuation and other savings now and into the future so that Australians who move out of the paid work force are able to enjoy a reasonable standard of living? It deals with the national savings problem and it also deals with the problems faced by a smaller number of taxpayers working at the same time as an increasing number of people are receiving the age pension or are over retirement age. That is the central issue when it comes to the intergenerational challenge we face.

The best way to alleviate the burden on future taxpayers is to ensure that older Australians have access to reasonable retirement income. The central policy issue in this debate has been almost entirely avoided by the Treasurer and by this government. The government has not done the hard yards when it comes to the adequacy of retirement incomes for Australians. Some measures were announced recently, which we welcome, but at best they can be described as nothing more than tinkering around the edges. And though they may well be useful contributions to the policy agenda, they really do not address the central issue, which is that of adequacy.
So why doesn’t the government address this? Why doesn’t the government actually do something about the adequacy of retirement incomes? In fact, if you look back over the last century or more, you will see that it is Labor governments and Labor governments alone who have really done the hard yards and addressed the issue of ensuring Australians have adequate incomes in their older years. It was Labor who introduced the age pension in 1908, and it was Labor who introduced the nine per cent compulsory superannuation guarantee in 1987. This guarantee first started at three per cent and, as we all know, eventually ended up at nine per cent. That was opposed by this government. The most important measure in modern Australian politics in dealing with retirement incomes of Australians was opposed by this government.

Not only did the government oppose it but the Treasurer cut the additional three per cent co-contribution—which was already budgeted for when the government came to power in 1996 and which would have ensured that almost all Australians had access to a minimum superannuation contribution of 15 per cent. That has been the Treasurer’s greatest contribution to the retirement incomes of Australians was opposed by this government.

Meanwhile, this government is continuing to levy an excessive contributions tax on super. In fact, recent figures demonstrate how there has been a massive increase in the tax take on super. Why doesn’t the government do something about this issue? Why doesn’t the government do something about adequacy? There are a number of ways in which it could deal with adequacy. One is to increase the level of contribution: to increase the minimum amount that people put into their superannuation accounts to save for their retirement. What was the Treasurer’s answer to that? It was to remove the projected three per cent increase in 1996—an effective cut in the income for working Australians.

The other option would be to reduce the contributions tax and actually reduce the tax take of superannuation contributions so that there would be more for people in their retirement. This report and the government’s announcement do nothing to address this issue. Also, the government does not have any effective policy to deal with excessive fees and charges, which in some sectors of the superannuation industry eat into the retirement savings of Australians. Where those fees are excessive—and in some cases they are outrageous—we have seen from the Treasurer and the Assistant Treasurer a lack of willingness to address this policy issue. They are not willing to address massive exit fees. There have been scenarios put to senators in this place, including Senator Sherry, in which exit fees have eaten almost the entirety of a person’s balance.

This government is not prepared to do the hard yards when it comes to the issue of adequacy. It is not prepared to look at how to increase contributions. It is not prepared to look at how to reduce the tax take on super. Its central response to this core policy question of how you ensure adequate retirement incomes for Australians is to make them work longer. It is to say to Australians and their families: ‘We want you to work longer and harder; there is going to be no such thing as full retirement.’ Mr Costello said on 2GB:

I have no plans whatsoever to retire at 65 and everybody I know, particularly those who have taken early retirement at 55, says after a while I am bored stupid.
That is very good for Mr Costello, but I am sure most senators in this place would also know from feedback from constituents that there are a lot of Australians out there who are looking forward to their retirement, a well-earned break and the opportunity to participate with their families and their communities in ways that they are not able to currently because they are in paid work.

It is ludicrous for Senator Watson, on the other side of the chamber, to have said in his contribution that the Labor Party is somehow anti older workers. I am looking forward to Senator Watson or the government moving some amendments to the Workplace Relations Act to ensure better options for older workers and ensuring that the commission can look at the issue of part-time employment to give older workers the right to part-time work if they so wish. I await that with bated breath, but I doubt it will happen. In the industrial relations sphere, through the award simplification process, we have seen many awards stripped of a provision that previously allowed for a request for part-time work when people returned from paid maternity leave. Will we now see the government re-regulating industrial relations in order to support older workers? If they do, that would be a welcome initiative but I wonder whether they will put their policy money where their mouth is. They are very good at talking about how people should work longer and harder, but not very good at all about talking about how to deal with ensuring that people have a choice to do that and, if they choose to do that, how they then may go about doing it.

When you look at this report and the government’s announcements, when you look at what the Treasurer has said on radio and in the newspapers, you will see when you boil everything down—when you get rid of all the smoke and mirrors and bells and whistles—that the central message from this government is that the way to deal with the fact that Australia’s population is ageing is to make them work longer and work harder.

Senator FERRIS (South Australia) (4.39 p.m.)—There has been a cracked record playing in this place for the last two days. Sadly, Frank Sinatra has not been singing; instead we have heard the dulcet tones of Senator George Campbell. He played that record seven times today.

Senator Coonan—He’s doing it ‘his way’.

Senator FERRIS—Yes, he is doing it his way. But he actually did not play it as often as Senator Sherry played it yesterday. Senator Buckland, I can see you laughing. You played it five times yesterday. Senator Kirk played it four times, but Senator Wong, who is leaving the chamber now, only played it once. You will get a visit, Senator Wong. This record—and I do not think I need to tell any of those opposite or any of those listening—is called ‘Work till you drop’, which must have come from a focus group somewhere.

Senator Coonan—It must be an old 78.

Senator FERRIS—It has about as much relevance as a 78. There are probably not many record-players in this place that would be appropriate to play it. ‘Work till you drop’ is the most amazing cracked record I have heard in this place for years. The ageing of Australia’s population and the challenges that we face in maintaining the strength and integrity of our retirement income system so that we can cope with the demographic changes that are facing us is one of the most important issues facing our country. But instead of going away to study this issue and delivering a response based on sound policy principles, the opposition have simply played the same old tune ever since they got home from the focus group. We know what that line is. It was so boring when I heard it 11,
four, five, two, seven and one times in the last 24 hours that I do not think the Australian community needs to hear it again. Anyone would think, Senator Buckland, you had been to a focus group somewhere.

**Senator Buckland**—I went and talked to constituents. They are the ones who told me the story.

**Senator FERRIS**—I think you looked in the mirror, Senator Buckland. Let me address the claim. It is completely false, it is misleading spin, it is completely wrong and, what is more, it is cruel. It is cruel to frighten older Australians in the way that the opposition have frightened them over the last 24 hours. There is not one aspect to this paper released by the Treasurer that compels one single Australian to work longer than they want to—not one mandatory measure. There is no coercion; it is about choice.

Labor’s approach is that you work until you are 65 and then you retire—no choice, no flexibility and a huge burden placed on our retirement income system. The reality is that, if the Labor Party’s policy approach were followed, the people who would have to continue working are our future generations. Labor would have them taxed to support this huge group of people until the younger generation died.

**Senator Buckland interjecting**—

**Senator FERRIS**—That is right, Senator Buckland. That is the way the Labor Party will run the policy if they have their way. They will condemn our future generations to a far worse future than the one that we have been able to enjoy. What a mean-spirited approach from Senator Wong and Senator George Campbell.

I was surfing the Net the other day and I came across the following statements:

… recognises the vital contribution of older Australians to our community and will encourage and support them to live full, active and independent lives.

… recognises that most older Australians remain healthy and continue to lead full, active and independent lives well into their 70s and 80s.

Where would you to expect to find those words? On a Liberal Party web site? Certainly not. They are from the Labor Party web site. It is ALP policy on the ALP web site. But there is one fundamental difference. On the face of it, we would agree with those words, until you reach the point where you find there is no opportunity to work, no flexibility, no chance—once you are 65—to continue to make a valuable paid contribution to the Australian work force as a super-annuated workplace employee in whatever form you choose. There is nothing on the Labor Party’s web site that offers these full, active and independent men and women of Australia, living into their seventies and eighties, the choice about how they spend their day—not a single word.

I have always been motivated in my time as a senator by a desire to see future generations of Australians enjoy even greater opportunities and standards of living than those we enjoy today. Just like the humanist theorists Maslow and Einstein, I believe that we are motivated by more than just our desire for basic needs, such as food and shelter. At the peak of the hierarchy of needs that motivate us is the need to leave the world in a better place than when we arrived. I know very few parents who do not strive to provide their children with more opportunities and a happier life than their own. It is a great shame that Senator George Campbell and Senator Wong are not so motivated.

The issue of how we manage the increasing number of older Australians requires very careful and considered reflection, and not the shallow, scary, empty rhetoric that
has come from the opposition in the last 24 hours. In Australia, demographic change has arrived slowly, but its effects will be profound and frightening if they are not properly managed. Australia’s population has aged significantly over the last 40 years. For example, in 1962 just over 30 per cent of the population was under 15 years of age. Today, it is 20 per cent. By 2042 it is projected to fall to less than 15 per cent. In our lifetime, we have seen a dramatic change in the demographics.

By contrast, the proportion of the population aged 65 and over increased relatively slowly over the last 40 years from around 8½ per cent in 1962 to 12.7 per cent in 2002. However, over the next 40 years it is projected that this group will almost double. In 2042 almost one in four Australians will be aged 65 or older, with the largest increase being in the number of Australians aged 85 or older. At the same time, growth in the potential labour force—something that Senator George Campbell claimed to be extremely concerned about today; something he was not concerned about when one million Australians were unemployed under the opposition’s term in government—is expected to fall from around 1.2 per cent per annum over the last decade to zero in 40 years time. Contrary to Senator Campbell’s claims in the Senate today, ‘Crisis—what crisis?’ contemplate this: today, there are 2,800 men and women in Australia over the age of 100. In 2040 there will be 38,000 men and women in Australia aged over 100, needing very special care.

There will be substantially fewer Australians of a working age—between 15 and 64—compared with the number of people aged 65 and over. Crisis—what crisis, Senator Campbell? You claim there is no crisis. Australian’s life expectancies, which are already amongst the highest of the OECD countries, are expected to increase by an additional 5½ years for men and five years for women over the next 40 years. How do we as a nation address the challenges of this ageing demographic group in Australia? How do we develop a strong and flexible retirement income system to support it? Certainly, we do not say, ‘Crisis—what crisis?’ We sit down and we do the work. We do not just come in here with empty, shallow, scary rhetoric designed to frighten elderly people into quite unrealistic expectations, which this government has never ever contemplated.

We have two choices: either we can take small steps now to adjust to this challenge or we can leave it for future generations to deal with. If we do not address this issue right now, Australia will undoubtedly be forced into taking far more drastic steps in the years ahead. What sort of burden is that to put on our children and our grandchildren? We actually want to engage the whole Australian community in a discussion about this issue, and that is why our Treasurer released the Intergenerational Report with the 2002-03 budget. It constitutes for the first time a real attempt to look across the generations to identify the challenges that the demographic changes I have foreshadowed previously are going to bring to our society.

That is why last week the Treasurer again released a discussion paper to encourage informed community debate about Australia’s future work force and what the face of it will be. That is why he also released a retirement incomes policy statement, which contains words that are almost unknown to those opposite. It contains a ‘flexible and adaptable’ retirement incomes system: ‘flexible and adaptable’, so that on the day that you blow out the candles on your 65th birthday you do not get what used to be the gold watch and get ticked off and flicked off—no, not a 65th birthday like that. It is simply the opportunity to engage in useful work in the community in the future, to have the chance and the
choice to continue as you wish in the way that you wish, without coercion or compulsion—something quite unknown to those opposite.

The combination of the age pension, superannuation and associated tax concessions currently provides a firm base for the retirement incomes of most people. It is equally important, though, that the new system does not encourage people to leave the work force prematurely, to blow out the candles, pack up their locker and get the flick, particularly if early retirement results in taxpayers funding the major part of their retirement. So we can either plan for our retirement and take small steps now to adjust to the challenges of the ageing population or take the view espoused in this place today—that is, head in the sand, something else on fire, and say, ‘Crisis—what crisis?’

Before I turn to the specifics of Senator George Campbell’s motion today, let us go back and look at Labor’s track record on these sorts of issues.

Senator Coonan interjecting—

Senator FERRIS—Yes. Senator Coonan makes the point that it will be a short track record—it will be. We know from our Inter-generational Report that we will be opening up a five per cent gap between expenditure and revenue over the next 40 years, unless we can address that with strong expenditure restraint and increased economic growth based on participation and productivity. That is why we are trying to make changes to the Pharmaceutical Benefits Scheme and to the disability support pension: so that we can take some small steps now to ensure that, when the new and more expensive medical technology becomes available, we will have enough funding available through the Pharmaceutical Benefits Scheme to address those issues.

But what do we get from those opposite? A block in this place. This was brought in two budgets ago. We are almost lining up for the third budget and it is blocked in the Senate by those opposite while they sing to their same old cracked record, ‘Crisis—what crisis?’ It is an extraordinary set of circumstances. These measures were introduced in the 2002 budget, and they have been blocked ever since. This is the albatross that will be around the neck of every Labor senator as we now try to move forward to address this issue, as we try to take the steps required and try to engage the community in debate so that we do not suddenly discover in 10 or 20 years time that we do not have the resources to adequately fund and care for our older Australians.

The issue of an ageing population is without doubt a very complex one; that is something everybody in this chamber would agree with. Demographic change is not something that might happen; it will happen. It is set in place. The combination of the baby boomer generation moving through society and the significant drop in birth rates since the 1970s has generated this result. There is no doubt that, if we do nothing, we will have a crisis. It is a challenge that all Western countries are now facing, some more than others. It will require in the future greater income within society to support our older Australians. Economic growth fuelled by increased labour force participation can meet this challenge, without compulsion, Senator Buckland, and without coercion.

The Treasurer’s discussion paper ‘Australia’s Demographic Challenges’ addresses this issue. With much reduced growth in the working age population in the future, it will be essential that we in this country generate flexible working opportunities for all those who want them, including older men and women who do not want to blow out the 65 candles, lock up their locker, toss in their
key, hand in their parking pass and go home and get on the couch. They do not want to do that. They do not want to be compelled or coerced into dreading their 65th birthday. They want to continue in the work force. We want to offer flexible work opportunities for all those who want them. There is nothing in the Treasurer’s statement that compels one single older man or woman to work beyond retirement age—not a single word. This policy, this discussion paper, is about choice, opportunity and flexibility.

(Time expired)

Senator STEPHENS (New South Wales) (4.59 p.m.)—I would like to speak to the motion moved by Senator George Campbell in relation to superannuation and retirement income. There seems to be one point of furious agreement in the chamber this afternoon—that is, we all acknowledge that the ageing of our population will have a profound effect on the Australian economy and, potentially, our living standards. We are all able to see the impact of a rapidly ageing population on Japan, not least in the stagnation of their economy. So Australia, like most other developed countries, needs to prepare for these issues. We are in furious agreement on that.

Treasurer Costello, in his speech last week and in the discussion paper he has issued that Senator Ferris just referred to, highlighted the policy imperatives for Australia. The Labor Party agree: there are serious policy challenges. The Labor Party agree that these challenges centre on strengthening our economy by increasing labour force participation and productivity. Indeed, Labor agree that there is considerable potential to improve our labour force participation rates and that there are opportunities to improve participation by improving the capacity to work, providing incentives to work and improving flexibility in the workplace. We agree that equity and fairness across generations is particularly important in times of major demographic change. We agree that making wise investments in infrastructure, services and programs will provide a legacy of freedom, social cohesion, opportunity and prosperity.

What we in the Australian Labor Party cannot agree with is the notion that the way to achieve that legacy is to force people to delay their retirement to 65 or 70 and to draw down their often meagre superannuation funds. We cannot agree that forcing older people into piecemeal job placement programs without training or long-term support will achieve that legacy. Labor believe that retirement income is a basic and universal service that all governments of advanced economies provide for their residents. Security in retirement is a fundamental right of all Australians. It is a responsibility that our society accepts, much like the responsibility for a universal health care system. Those who have contributed to building the nation over their lifetime—who have contributed to its economic and social development—are entitled to a secure retirement and a health care system that will look after them in their old age.

I would like to focus my contribution to this debate on the practicalities of the Treasurer’s remarks for country people. I remind colleagues that not all Australians enjoy the privilege of superannuation funds, employer co-contributions, golden handshakes, savings, investments and retirement incomes that can be drawn upon to supplement the part-time work that the Treasurer is envisaging. Many working people who have been loyal to local employers, paid their taxes and accepted their below average wages in the interests of keeping a business in a country town, on the basis that they will have the security of their age pension entitlement when they retire, are beginning to feel dudded by what the future might hold for them. They are alarmed to hear that the sacrifices that they have been making during their
working lives to secure a dignified and well-
earned retirement income are being dis-
counted in the current debate about retire-
ment security.

For many country people this tinkering
with retirement income policy is almost triv-
ial. They are looking for a government that
will commit to regional Australia in positive
and practical ways—a government that will,
to use the Treasurer’s own words, make
‘wise investments in infrastructure, services
and programs’ to provide a ‘legacy of free-
dom, social cohesion, opportunity and pros-
perity’. What we have is a government that
wants people to work longer or to take up
part-time work to supplement their retire-
ment income. What we need is a government
that will invest in youth employment and
training, regional development, and service
delivery. The fact is that in rural and regional
Australia unemployment rates are up to 20
per cent higher than in growing metropolitan
areas. These rates are even higher in drought
affected areas, which will take years to re-
cover. So the first question will always be:
where are the jobs that the Treasurer wants
people to take up? They simply do not exist.

This federal government needs to get
more in touch with the issues in regional and
rural Australia. The Treasurer’s glib procla-
mation—’Keep working!’—shows that he
really does not understand that for country
people often there is no choice. Those that
can work already work until they drop and
they are doing this just to make ends meet, to
contribute to their communities and by par-
ticipating in all the voluntary work that so
many communities rely on to maintain es-
sential services. Surely the government is
aware that the proportion of older people as a
percentage of the population is higher in ru-
ral areas than in metropolitan areas, and is
increasing. In my own state, New South
Wales, 27 per cent of people aged 70 years
and over live in rural and regional areas,
spread over an area of approximately
800,000 square kilometres. This policy does
absolutely nothing to address the problems
facing rural Australians today, let alone assist
them to plan for their old age.

I know that many people think that the
drought is over. The perception often is that
once it starts raining along the coast the
problem is solved. The reality for people
west of the Great Dividing Range is that
there are huge areas of Australia still in
drought and many communities still strug-
gling to deal with the impacts. Drought re-
covery is a long-term process, not just for
farmers but also for farming communities,
small businesses, local governments, service
providers, banks and credit unions, schools,
clubs and sporting associations. Recently,
Professor Margaret Alston and Jenny Kent
from the Centre for Rural Social Research at
Charles Sturt University undertook research
for the NSW Department of Agriculture and
the NSW Premier’s Department into the so-
cial impacts of drought. In their report they
make this very point, quoting, among many
examples, a Bourke businessperson explain-
ing that the effects of the drought are far
more insidious than the terrible direct im-
acts it has had on farmers:

The drought has an effect on other businesses
too—Schools don’t need as many teachers be-
cause there’s not as many kids there, so more
people leave town. Because they are not shopping
in the stores one of the stores will close down.
Once that starts it’s very hard to arrest and to get
going back up again and the only way to get it
back up again is industry and employment—
getting people back to work, their families come
back, their kids go to school etc.

Of the 37 economically poorest electorates in
Australia, 33 are located in rural regions.
Rural regions simply have fewer job oppor-
tunities for workers. Where towns are domi-
nated by a single industry or a company
there is not a diversity of work options to
attract a diverse and skilled work force. There is often an over-reliance on that one industry or company, which is problematic if, as in my own hometown, it is an abattoir—always a precarious employer in times of drought.

The 2003 state of the regions report, undertaken by National Economics for the Australian Local Government Association and released in November last year, has also focused this year on how ageing, migration and population growth impact on the economic potential of regions. The state of the regions report sets out the serious issues confronting local governments in providing and maintaining services for our ageing populations. Ageing people in rural New South Wales have been left out in the cold by the privatisation and withdrawal of community services. Instead of airy-fairy proposals that hope that the problems of an ageing population will just take care of themselves, we really need to invest in social infrastructure so that these problems can be addressed. And it is very important that the particular needs of rural populations are considered when policies, including retirement support policies, are being developed.

I know I have pointed out many times in this chamber that microeconomic reform, which has been underpinning policy development at all levels of government in Australia, has had a huge impact on rural communities. I know that the government is aware of this. The Deputy Prime Minister has paid lip-service to regional communities for the last six years. But let us look at how regional and rural Australia has been treated in policy terms. Prime Minister Howard abolished the regional development portfolio in 1996. Then, having realised his blunder and suffering the backlash from the bush, he released his budget measures for regional Australia entitled ‘Rebuilding Regional Australia’, acknowledging that his government could not rely on the market to restore confidence in regional Australia. That policy was a pathetic attempt to regain the disaffected National Party voters who had shifted to Pauline Hanson’s One Nation. In 2001 Mr Anderson announced his regional policy statement entitled ‘Stronger Regions, a Stronger Australia’, which had four broad goals: to strengthen regional economic and social opportunities, to sustain our productive natural resources and environment, to deliver better regional services and to adjust to economic, technological and government induced change. They sound wonderful in theory. Unfortunately, that is where they remained. They had no substance and there was no commitment to putting them into practice.

The government tried another tack: it held a rural summit to develop an improved response to the concerns of regional Australia. The rural summit succeeded in raising community expectations that the Howard government was at last taking the stresses being experienced by regional Australia seriously—expectations dashed by the subsequent lack of action. There just does not seem to be capacity in this government to take a strategic approach. The best demonstration of this is the dismal failure of the Sustainable Regions Program. Hailed as ‘the framework for developing Australia’s regions’, it has become another huge disappointment in policy outcomes by this government for regional Australia.

So we have a government that wants the population to work longer but will not commit to employment generation and sustainable regional development that will deliver the jobs required. What I am saying really is that for many rural Australians superannuation is an urban issue. We cannot as a government or a parliament set down a path that is going to entrench a two-class system of the rural and regional poor and others in re-
tirement. We must focus on building policy coherence that will improve the situation for all our ageing population, regardless of where they live.

I am sure Senators Heffernan, Macdonald, McGauran and Boswell will tell you that many farmers have to work till they drop as it is. When there is nothing left, holding onto their farms makes them ostensibly asset rich but cash poor. I have personally spoken to farm families that survived on rabbit stew right through this drought. Let me tell you about a farming family whose two sons have gone to Sydney for work. One of them sends money home to help his farming parents make ends meet. This couple have used their farm as an asset to borrow money, and so they have a debt to service—which their son is helping them to do—as well as all the other problems of trying to farm under drought conditions. The irony of their situation is that, even with their debt, the farm still counts as an asset and that has affected their ability to claim social security benefits or exceptional circumstances assistance.

Just imagine the reaction of these people to Treasurer Costello’s recommendation that they continue to work in their old age. Despite all their problems, these people are actually the lucky ones. If we look at the relative proportion of unemployed, aged and single parents and others dependant on social security benefits in regional Australia, it is much higher than their city counterparts. For these people, superannuation is a non-issue—they will not have superannuation preserved in any case. There is also the issue of Indigenous Australians—who, I remind the Treasurer, are ageing as inexorably as the rest of us. Try as I may, I cannot find any mention in the policy document of their particular situation or how the government proposes to provide part-time work for them in their old age.

So we have a government that—through its rhetoric of mutual obligation, reciprocity, and what the Treasurer calls ‘better incentives for work’—claims that government policies do not discourage people from working. But this is the same government that, through the taxation system and the family tax benefit A, penalises those who try to find additional part-time work or work overtime to help improve their household income. We have a government that says it wants to improve the capacity of people for work but which has cut back assistance to supported employment initiatives for mature workers, retraining, literacy and numeracy, and job skills. We have a government that has supported redundancies and restructuring that has resulted in over 50,000 jobs being lost in regional Australia. We have a government that will not invest in research and development that is going to provide the impetus for enterprise development and entrepreneurial skills. We have a government that will not even support moves to guarantee workers’ entitlements, including their superannuation funds—for people like the Woodlawn mine workers—when companies go bust and directors cream their directors’ fees with impunity.

We have a Treasurer who glibly says today, ‘We have almost reached full employment.’ I wonder if he really understands how cheesed off people in rural and regional Australia get when they hear that kind of nonsense—and how angry people get when they have been parked on disability benefits, without any support from Centrelink or the Job Network, for the past six years, but who now, de-skilled and without support, are going to be expected to go out and find non-existent jobs.

The Labor Party have a strong commitment to social infrastructure because we know that healthy communities are productive communities. It is a fact that the health
status of people of all ages living in rural and remote areas is poorer than for urban people, with higher rates of hospitalisation. Another statistic worth noting here is that people over 45 living in rural, regional and remote areas are more likely to have had all their teeth removed than other Australians. So it is imperative that policy initiatives to cope with our ageing population consider the particular needs of country people. Labor have released our Medicare and health care policies, including the restoration of the dental health scheme, which respond to the needs of all Australians. Health services is one policy area we need to get right—and education is another.

Labor have announced our cradle-to-grave commitment to education, training and lifelong learning, because we know the regions can only thrive if they can retain and restore their skills base. We are going to expand training opportunities in TAFE, and we recognise the important contribution that regional universities make. We are committed to delivering more aged care beds and community services that mean we can keep our frail and aged at home and in their communities, near family and friends, in their twilight years. We understand the linkages between healthy and wealthy communities. Labor are committed to improving business incentives. I commend to all my parliamentary colleagues the regional business development analysis study—funded by the Howard government but shelved because it was so critical of this government’s efforts in regional Australia. It is an honest, warts and all consideration of the realities of doing business in and attracting business to regional Australia.

Labor are absolutely committed to encouraging investment, research and development. We want to encourage innovation and entrepreneurship, and we have to link that to environmental infrastructure and sustainability initiatives. We know that governments can make a difference and that there is a role for government intervention in regional development. The Howard government will not accept that fact—their only effort has been to fund a whole range of supposedly quick fix solutions to community and regional development. So what is this government’s best response to our ageing population pressures? Just another deftly announced policy initiative that shifts the pressure and stress from government to individuals. It is always the same—deny responsibility, ignore the policy potentials and take a punitive approach to those least able to protect themselves from the impacts of a policy shift of this nature. Perhaps the government might give greater thought to the impacts of this policy direction on regional Australia, or we will get to add this to the litany of policy fiascos that are ripping the fabric of regional Australia apart.

Senator HUMPHRIES (Australian Capital Territory) (5.19 p.m.)—Governments in this country, and no doubt elsewhere, are often accused of taking a short-term approach towards the major problems in our community. They are accused of looking at what the next election holds rather than thinking about the long-term needs of the society they serve. But I think that that fundamentally runs against the grain of what people expect of their own circumstances and what they expect governments should be looking at. In my observation, people are concerned about what the world will look like for their children or perhaps for their grandchildren. I think they expect governments to think about that too. The issue before the Senate today is: to what extent are we planning for, are we shaping, a society in the future that will be sustainable for our children and that will be capable of providing our children and our grandchildren with the level and quality of life that we enjoy today?
At this point in history, we have lived in a fortuitous environment in which our standard of living has almost continuously increased since the Second World War. Perhaps we imagine we can sustain that indefinitely. The issue which has been raised and is before the Senate questions that assumption. It questions whether in fact Australia is capable of delivering a continuously improving standard of living. In fact it poses the very real question of whether our standard of living will decline and whether the quality of the services provided from the public purse will decline because we are not able to manage the balance between the number of people who need those services and the number of people who pay taxes to support those services.

The government, in announcing its policy paper on this question—that is, Australia’s demographic challenges—has put solutions and options on the table in a very direct fashion. It has said, ‘We understand this problem and we want to move forward to consider options.’ It has first of all described the challenge facing Australian in very articulate terms. It has laid out options available to us as a community to address those problems and has begun, at the same time, to engineer a level of flexibility in Australia’s retirement income policy—which, at the end of the day, can only assist us to begin to face those challenges. That seems to me to be the correct approach.

In this debate so far I have not heard any specific option or idea that has been put forward by the Treasurer or by the government generally which has been attacked by those opposite. I do not know with any great certainty what it is that those opposite are targeting to disagree with. What this motion moved by Senator George Campbell refers to as its chief bogeyman is what he terms as the ‘underlying thrust of the government’s recently announced retirement income measures’. What is the general thrust of these measures? We are not seeing any words put down on paper but rather the opposition chooses to create a bogeyman, a straw man. That straw man is that somehow the government is engineering a system where it is compulsory for people to work beyond the age at which they would choose to retire and forcing them to work longer than they want.

It only requires the briefest perusal of what has been put on the table by the government to realise that that is utter unadulterated nonsense. There is nothing in this package which suggests that people should do other than what they want to do with their retirement planning. What it does do, in very clear terms, is create options which do not presently exist. That is the point of a sensible and balanced approach to the task of managing this enormous social problem which presents itself to us today: how do we pay for a quality of life for our citizens—for our children and grandchildren and even some of us—when we reach that horizon 30, 40 or 50 years from now?

Senator Hutchins—Have more children!

Senator HUMPHRIES—Senator Hutchins is already contributing quite heavily in that respect. The children you are having, Senator Hutchins, will want a quality of life. The question is: can you and your colleagues on that side of the chamber provide it to them by virtue of the policies you put forward? Our side of the chamber is addressing that issue with this set of policies. We are told by Senator Wong that this problem is not new, that is has been faced up to for some time now by those opposite as well. Perhaps I missed something in her speech but I do not know what the other side of the chamber has put forward as a solution to these problems—

Senator McGauran—Nothing.
Senator HUMPHRIES—The answer, as Senator McGauran quite rightly points out, is nothing. We operate in this debate in the absence of any alternative policies from those opposite. We know they do not like what we are talking about. We know they do not like the ‘underlying thrust’ as they put it of the government’s policy paper, but we do not have the faintest idea of what Labor would do in its stead. We do not know what they would do except, presumably, to return to their well tried mantra of reduced flexibility in the workplace, make one size fit all and go back to the habits of the past, which clearly served Australia very poorly at that time.

Here is the contrast: we have the government putting on the table a long-term policy setting, strategic approaches to Australia’s problems in an attempt to address arguably the biggest social problem Australia faces today; and, on the other side of the chamber, we have a puerile, absurdly simplistic response to this problem, claiming that the government is talking about forcing people to work beyond the age they wish to. You can almost see the ALP election ads now: an image of a giant treadmill with elderly people being forced onto it by a Peter Costello look-a-like with a whip, little old ladies and grannies being forced to work in sweatshops under harsh light, working into the small hours of the morning. The absurdity of the simplification we are seeing from the ALP is something that I would not have credited would take place in the Australian Senate. But there you go.

In pouring cold water on this set of initiatives, the Labor Party downplays the enormity of the challenge facing Australia. We have a situation today where about 5.3 people of work force age support, through taxes, each person aged 65 years and over, but by 2043—well within the lifetime of many of us in this chamber—that ratio will decrease to about 2½ people of work force age supporting each citizen aged 65 years and over. What will become of the quality of our services then? What will be the fate of the services which Labor today in this chamber is supposedly fighting hard to preserve?

Take, for example, the Pharmaceutical Benefits Scheme. You have been arguing consistently that we should not in any way reduce the level of subsidy available to the Australian community through the PBS. But how do you pay for that when those sorts of demographic changes occur—instead of 5½ people approximately to support each retired person who uses, on average, rather more medicines than other people, you have half that number? How do you provide for those medicines to be available at that price when the number of people supporting the maintenance of that scheme through their taxes has halved? How do you do it? In the little time that is left in this debate, I would like to hear Labor’s answers to those questions. How do we address the fact that with the current policy settings there would be approximately a $72 billion deficit between state and federal governments in outlays to Australian citizens by 2040? How do we bridge that gap? How do we fix that problem? I would like to know.

There are a number of approaches that could be taken and they are outlined in the paper the Treasurer has tabled. We can increase taxes on future generations. We can significantly cut government expenditure. We can simply pass the problem on to future generations—on to our children and grandchildren—by running up bigger and bigger budget deficits. We would need a federal deficit in the order of $40 billion a year with no change in settings to cover that gap. Or—and this is the option that the Treasurer and the government favour—we can grow our economy. We can be more productive as a society. We can make the economic pie bigger so it is possible to share more with those
who are no longer able to contribute to its
growth. That is a sensible approach and that
is what this government has demonstrated in
the last few years it can do. We would like to
see it continue as a series of policies to de-
velop a response to that growing demo-
graphic landmine.

What does the paper that the Treasurer has
put on the table actually say? We have not
heard much of that. In particular, we have
heard very little from the other side about
what is specifically in the policy to disagree
with. I invite those opposite to latch onto the
things in this paper that they think are inap-
propriate and to start to tell us what they
think is wrong with it. Senator Wong said
she thought the paper was not unreason-
able—’not bad’ I think were her words. I am
yet to find out what specifically is wrong in
the paper or the other statements that have
been tabled. Again, I am open to that infor-
mation being presented to me.

There were three major complementary
policy areas that would lift Australia’s labour
force participation: improving the capacity
for people to work, through measures in edu-
cation and in health; providing better incen-
tives for people to work beyond the age at
which they otherwise might retire; and pro-
viding flexibility in the workplace so that, if
you want to work in a particular way, you
have that choice. In relation to the first of
those areas—the capacity to work—we now
live in a society where people generally un-
derstand that they need to continually up-
grade their skills and engage in some training
and development of their understanding of
workplace requirements. It happens already.
The challenge for us is to continue to make
that happen, perhaps in greater measure, for
those in older age groups so they can con-
tribute, if they wish, to the productivity of
our community.

At the same time we need to provide bet-
ter health outcomes for people in older age
groups so that they have a greater capacity to
work if they wish. Poor health leads to early
retirement. In many cases, it leads to spells
of unemployment, or at least to people losing
their sense of confidence in the workplace,
and that needs to be addressed. Thirty per
cent of 50- to 65-year-olds who retire in Aus-
tralia do so because they have become ill or
disabled. We have a number of opportunities
to turn that around. If we can reduce that
figure and give people who want to continue
to work the option of going further, why
shouldn’t we?

The second measure referred to is creating
better incentives for work—making sure that
people have the option and are thinking
about that option, and giving them incentives
to take up that option if that is what they
wish. Around 2.7 million working age Aus-
tralians are on income support at the present
time—that is, about one in five adults of
working age. The challenge for us is to make
sure we design a system to achieve an ap-
propriate balance between incentives and
assistance where it is required, and obliga-
tions that will encourage work force partici-
pation and assist each person to achieve their
full potential.

The third and very important measure out-
lined in the paper is flexibility in the work-
place—that is, being able to make sure that
we have workplaces which are not so struc-
tured that they discourage people moving
towards their retirement who wish to work,
for example, on a part-time basis in different
circumstances to others at different stages in
their lives. Clearly reducing the amount of
regulation, the amount of control and the
one-size-fits-all model is very important in
that respect. Australia’s labour market needs
to be flexible enough to address those di-
verse needs and generate jobs for people who
need them. With the low levels of unem-
ployment and the high work force participation rate that Australia enjoys today, it is clear that we have the chance to do that. We can make those sorts of changes happen because we are flexible.

The expectation of my electorate—I cannot speak for other electorates—is that people want choices. They want to be able to make a decision based on their position, not on what someone says to them should happen because they have reached a certain milestone in their lives. I have had plenty of people come through my door saying: ‘I want to keep working, but my workplace does not allow it,’ ‘I want to keep working, but the options are not available to me. What can you suggest?’ or, ‘I want to take part in this, but it doesn’t seem to be open to people at my stage in life.’ The problem is that these people are very often up against societal expectations that they do certain things at certain stages in their lives: ‘You are 55—think about retiring.’ There is a magic age in the public service—is it 54 years and 11 months?—where a large number of people take retirement because that is the way the system has been structured. We need to break the societal expectation that they should do that thing at that time and let them make the decision for themselves as is determined by their particular set of circumstances.

It is important for us to acknowledge the many factors which are contributing to this problem and work out a way of being able to vary those factors to the extent possible. Obviously, some of those factors are unavoidable and are generally quite desirable in a society like ours. People are living longer—technology provides us with a chance to do that, drugs do that. We have better education about what sustains a healthy lifestyle into old age—that presents its own set of challenges. Birthrates have declined over many years, and some people are taking up that challenge in their own way. To encourage Australia to be a community with a level of growth in all age groups is obviously important.

I believe that the thrust of what the Treasurer has put on the table is to encourage us to think of a society for all ages—a society which does not consign people to boxes which say that, at a particular stage in your life, certain things are expected of you and you go off and do them—where we say to individuals in our community, ‘You should be judged on your own capacity and your ambition, and what you want to make of your own life.’ We should fashion pathways for those people to the maximum extent possible. Obviously not every choice can be taken up—not every person who wants to do a certain thing will be able to do it—but all too often in the past we have constructed a set of expectations that limit people’s real choices. I believe that what the government has placed on the table is an attempt to break down that model of inflexibility. When I hear what specifically is wrong with that—not what the members opposite think it can be caricatured as—then we can have a real debate. Until that point, we are dealing with a contrast between sensible long-term policy making and a very puerile approach which seeks to undercut and underplay an extremely important debate for the Australian community.

Senator HUTCHINS (New South Wales) (5.38 p.m.)—There is no doubt that the reason Treasurer Peter Costello decided to make an issue of the Intergenerational Report and comment on it at the beginning of this week was—as you would know, Mr Acting Deputy President, and as I know—that, in the previous sitting of parliament, this government was on the ropes. It was on the ropes not only in the parliament but in the community. That has been testified to by the polls that continue to trickle out daily, showing how much on the nose it is. So it was decided, no
doubt by PM Central, that what should be done is to see if somehow or other the debate could be put onto a plane where the government would look like it is taking the high moral ground.

Then we had to be treated to the spectacle of the Treasurer on the Insiders program. I have to say it was a spectacle—someone should talk to the Treasurer about how he should dress when he goes on Insiders. I gather he is from inner city Melbourne but, with the sort of gear he put on, he looked like he came from Senator McGauran’s electorate out there in western Victoria. How he was dressed made me take notice, but I took more notice of what he was saying. I knew why he was saying it—because they wanted to, at some point or another, try to get this high moral ground. That has not worked, because we jerried to it the moment the Treasurer said it—and not only us but thousands and thousands of Australians. We knew exactly what they were on about. They want to make sure, when they get their grubby little hands on it, that Australians will not have any choice—they will not have any choice, Senator Humphries and Senator Ferris—and will have to work until they drop.

I would like to know what choice the thousands and thousands of Australians who are unemployed now have. My immediate reaction to the Treasurer’s statement on Sunday was this: because we have this problem with employment in the future, we need to make people work longer. My question to him is: what about the people who have got no work now? There are thousands and thousands of people out there who are looking for work and cannot find it.

I found equally offensive the statement that the Treasurer made in relation to people on disability pensions. Every one of the men that has spoken in this debate is over 45, and I am assured is over 45. What happens in the work force when you get to that magical age? If you become unemployed, get retrenched or get terminated, you have no chance of finding employment. Do you know what happens then? Because the government wanted to fiddle the figures, over the last few years they have progressively transferred men, mainly, onto disability pensions. So when the Treasurer gets on the Insiders program and says, ‘I’m worried about this,’ he should have been worried about it a long time ago. That is what has been happening to mature age workers. When they have been retrenched, particularly from semiskilled, low-skilled or unskilled positions, they cannot find employment. Where are the jobs? Where are the jobs for the young people, let alone the mature aged? They are not there. That is what the government have done over the last few years, particularly with regard to disability pensions. They have made sure that the unemployment rate is 5.8 per cent, I think, now. But if they put in those men and women that they bodgied onto that disability pension, they would find the rate would increase significantly.

As far as choice goes, what sort of choice do men and women who are unemployed now have, particularly mature age workers? As I said, there are thousands of mature age workers out there who are looking for employment now. In January 2004, 1.2 per cent of the labour force was long-term unemployed—about 21.4 per cent of the unemployment rate. Half of those long-term unemployed have been seeking work for over two years. The mature age people seeking employment now are not able to get it, let alone young people. So where is the plan for the future? If we cannot do something about our mature age unemployed people now, what are we going to be doing in 20 years time? Are they all going to be working in call centres? It seems to be the buzz for a lot of
people. Are we going to train people from being in semiskilled or skilled labour force occupations to put them to answering telephones?

Most of us on this side who came from union backgrounds worked in blue-collar industries before that. None of us, and none of the men that we worked with in that period, would be capable of continuing in those hard jobs. People would not be able to continue to work in metal shops, on trucks, on building sites or in mines, like Senator Lightfoot. We are not capable after a certain age; we just cannot physically do it. What is this government’s answer to the mature age long-term unemployed? We are waiting for it.

All we saw last Sunday was some publicity stunt by the Treasurer to try to set the agenda for the week. We jerried to it, like thousands of Australians did, and we knew immediately that this was a con. I ask the government to answer this: where are the jobs? The only jobs that have been created since the eighties are casual jobs. Casual employment has increased by 68 per cent. Full-time employment for that same period increased by only 5.3 per cent. Where are the jobs? Are you really going to have all these mature age employees and mature age unemployed working in call centres in various parts of Australia? The worst thing is happening in the current environment, and which I would like the government to take note of, is the growth of labour hire firms. As I said, we have had significant growth in casual employment and part-time employment; now we have this other growth of labour hire agencies. I have seen so many men—mainly men—go and work in these organisations. The situation is similar to the hungry mile, except for the fact that you do not queue up one after the other; you wait in a queue on the telephone. These people have no rights, no guarantees and no permanent work. That is what is happening now in our country.

I would have taken more from what the Treasurer and the government said and I might have believed they were addressing some of these problems, except for the fact that we have these problems now and they have no answer to these problems now. The only choice people have is to be employed in casual or part-time jobs or labour hire agencies, if they are lucky. I want to remind people of the Australian Bureau of Statistics definition of an ‘unemployed person’—and I think it probably goes back to when we were in power. The ABS defines an ‘unemployed person’ as a person over 15 years of age who has worked less than one hour a week in a

poverty and financial hardship. We heard from the Tasmanian Poverty Coalition and the Physical Disability Council of Australia that, if we added up all the unpaid overtime hours worked in 2002, there would not be one unemployed person in this country. But that is the choice we have been given by this government. People are working longer now and not getting paid for it because of the industrial relations laws introduced by this government. You have given the boss the choice; you have not given the employees any choice. You have weakened their bargaining position and you have forced them to their knees.

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surveyed week, has been actively looking for work and is currently available for work. How bodgie would this figure of 5.8 per cent be, particularly if you added in the number of people the government put onto the disability pension or the number of men and women who have just given up? I would be more than interested in this if the government were fair dinkum about addressing the problems we have now, but they are not. This was just a publicity stunt by the Treasurer so that he might set the agenda.

I am very concerned that the government have embarked on this path because, as I said, I—along with Senator Humphries—had the opportunity of seeing first-hand poverty and financial hardship in this country. The government would get more credit from us if they started to address the problems now rather than being high-minded and giving answers for the future. They do not have an answer to the problems now. They do not have an answer for mature age unemployed people now. How can we be confident that they will have an answer in the future? We cannot because they do not have the answer. This was just a stunt by the Treasurer to put himself up in lights, and the government hoped the Australian community would think they were being high-minded and morally bound. As I said, it was a stunt. We jettied to it and so did the Australian community.

Senator LIGHTFOOT (Western Australia) (5.50 p.m.)—I listened to the lead speaker on this motion from the other side, Senator George Campbell, and his high decibel twaddle about what the government was doing, what it should do and what it was not doing. The fact is that Australians have never been wealthier. We have the lowest unemployment rate in many years—certainly since the seventies. Incidentally, I was a bit puzzled by my friend on the other side Senator Hutchins, who railed against the fact that so many people are on disability pensions. If we did not put people on disability pensions when it was warranted—and it is warranted; they go through a process that is quite transparent with respect to their bona fides—we could well and truly be condemned for not doing it. The motivation attributed to us putting people on disability pensions is rather puzzling. He said it was to lower the unemployment figure.

The fact is that wages have never been higher. Wage growth has never been higher than it is with this government. Pension payments have never been higher than they are with this government. National debt has never been lower. We have lowered it from $100 billion, which is what it was when we came to government in 1996, to about $35 billion. We have one of the lowest debt to GDP ratios of the OECD countries. I think it is about five per cent. By contrast, Japan’s is 130 per cent and the United States’s is about 35 per cent. They are extraordinary figures.

If we had disabled people being bodgied onto the unemployment list, I wonder what the result would be. We would have fewer people on disabilities and more people on unemployment. I do not think that is valid. It is a point, but I do not think it is valid. I can also remember when the ALP government was in power and unemployment was 12 per cent. I remember when I was paying 23 per cent interest to Elders Smith and Wesfarmers and Dalgety; 23 per cent interest to keep my stations going. Times are good: people have never been wealthier and pensions have never been higher, but we are going to do better.

We are going to let people of my age and younger and older have a choice about retiring. I am 67 and I am not ashamed of that. I am not in bad nick for 67; I reckon I have got another 30 or 40 years ahead of me, and I want to be able to make the choice as to whether I work or not. I would like to be the
Senator Strom Thurmond of the Australian parliament. Senator Strom Thurmond made one big mistake: he was 101 when he retired from the United States Senate and he died within six months. That is a lesson for everyone here, Senator O’Brien and Senator Crossin: do not retire, because if you do the Grim Reaper is going to come along and get you. I do not want to see the Grim Reaper; I do not even want to see a sign of his scythe.

This government is giving Australians a choice as to whether they want to work or not in the years that are ahead of them. We give them that choice because work is good for you. Homo sapiens are actually designed to work; they are not designed to have sedentary jobs or positions all of their lives. But that is the choice we are giving you. We are not saying you have to work; we are saying here is the choice. Isn’t life about choice? Of course it is. It is wonderful to have a government like this that shows consideration to every level of life, particularly to the elderly—I am in that category and I am not ashamed to say that—and shows some reward for the efforts of our older people who have made this country what it is. This government did not make it; it is a whole host of previous governments that presided over this country and made it the envy of the world.

I came back from Taiwan the other day. It is a great country. It does a wonderful job in that part of the world; it is a beacon shining in what is often a dark cave in that part of the world. Its average per capita income is about US$12,000 across the 23 million people on the island. Not good, one would say, but compared to its big neighbour next door, the PRC, they are good results. But what about Australia? The average per capita income in Australia is over $30,000—great figures in Australia—and pensions are one of the highest-paid in the world. Our pensions are greater than 25 per cent of the average male income in Australia.

But over the next 40 years, Australia’s population is going to go through a major change. A greater proportion of the population will be older because people are living longer and birthrates have declined over many years. There will be an increasing number of older people to support and fewer people of work force age to provide that support. There is no need to panic about that because, even in developing countries, the world is becoming more automated. We produce more today, with fewer people, than we ever have in our lives. There are more consumers in the world today. Look at the phenomenal growth of the People’s Republic of China this year of nine per cent on an annualised basis. Look at our growth; of all the OECD countries, except the United States, India and China, our growth is slightly over four per cent. Not bad for a government that is continually denigrated by those on the other side and that participates in this wealth and which is produced by one of the best systems in the world.

We are not totally different from Canadians or those in the United States or the British Isles or Europeans, or a lot of other people around the world, but it is our system of government that allows us to enjoy the standard of living that we have. We should not forget that and we should not denigrate it and run it down. It is a great system. We have had good governments and we have had bad governments, but overall we have had an average of very good governments—that is why ours is one of the greatest nations in which to live. That is why Australia is one of the oldest continuous democracies in the world. It is a young country. In 1788 it was a most inhospitable country and it was not a particularly brilliant group of people to start a country off with but, more than 220 or 230 years later, this is one of the best countries in which to live. The government is very conscious of the fact that the elderly have played...
the major role in the development of this country.

This government and the Treasurer, Peter Costello, are going to make sure that the elderly are looked after. We are not only going to look after them; we are also going to give them the choice of whether they want to work part-time or full-time or whether they want to take advantage of their superannuation system and the safety net that is under it, which this government endorses, promotes and has fostered to the point where it is one of the best in the world.

Senator McGAURAN (Victoria) (5.59 p.m.)—I also join this debate and endorse the comments of the previous speaker, who was proud enough to put his age on the Hansard record. None of us ever believed Ross Lightfoot was that age. However, we do not wish him to stay as long as his US Senate counterpart. The debate today has shown the opposition to be bereft of policy. To put forward a general business notice of motion on a Thursday and debate it provides an opportunity to have a full debate, with every speaker having 20 minutes in which to speak. Yet, during each 20 minutes of the opposition’s contribution, we never heard one alternative policy. The time is coming closer—it is an election year—when sooner or later the opposition is going to have to put down its policies in this chamber. The opposition cannot constantly attack a government who has the courage to put down a policy.

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! The time for the debate has expired.

DOCUMENTS

Consideration

The following orders of the day relating to government documents were considered:

Department of the Environment and Heritage—Report for 2002-03. Motion of Senator Crossin to take note of document agreed to.

Department of Immigration and Multicultural and Indigenous Affairs—Report for 2002-03. Motion of the Leader of the Australian Democrats (Senator Bartlett) to take note of document agreed to.

Wet Tropics Management Authority—Report for 2002-03. Motion of the Leader of the Australian Democrats (Senator Bartlett) to take note of document agreed to.

Great Barrier Reef Marine Park Authority—Report for 2002-03. Motion of the Leader of the Australian Democrats (Senator Bartlett) to take note of document agreed to.

Aboriginal and Torres Strait Islander Commission—Report for 2002-03. Motion of Senator Crossin to take note of document called on. Debate adjourned till Thursday at general business, Senator Crossin in continuation.


Migration Agents Registration Authority—Report for 2002-03. Motion of the Leader of the Australian Democrats (Senator Bartlett) to take note of document agreed to.
Australian Democrats (Senator Bartlett) to take note of document agreed to.

United Nations—Convention on the Elimination of All Forms of Discrimination Against Women—Women in Australia: Australia’s combined fourth and fifth reports on implementing the Convention. Motion of Senator Stott Despoja to take note of document called on. On the motion of Senator Crossin debate was adjourned till Thursday at general business.


General business orders of the day nos 12 to 15 and 17 to 24 relating to government documents were called on but no motion was moved.

COMMITTEES

Consideration

The following orders of the day relating to committee reports and government responses were considered:

Economics References Committee—Report—The effectiveness of the Trade Practices Act 1974 in protecting small business. Motion of the chair of the committee (Senator Stephens) to take note of report agreed to.

Privileges—Standing Committee—116th report—Possible improper interference with a witness before the Rural and Regional Affairs and Transport Legislation Committee. Motion of the chair of the committee (Senator Ray)—That the Senate endorse the finding at paragraph 28 of the 116th report of the Committee of Privileges—agreed to.

Rural and Regional Affairs and Transport Legislation Committee—Report—Australian Wool Innovation Limited: Application and expenditure of funds advanced under Statutory Funding Agreement dated 31 December 2000. Motion of the chair of the committee (Senator Heffernan) to take note of report agreed to.

Foreign Affairs, Defence and Trade References Committee—Report—Voting on trade: The General Agreement on Trade in Services and an Australia-US free trade agreement. Motion of the chair of the committee (Senator Cook) to take note of report agreed to.

DOCUMENTS

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 16 of 2003-04—Performance audit—Administration of consular services follow-up audit: Department of Foreign Affairs and Trade. Motion of Senator Hogg to take note of document agreed to.

Auditor-General—Audit report no. 24 of 2003-04—Performance audit—Agency management of special accounts. Motion of Senator Buckland to take note of document agreed to.

Orders of the day nos 3 to 8 relating to reports of the Auditor-General were called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! There being no further consideration of committee reports, government responses and Auditor-General’s reports, I propose the question:

That the Senate do now adjourn.
Agriculture: Wheat

Senator JOHNSTON (Western Australia) (6.05 p.m.)—Tonight I want to talk about the fact that life on the land has been particularly difficult during the last several years with drought conditions gripping vast areas of our country. Indeed, these drought conditions have been so severe that last year the total national wheat production fell below 10 million tonnes. Tonight I bring to the Senate a good news agricultural story. Wheat growers have now completed this season’s harvest and production has increased from 9.7 million tonnes to an expected 25 million tonnes. This has been a fantastic result for a vast number of our growers; especially those growers in my home state of Western Australia. I pause, Mr Acting Deputy President, to spare a thought for those growers in the northern parts of New South Wales and the north-west and the southern areas of Queensland where the struggle against low rainfall continues.

Western Australia has led the way with this season’s result, seeing a crop of quite extraordinary proportions. This harvest has easily been the best result ever for Western Australia and highlights the successful combination of productivity, technology and innovation by farmers with a solid rainfall coming at the right time. At last count there had been a grain harvest in Western Australia of 14.7 million tonnes, which was triple the drought stricken yield of 5.2 million tonnes of last year and far exceeded the previous record of 12.2 million tonnes in the 1999-2000 season.

CBH or Cooperative Bulk Handling, our grain handler in Western Australia, has estimated the final tally to be 15 million tonnes when the final deliveries of storage grain are taken to the receival points. Of the 15 million tonnes it is expected that 11 million tonnes will be wheat with the remaining four million tonnes coming from canola, barley and lupins. Western Australia’s tally was more than double that of the next productive state, South Australia, with 6.5 million tonnes, followed by New South Wales with 5.15 million tonnes; Victoria with 4.5 million tonnes and Queensland with just a fraction over one million tonnes.

What has helped Western Australian growers tremendously has been CBH’s efforts in promoting the state’s reputation as a grower of high-quality grain and in developing a close working partnership with the marketers of the various grain pools, particularly the Australian Wheat Board. This close and successful working and professional relationship has enabled grain cargoes to be sourced, assembled and shipped in record time. I am informed by CBH that three shipping records have been established so far this year in clearing the record harvest from ports in Western Australia, an achievement for which CBH and the Australian Wheat Board can be very proud.

CBH has shifted a total of 1,330,881 tonnes of grain from its four export terminals in Albany, Geraldton, Esperance and Kwinana during the hectic January period. On 5 February MV Oriental loaded a record 41,800 tonnes of wheat at the mid-west port of Geraldton, which is approximately 400 kilometres north of Perth. The previous record of 39,166 tonnes was achieved in December 1999. The third record saw a total of 574,379 tonnes of barley, lupins, canola, field peas and oats exported in January. The previous record was 459,477 tonnes, which was achieved in 1998.

Through these record shippings in December and January, we have seen the successful export of close to one million tonnes of grain with a value of approximately $200 million. The significance of this record shipping activity is that, with efficient through-
put, CBH has been able to accommodate record deliveries, particularly from the south of the state, and to plan with confidence for the storage and marketing of next year’s harvest. This planning is absolutely essential as, with another favourable season coupled with the overall trend of increasing yields, we could see a further increase in overall production.

The Chief Executive Officer of CBH, Mr Imre Mencshelyi, when reflecting on this year’s harvest, said that in 1996 he confidently predicted that by the year 2005 Western Australia would produce a 15 million-tonne harvest. Of course, many were sceptical of such a prediction, especially last year when the total harvest did not even reach 10 million tonnes. So confident is Mr Mencshelyi with the capacity of CBH’s capabilities, he is now aiming to have the organisation move to world’s best practice by being able to receive a figure of 15 million tonnes in a 21-day period in Western Australia. He also confidently predicts that by the year 2020 Western Australia will be producing a harvest of some 25 million tonnes, equal to the total production achieved by the whole of Australia in this record year. This is a tremendous result for WA grain growers and it has resulted in a significant boost for the local economy, with growers already in receipt of a record $715 million by the end of January. This is $100 million more than payments received by farmers and growers at the same time in previous years.

The Australian Wheat Board has in the last few weeks announced further heartening news for grain growers, with an estimated price for the benchmark Australian premium white wheat of between $190 and $200 per tonne and an estimated $220 to $230 per tonne for durum wheat. This news has been warmly received by growers who, despite the bumper harvest this year, have had niggling doubts about the Australian dollar—which has appreciated by 30 per cent since this time last year—and concerns that this appreciation would seriously erode returns that they would receive this year. Whilst they are not going to receive the high prices that they had received several years ago when the Australian dollar was at a record low, they are nonetheless relieved to hear that they are now going to receive a price that has not been discounted by the full 30 per cent of the appreciated value of the Australian dollar.

I must also commend and congratulate the Australian Wheat Board on its chartering skill in obtaining the necessary shipping tonnage in a maritime cargo market which has seen the runaway Chinese economy absorb all excess capacity in cargo tonnage, making life very difficult for all Australian exporters. Overall, I believe that this result is a credit to the Australian Wheat Board, which has marketed Australian wheat aggressively and positioned Australia as a reliable supplier of high-quality grain in what is a highly competitive and quite cut-throat market. Australia guards its reputation as a reliable supplier of high-quality grain to the world.

I pause to note that the AWB officers have recently acted very quickly and very professionally in addressing a particular problem that has arisen with a shipment of wheat to Pakistan. On 20 and 21 February, PASSCO, the buying arm of the Pakistani government, rejected the first two cargoes of a 150,000-tonne consignment of Australian wheat, claiming the wheat had not met quality specifications and particularly specifying that it was contaminated with a fungus called Karnal bunt. Karnal bunt is not known to occur in Australia and, in accord with AWB’s rigid quality assurance controls, the wheat was tested before shipment and found to be disease free and above the specified quality standards. Thankfully, the Australian Wheat Board has a stringent quality assurance process, and I can assure senators that claims that
the cargoes do not meet specifications can be completely repudiated.

This matter has been taken very seriously by both the Australian Wheat Board and the government, as Australia’s worldwide reputation as a reliable supplier of high-quality grain is at issue. I understand that Australia’s high commissioner in Pakistan, Mr Howard Brown, has made a series of high-level representations to senior Pakistani government figures underlining our concern at the rejection of the cargoes and the need to resolve the matter quickly, correctly and completely. Officials from the Australian Wheat Board and the Department of Agriculture, Fisheries and Forestry are now in Pakistan working with the Australian High Commission, the importer of the wheat and the Pakistani authorities to resolve this matter as quickly as possible.

There has been a high degree of continuing cooperation between the two governments in clearly establishing that Karnal bunt is not known to occur in Australia. On this occasion, the wheat was tested before shipment and found to be disease free and, importantly, above the specified quality standards for gluten and so on. The wheat was tested by the importer, whose samples were taken at the same time as PASSCO’s, and found to be disease free and above the contracted quality standards. Thankfully, the Karnal bunt issue is close to resolution, as the Pakistani government, as recently as yesterday, has agreed to resample and retest the Australian wheat previously rejected against claims that the wheat had not met quality specifications and was contaminated with the fungus.

In conclusion, I am extremely grateful that Western Australian grain growers have had a wonderful year after several seasons that have severely tested their mettle. The flow-on benefits to rural communities from a good year are considerable and provide the welcome shot in the arm that is needed to re-energise country towns and communities. From my visits to grain growing areas I am told that the order books are close to full for new machinery bristling with world’s best technology. With farmers buying the latest and best machinery, they are steadily increasing their capacity to increase the yields from their crops. Hopefully we will be able to see Mr Imre Mencshelyi’s prediction come to fruition with a future crop in Western Australia that reaches the 25 million-tonne figure.

Veterans: Entitlements

Senator MARK BISHOP (Western Australia) (6.14 p.m.)—I rise tonight to speak to the government’s response to the review of veterans’ entitlements, conducted by Mr Justice Clarke in 2002. The Prime Minister’s announcement last Monday did one thing for veterans and war widows in this country. It brought to a stale end the total hoax that has been perpetrated. This review has been a quite unnecessary exercise. The government has deliberately dithered for over 12 months. Finally, we have an outcome, none of which is a surprise. The government knew the issues, they knew the solutions and they always knew the costs. All they have done is sweep the big problems into a bag and give it a shake. They have carefully selected some remedies to the problems which were causing them the most political grief. Now, after the revolt of the backbench, we have a fresh approach. Veterans need to know that of the 109 recommendations, about 42 recommended no change. Those, of course, are very easy to accept. Of the rest, our estimate is that the government have accepted only seven.

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Let us look at the issues covered in the report and the government’s response. To begin with, the government clearly rejected in total all the recommendations with respect to
qualifying service. The question now is: why did the government even include the matter in the terms of reference? The answer is: to buy some peace and quiet. There was never ever the slightest intention of changing policy with respect to qualifying service. By far and away the largest group of representations to Justice Clarke were about extending eligibility for access to the gold card. As we know, Justice Clarke rejected all efforts to do so. The next group was war widows. As we know, the government has now crumbled to the pressure of its own backbench with respect to war widows. Rent assistance has been restored to all of those widows on low means via the income support supplement. As with all other measures, the Labor Party fully supports this proposal. In fact, it might equally have been taken from the current ALP platform, released in January this year after the last national conference.

However, nothing has been done about younger widows denied the income support supplement. They will continue to be the most needy veterans and war widows. Nor will anything be done about those who served with BCOF in Japan after World War II. Atomic veterans might be optimistic, but the government knew before it wrote the terms of reference that it could do nothing. It had already commissioned a cancer and mortality study. Again, another stall. Likewise, the same applies to the SAS Regiment and all others who believe their peacetime training and exercises are worthy of greater reward or recognition. There was never ever the slightest intent of changing policy with respect to these groups. All we have is the extension of operational service to some groups who should have been recognised many years ago. The government always knew about them. Some have been recognised. Another group is the ex-prisoners of war from Korea. They, like POWs from Europe, have felt discriminated against for the last three or four years. At least part of that discrimination has been removed, but the anomaly for prisoners of war incarcerated in Europe remains on the books. They are entitled to be angry, and the Howard government's responsibility is to address their legitimate concerns.

Justice Clarke also made extensive recommendations concerning rehabilitation. This has been an area of serious default on the part of the Repatriation Commission for many years. The amount of rehabilitation, particularly vocational rehabilitation, undertaken for younger veterans is negligible. This is equally true for those persons discharged from the Australian defence forces. In fact it is tragic that each year 2,000 veterans succeed in gaining a totally and permanently incapacitated pension because they cannot work eight hours. They are simply paid and never ever considered for any retraining or any assistance which might address their plight. For those who are young, it is nothing other than a poverty trap for the rest of their lives. It is pleasing therefore to see that the issue of rehabilitation has been addressed in the new legislation before the parliament. It is pleasing that the government has agreed to some elements of the TPI Federation's campaign for changes to the benefits for TPIs.

We support the indexation of the above general rate of the special rate as a means of preventing further erosion, although we know that the TPIs are not happy with the splitting of their special rate. There is in fact a contradiction with respect to the indexation of the above general rate portion of the special rate. Only that portion which is deemed to be economic compensation is to be indexed by CPI or MTAWE, whichever is the greater. The question then is: why wasn't it also split for the Centrelink exemption? Here the special rate, as a whole, has not been treated as income. I make no comment on the merit of splitting the special rate, but some
consistency would be more than useful in policy terms.

Is it any wonder that the government’s policy is in such a mess with this erratic and inconsistent approach? Is it any wonder that veterans are confused? Is it any wonder that the department and the Minister for Family and Community Services refused to amend the relevant act, the Social Security Act? This is why there is no exemption at all from the means test at Centrelink. Instead, veterans are to be paid a new allowance of equivalent value by DVA. This will entail added complexity and additional cost. This is the result of ministerial and bureaucratic ineptitude. Wouldn’t it be refreshing if we had, for once, a whole-of-government approach to this issue?

Flowing from this is another concern that veterans will have with the package—that is, the dilution of qualifying service. There is also an element of this dilution in the MRCS bills currently before the Senate. TPIs without qualifying service are treated the same as those TPIs with qualifying service. While we welcome and support the proposal to help the TPI community, we are surprised at the backflip on the part of the government, especially given the venom and contempt which has been directed at this group.

The Minister for Veterans’ Affairs has been running a campaign now against the TPI Federation for in excess of two years. When the TPIs were in Canberra last June, neither the minister nor the Prime Minister could make the effort to walk 200 metres and spend some time with the group. The minister constantly insisted that TPIs are very well off, earning around $1,900 per fortnight. Since then, we have noted in the media that the minister, at least, has the grace to admit that only 2.8 per cent of TPIs are in this category.

It should be a matter of great pride to the TPI Federation that the government have capitulated in part. For the federation, though, it does not go far enough. The exemption of disability pensions from the means test at Centrelink is also a victory and reflects well on their organisation. It is a victory too for the ALP because, for the last five or six years at least, we have been arguing for this particular issue to be resolved. Twice in the last five years the government have rejected our amendments to bills in the Senate to bring this about.

This is good policy because it addresses need. The 950 TPIs I have mentioned are simply a case in point. A large number of beneficiaries will be people who enlisted for World War II but who did not serve overseas. They are now on the age pension, so this might be interpreted as late recognition. We welcome the announcements, but they fall way short of meeting veterans’ needs.

**Health: Organ Donation**

**Senator BARTLETT** (Queensland—Leader of the Australian Democrats) (6.23 p.m.)—I would like to speak briefly tonight about organ donation, which has been getting some well-deserved publicity and has been the subject of community debate in recent times. I note today’s comments by the National President of the Australian Medical Association, Dr Bill Glasson, calling on federal politicians to show true leadership in the community by signing on as organ donors. This issue is both simple and complex at the same time. I think many if not most people recognise the simple logic in becoming an organ donor and enabling their organs to be available to people who might need them if, per chance, they happen to not need them themselves anymore. At the same time, whilst that might seem simple and logical from a utilitarian perspective, a lot of people, often for reasons they are not really sure of,
feel an innate aversion to donating their organs. It is an aspect that people can feel uncomfortable with in a subconscious way without necessarily being fully clear as to why they are uncomfortable.

The fact that Australia has one of the lowest organ donation rates in the world, as Dr Glasson said—according to his figures it is just nine per million of population in 2003—is probably an indication that a lot of Australians do have that unease about the issue. That figure is not even a third of the figure of a country like Spain, for example. If people are encouraged to think through the issues, to talk through the issues and to consider the reality behind organ donation rather than just the bad feelings about it, I think the rate of donation would increase significantly. That is why the recent community debate about the issue is very welcome and very important.

Speaking personally, I have to say that to date I had not signed up as an organ donor, perhaps for those sorts of reasons. I had not given it a lot of thought. It is something that I did not feel comfortable with, for reasons I was not really sure about, and I did not get round to thinking any further about it. The encouragement we are getting from the community debate and from people like Dr Glasson to think through those issues a bit further and to encourage others to do so is very welcome. As Dr Glasson said, in 2002 in our country 107 patients died while awaiting organ transplants. When you consider that one donor can help up to 32 people, a lot could be achieved even with a small increase in the number of people who are willing to donate organs.

One aspect that is important to emphasise is the way people feel about organ donation. Obviously, in many respects people naturally feel a particular affinity or ownership with their organs, their own physical body, as an integral part of themselves and their sense of self. A lot of people in varying ways naturally feel that part of their self continues on after they die, and I think that links with some of the reasons why people feel innately uncomfortable with the idea. Speaking as someone who is not particularly religious or even particularly spiritual by most definitions of the word, despite that it is still an innate feeling that I myself have.

When people are encouraged to think about organ donation from the other way round, about a part of themselves living on through others after they die, it becomes a much more positive thing, rather than something that people begrudgingly feel they should do because it is the right thing. Highlighting aspects such as the number of people who could be helped by even one donor is a good way to demonstrate the positive nature of what is in one respect a very simple gift but in another respect is quite a major gift for people to give: actually donating part of themselves to someone else.

I would like to add my voice to the calls by others in the community to encourage people to think further about signing on as organ donors. It is something that I have made the decision to do as a consequence of the community debate. There was no one specific light bulb that went on in my head; rather, it was just part of a gradual consideration of the issue and, I guess, a response to Dr Glasson’s call for federal MPs to show leadership in this area. I would like to add my voice to encourage others in the community to do likewise and to encourage them to at least think about organ donation. I do think it is important to do so in a positive way and for people to perceive this as a gift that they consciously choose to give.

One aspect I am concerned about is the suggestion that we should perhaps make organ donations automatic, unless people consciously opt out. Whilst I am sure these sug-
gestions are made with the best possible intention, I think it would be quite counterproductive. I saw comments by Senator Brown in the Hobart Mercury today in which he supported moves to have opt out legislation under which everyone’s organs would automatically be available for donation unless they had specifically indicated they did not want that to happen. While that is well intentioned, I think it would be quite counterproductive. I saw comments by Senator Brown in the Hobart Mercury today in which he supported moves to have opt out legislation under which everyone’s organs would automatically be available for donation unless they had specifically indicated they did not want that to happen. While that is well intentioned, I think it would be quite counterproductive.

It is a very personal issue almost by definition. I do not think it would be helpful to people to feel that their organs were just there to be automatically harvested by the government or the state as soon as they happen to die. The idea that people would have the power to simply move in and take someone’s organs regardless of the views of the family, simply because that person had not filled in a form, is not a perception or a reality of organ donation that would be at all helpful. It really should be a conscious choice and a gift, rather than something that people are compelled to do unless they get around to consciously choosing to do otherwise.

Whilst I support the encouragement for people to sign up for organ donation, I express my opposition to the proposal that has been put forward to have automatic donation of organs unless a person states otherwise. I note criticisms in that same article in the Hobart Mercury from a University of Tasmania lecturer in ethics, Professor Newell, who pointed out some of the ethical problems with that. Our organs are indeed our own property, not the property of the state or anybody else. They should be something we choose to donate rather than something that is just harvested from us by automatic government fiat regardless of what our own views might be.

If people want a nice visual demonstration of the positive symbolism of organ donation, they might like to see the movie Jesus of Montreal, which has a component at the end of the story involving donations of organs and the positive and symbolic aspects as well as the very real, practical, physical benefits it can bring to other people’s lives. It is not just the gift of life but also the gift of sight. It is not just the difference between living and dying but also it is about giving someone a better quality of life. I think that most Australians would be very comfortable with trying to do what we can to ensure that everybody has a better quality of life or indeed the opportunity to continue to experience life in the face of threats to the contrary. I support Dr Glasson’s call for the community to think of it in that way and I encourage them to add themselves, as I have chosen to do, to the growing list of Australians who are willing to provide that gift should the unfortunate eventuality occur when the opportunity to give it might become available.

St Vincent de Paul Society: Book Launch

Senator HOGG (Queensland) (6.33 p.m.)—I rise briefly this evening to talk about an event I was involved in last Friday, the launch of a book entitled Chronicles from the Edge. The launch took place in the suburb of Woolloongabba in Brisbane. It was the launch at the diocesan level of the Catholic Church in Brisbane, but the book was launched on a broader basis on 14 November last year. The launch last Friday targeted specifically the Brisbane region. They involved me in the project, and I was only too pleased to be involved. The book was made possible by a grant from the Department of Immigration and Multicultural and Indigenous Affairs from the Living in Harmony initiative’s community grants program.

The project was undertaken by the St Vincent de Paul Society. As a result, the book is
not for sale as such, as it is a not-for-profit organisation. The project’s editorial team sought contributions from young people, including those who were refugees and migrants. The team conducted a series of community based workshops to assist in the collection of the stories for the book. The interesting thing is that the editorial committee did very little to alter the sense of what was written by the contributors to the book. The project was ably coordinated by Jim Wilkinson. The St Vincent de Paul web site, which outlines a bit about the book, sums up what the project was about. It says:

This publication seeks to provide the reader with a unique insight into the private thoughts and emotions of writers from diverse cultural backgrounds as they made their way to Australia.

I thought it was worth while to dwell on the book for a moment tonight, so that Australians who do not know about this fine production might have an appreciation of the work done by St Vincent de Paul as a result of the grant they received from DIMIA. It is worth while looking at the foreword, because it states:

The initiative is designed so that Australians everywhere can play their part in the continual forming of our society and to challenge all Australians to:

take a stand against racism, prejudice and intolerance;

help build a peaceful and productive future for our children by setting an example of how to live in harmony, making the most of our racial, cultural, social and religious diversity; and

put into practice the best of traditional Australian values—justice, equality, fairness and friendship. The book then goes on to relate a number of stories. Unfortunately, the first story that you run into is probably the worst in the book because it is the story of a woman from Sierra Leone who was born in 1957 in Freetown. Her name is not given, because she has family back in Freetown or elsewhere in Sierra Leone who might be the subject of reprisals. I will quote from a couple of sections from the story, so that people can get an idea of the flavour of the lifestyle that this woman left to come and seek haven in Australia. She says:

My role was in sensitising the population on gender violence and female circumcision …

She goes on:

During the time they are doing the initiation for the circumcision they use only the one weapon (instrument) to circumcise the 50, 60 even 100 women, this is done without sterilising or even changing the weapon. So, through this we thought that we could come to the rescue of young girls, knowing that everyone of them was at risk of getting the Aids virus through the use of only the one instrument.

She then goes on to say how, because of her activity in trying to save young girls in Sierra Leone, she and her husband—obviously, they were politically active—then became the target of the ruling government of the day. In a very stark statement she says:

During that time, my husband was arrested and tortured and then they cut off his head. They then turned to me and asked me to laugh at their cruelty. But I didn’t know whether I should have laughed or whether I should have cried. I was dumbfounded …

Obviously, she came out of a very violent background and went through a great deal of trauma, as one reads in the rest of her story. The conclusion of her story sums up how wonderful a country we really have, for she says:

Here in Australia you do not hear gun shots, nobody searches our pockets, and nobody asks me what I eat, or what I do for the day, like in Africa. So let us love Australia, take care of it, let us be watch dogs, and watch over our country, and pray for it.

There is a woman who has transited from a very violent community in Sierra Leone, gone through untold hardship, seen her hus-
band murdered before her eyes—and I did not relate the part where she saw her sons killed as well—and is accepted into our community as an Australian citizen. It is not simply one story, one anecdote; there are a large number of stories in Chronicles from the edge from a range of people across a number of countries—South Africa, Iraq, Zimbabwe, Vietnam, Indonesia, Thailand and Malta.

I thought the story from the young person from Malta, which is only a brief story, really sums up how some of the people who have sought refuge in this country find it. Again, no name is given for the young man from Malta, who says:

I was born in Malta. I came to Australia when I was three years old. I lived in a caravan for one year. We travelled around Australia and lived in Clermont for a while. When I was four I came to live in Mackay. I like living in Mackay because it is safe.

I think, again, that sums up the view that these people have. It is an excellent publication that a lot of thought and a lot of effort have gone into. It is a very professional publication, put together by the St Vincent de Paul Society in Brisbane as a result of the grant they received from DIMIA. It was a pleasure to launch the book last week. For those who are computer literate, it also has a CD-ROM. The good news is that with the production run they have been able to do it will be distributed to schools, churches and community groups so that they too can appreciate the stories of those people who have contributed to this in their path to becoming residents—and, in the longer term, citizens—of Australia. It is not simply a collage of contributions from older people but it has a real emphasis on youth so that the youth too can understand the experiences of these people who are new to our shores.

Whilst there was not a great number of people at the launch last week, I did have the pleasure of meeting two of the three young women who contributed to one article in the book. They were fine, upstanding young people, both still at school and both anxious to get ahead in this wonderful country in which we live. I also must put on the record my thanks to Marie Clark, who is the south diocesan youth representative, for the invitation to launch the book; and to Jim Wilkinson, whom I have already mentioned as being the coordinator—he did not write the book as such, but he coordinated a team to put this fine production together. For those who would like to read a copy of the book, I am sure that if they contact the St Vincent de Paul they will only be too pleased to give it to them, and they too will share the wonderful experience that I have shared.

Senate adjourned at 6.43 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

Civil Aviation Act—Civil Aviation Regulations—
Civil Aviation Amendment Order (No. 1) 2004.
Instruments Nos CASA 55/04, CASA 60/04, CASA 77/04 and CASA 86/04.
Currency Act—Currency (Royal Australian Mint) Determination 2004 (No. 2).

Departmental and Agency Contracts

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended:

Departmental and agency contracts for 2003—Letters of advice—
Education, Science and Training portfolio.
Treasury portfolio.
QUESTIONS ON NOTICE
The following answers to questions were circulated:

Environment and Heritage: Institute of Public Affairs
(Question No. 2043)

Senator O’Brien asked the Minister for the Environment and Heritage, upon notice, on 15 September 2003:

(1) For each of the following financial years: (a) 1996-97; (b) 1997-98; (c) 1998-99; (d) 1999-2000; (e) 2000-01; (f) 2001-02; (g) 2002-03; and (h) 2003-04, has the department or any agency for which the Minister is responsible, including boards, councils, committees and advisory bodies, made payments to the Institute of Public Affairs (IPA) for research purposes; if so, (i) how much was each payment, (ii) when was each payment made, and (iii) what services were provided.

(2) In relation to each research project or consultancy: (a) when was the IPA engaged; (b) for what time period; (c) what were the terms of reference; (d) what role did the Minister and/or his office have in the engagement of the IPA; (e) was the contract subject to a tender process; if so, was it an open tender or a select tender; if not, why not.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) No payment has been made to the Institute of Public Affairs.

(2) No research projects or consultancies were commissioned.

Defence: Stockton Rifle Range
(Question No. 2113)

Senator Chris Evans asked the Minister for Defence, upon notice, on 15 September 2003:

(1) (a) What is the current status of the Defence property at the Stockton Rifle Range in New South Wales; (b) what was the land used for previously; and (c) for what purpose does Defence envisage that the site could be used in the future.

(2) What is the size of the site.

(3) Has the site been valued by either the New South Wales Valuer-General or the Australian Valuation Office; if so: (a) when did the valuations take place; and (b) what was the estimated value.

(4) Is it intended that the site will be sold; if so, when.

(5) Is Defence aware of any heritage and/or environmental significance attached to the site; if so, can details be provided.

(6) Have any parties, i.e. individuals, organisations or governments, expressed an interest in acquiring the site; if so, can details be provided.

(7) Has the Port Stephens Council expressed an interest in acquiring the site; if so, what was the nature of each expression of interest from the Council.

(8) (a) Why has the land not been transferred to the Port Stephens Council; and (b) has there been any consultation between Defence and the Council in this regard; if so, what was the nature of each consultation with the Council on this issue.

(9) (a) When did the Commonwealth first acquire the site; and (b) what was the purpose of the acquisition.

QUESTIONS ON NOTICE
(10) (a) What was the process for acquiring the site; and (b) did the Commonwealth ever pay any party for the acquisition; if so, how much was paid.

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

(1) (a) The former Stockton Rifle Range is surplus to Defence requirements and is being prepared for disposal in accordance with the Commonwealth Property Disposals Policy. (b) A rifle range. (c) The Commonwealth does not have a view on the future uses of the site.

(2) The site is approximately 111.3 hectares.

(3) Yes. (a) and (b) The site was valued, on Defence’s behalf, by the Australian Valuation Office in March 2003. The valuation figure is Commercial-In-Confidence as the marketing of the property has not yet commenced. The Commonwealth is unaware if the New South Wales Valuer-General has valued the site. No such request to access the site for the purpose of valuation has been identified.

(4) Yes. The property is under consideration for disposal in this financial year.

(5) Yes. In preparing this property for the market, Defence ensured consultation with relevant State and local Government planning authorities, through an environmental consulting firm, GHD Pty Ltd, to ensure the environmental and heritage values of the site were identified and documented. An assessment of the significant attributes of the property is nearing completion, and, in accordance with Defence practice, all reports detailing the heritage aspects and significant flora and fauna on the site will be made available to potential purchasers during the tendering process.

(6) Yes. A review of departmental files indicates that:

- Port Stephens Council had an ongoing interest in the priority sale of the property until 16 May 2003 when they formally withdrew their interest in a letter to the Parliamentary Secretary to the Minister for Defence, the Hon Fran Bailey MP.
- A number of other organisations and individuals have written to Defence and requested the land be either donated or transferred for either public or private purposes.

(7) Yes. The Port Stephens Council sought to purchase the site under the priority sale provision within the Commonwealth Property Disposals Policy.

(8) (a) and (b) On 16 May 2003, the Port Stephens Council advised Defence of its decision to withdraw from priority sale negotiations with the Commonwealth. Council cited concerns with regard to contract conditions and indemnities sought by the Commonwealth as their reasons for withdrawing.

(9) (a) The Heritage Assessment of the Stockton Rifle Range completed by Suters Architects, June 1999, notes that the Commonwealth, under the Lands Acquisition Act 1906-1936, compulsorily acquired the land on 18 March 1942. (b) The purpose of the acquisition is listed in the Commonwealth of Australia Gazette, No 94, dated 26 March 1942 as “… Defence purposes at North Stockton, NSW.” The Heritage Assessment of the Stockton Rifle Range completed by Suters Architects, June 1999, notes that the land was initially acquired solely for the development of a small arms range.

(10) (a) See 9(a) above. (b) The Heritage Assessment of the Stockton Rifle Range completed by Suters Architects, June 1999, notes that the Commonwealth paid £2,250.00 for the site from the North Stockton Land Company.

Parliamentarians: Entitlements

(Question No. 2497)

Senator Murray asked the Special Minister of State, upon notice, on 12 January 2004: With reference to the certification of management reports by current and former parliamentarians:
(1) For each of the following financial years: 1999-2000, 2000-01 and 2001-02: (a) how many reports have not been certified; (b) which parliamentarians have not provided certification; (c) what reasons have been given for non-certification; and (d) what action is being taken to resolve non-certification.

(2) With respect to the 2002-03 financial year, how many reports have not been certified as at 31 December 2003.

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

(1) (a) 1999-2000 10*
    2000-2001 21
    2000-2001 28

* The answer to Question No.17 of 16 May 2002 showed eight non-certifications. It is now considered that two further cases should be counted – one was a partial certification; the other was an advice of non-certification that was submitted on a certification form.

(b) and (c)
Where Parliamentarians advised Finance of reasons these are included in the footnotes.

1999-2000
The Hon Arch Bevis MP
Senator the Hon Nick Bolkus
Mr Winston Crane
Mr John Forrest MP
Senator John Hogg
The Hon Bob Katter MP
The Hon John Moore AO
The Hon Neil O’Keefe
The Hon Peter Reith
The Hon Kathy Sullivan
2000-2001
The Hon Kim Beazley MP
The Hon Arch Bevis MP
Mr Anthony Byrne MP
The Hon Alan Cadman MP
Senator Kim Carr
The Hon Ian Causley MP
Mr Winston Crane
Mr John Forrest MP
Mr Alan Griffin MP
The Hon Joe Hockey MP
Senator John Hogg
The Hon Bob Katter MP
The Hon Michael Lee

QUESTIONS ON NOTICE
Mr Allan Morris
Mr Garry Nehl
Mr Gavan O’Connor MP
The Hon Roger Price MP 3
The Hon Peter Reith 5
Mr Kevin Rudd MP 1
The Hon Warren Snowdon MP
The Hon Dr Michael Wooldridge
2001-2002
The Hon Kim Beazley MP
The Hon Arch Bevis MP 1
Mr Bruce Billson MP
Mr Anthony Byrne MP 3
Senator Kim Carr
Senator Grant Chapman
Mr Winston Crane
The Hon John Fahey 6
The Hon Tim Fischer
Mr John Forrest MP 1
Mr Alan Griffin MP
The Hon Bob Katter MP
Mr Tony Lawler
Ms Jann McFarlane MP
The Hon Dr Stephen Martin 3
Mr Allan Morris
Mr Gary Nairn MP
Mr Garry Nehl
Mr Gavan O’Connor MP
The Hon Neil O’Keefe
The Hon Roger Price MP 3
The Hon Peter Reith 5
Mr Patrick Secker MP 3
The Hon Warren Snowdon MP
The Hon Andrew Thomson
Mr Ken Ticehurst MP
Senator the Hon Judith Troeth
The Hon Dr Michael Wooldridge
1  Partial certification

QUESTIONS ON NOTICE


Senator Bolkus advised that he was unable to certify the report due to errors with spouse travel and travel to Lord Howe Island.

Senator/Member or former Parliamentarian has advised that certification was provided. Finance holds no record.

Senator Hogg stated that he was unable to certify the 1999-2000 end of the financial year management report as he was not satisfied with the data collection methodology and accuracy. Senator Hogg stated further explanation was available on request.

Mr Reith advised Finance that he had no reason to accept Finance’s proposed answer.

Attribution of some costs not yet resolved.

(d) There is currently no legal requirement for Parliamentarians to provide certifications. Finance makes follow-up phone calls to those Senators and Members who have not returned signed certifications. A reminder to Parliamentarians to certify their 2001-2002 reports was included with the April 2003 management reports. Following the introduction in August 2003 of monthly certification Finance sends reminder letters to Senators and Members who have not returned a certification. If a Senator or Member comes back with a query on the report, Finance investigates the issue, and if necessary, amends the relevant page of the report and provides that to the Senator or Member concerned.

(2) 128 as at 31 December 2003. Since that time certifications have continued to be received and, as at 26 February 2004, the number of outstanding certifications stood at 94.

Trade: Firearms
(Question No. 2500)

Senator Mark Bishop asked the Minister for Justice and Customs, upon notice, on 13 January 2004:

(1) For each of the past 3 years, by state, how many: (a) hand guns; and (b) long arms, have been approved for import.

(2) For each of the past 3 years, by state, how many: (a) hand guns; and (b) long arms, have been intercepted as illegal imports.

(3) For each of the past 3 years: (a) how many consignments of illegally-imported gun parts have been intercepted; and (b) how many interceptions of illegally-imported replica firearms have there been.

(4) How many of the above interceptions have been of items purchased on e-bay.

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

(1) Table One: Legal Firearms Importations by State 2000-2001

<table>
<thead>
<tr>
<th></th>
<th>Handgun</th>
<th>Rifle</th>
<th>Shotguns</th>
<th>Military</th>
<th>Antique</th>
<th>Total</th>
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<tbody>
<tr>
<td>VIC</td>
<td>1,650</td>
<td>4,532</td>
<td>1,962</td>
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<td>22</td>
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<td>713</td>
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<td>QLD</td>
<td>2,482</td>
<td>2,281</td>
<td>337</td>
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<td>5</td>
<td>5,138</td>
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<tr>
<td>ACT</td>
<td>3,264</td>
<td>909</td>
<td>24</td>
<td>548</td>
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<td>4,745</td>
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<td>SA</td>
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<td>692</td>
<td>882</td>
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<td>TAS</td>
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<td>0</td>
<td>4</td>
<td>0</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
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<td>11,109</td>
<td>4,889</td>
<td>2007</td>
<td>46</td>
<td>30,666</td>
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QUESTIONS ON NOTICE
### Table Two: Legal Firearms Importations by State 2001-2002

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<th>Handgun</th>
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<th>Military</th>
<th>Antique</th>
<th>Total</th>
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<td>5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>8,887</strong></td>
<td><strong>10,401</strong></td>
<td><strong>6,221</strong></td>
<td><strong>2387</strong></td>
<td><strong>120</strong></td>
<td><strong>28,016</strong></td>
</tr>
</tbody>
</table>

### Table Three: Legal Firearms Importations by State: 2002-2003

<table>
<thead>
<tr>
<th></th>
<th>Handgun</th>
<th>Rifle</th>
<th>Shotguns</th>
<th>Military</th>
<th>Antique</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>VIC</td>
<td>4,580</td>
<td>7,532</td>
<td>2,631</td>
<td>165</td>
<td>276</td>
<td>15,184</td>
</tr>
<tr>
<td>NSW</td>
<td>1139</td>
<td>5,081</td>
<td>2,225</td>
<td>55</td>
<td>25</td>
<td>8,525</td>
</tr>
<tr>
<td>QLD</td>
<td>1,921</td>
<td>5,422</td>
<td>504</td>
<td>0</td>
<td>260</td>
<td>8,107</td>
</tr>
<tr>
<td>ACT</td>
<td>1,336</td>
<td>22</td>
<td>0</td>
<td>3,364</td>
<td>0</td>
<td>4,722</td>
</tr>
<tr>
<td>SA</td>
<td>274</td>
<td>29</td>
<td>3</td>
<td>166</td>
<td>8</td>
<td>480</td>
</tr>
<tr>
<td>WA</td>
<td>3521</td>
<td>319</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>3846</td>
</tr>
<tr>
<td>NT</td>
<td>62</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>64</td>
</tr>
<tr>
<td>TAS</td>
<td>0</td>
<td>8</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>11</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>12,833</strong></td>
<td><strong>18,414</strong></td>
<td><strong>5,371</strong></td>
<td><strong>3751</strong></td>
<td><strong>570</strong></td>
<td><strong>40,939</strong></td>
</tr>
</tbody>
</table>

**Comments**

- The data used in these tables relate to the port of entry used to import the items into Australia and do not necessarily reflect the location of the end user of the firearms.
- These figures relate to importations of firearms for which permits have been granted.
- These figures do not include importations of air handguns, air rifles or air shotguns.

(2)

In 2000-2001 Customs detected 1407 firearms at the border. Of these detections:

- 435 were subsequently seized;
- 461 were subsequently released;
- 15 were subsequently re-exported; and
- 496 were still being processed at the end of the period.

In 2001-2002 Customs detected 2536 firearms at the border. Of these detections:

- 561 were subsequently seized;
- 708 were subsequently released;
- 80 were subsequently re-exported; and
- 1187 were still being processed at the end of the period.

In 2002-2003 Customs detected 2334 firearms at the border. Of these detections:

- 177 were subsequently seized;
- 834 were subsequently released;
• 109 were subsequently re-exported; and
• 1214 were still being processed at the end of the period.

Table Four: Illegal Firearms Seizures July 2000-June 2003

<table>
<thead>
<tr>
<th></th>
<th>Handgun</th>
<th>Rifle</th>
<th>Shotgun</th>
<th>Antique</th>
<th>U/C*</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000-2001</td>
<td>204</td>
<td>146</td>
<td>79</td>
<td>4</td>
<td>2</td>
<td>435</td>
</tr>
<tr>
<td>2001-2002</td>
<td>172</td>
<td>248</td>
<td>86</td>
<td>46</td>
<td>9</td>
<td>561</td>
</tr>
<tr>
<td>2002-2003</td>
<td>58</td>
<td>62</td>
<td>17</td>
<td>38</td>
<td>2</td>
<td>177</td>
</tr>
<tr>
<td>Total</td>
<td>434</td>
<td>456</td>
<td>182</td>
<td>88</td>
<td>13</td>
<td>1173</td>
</tr>
</tbody>
</table>

* Un-categorised

Comments
• These figures relate to importations of firearms that were not accompanied by the correct permits at the time of import.
• Illegal firearms statistics are collected bi-annually. Figures for each six monthly period refer to those firearms/parts that have entered the country in that period. At the end of each six monthly reporting period there are a number of detections that have not been fully processed; these are recorded in the statistics as ‘Pending’. These pending firearms detections will have been subsequently released, seized or re-exported in the next data collection period.

(3)

Table 3A: Illegal firearm parts detections July 2000 - June 2003

<table>
<thead>
<tr>
<th></th>
<th>Pending</th>
<th>Released</th>
<th>Re-exported</th>
<th>Seized</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000-2001</td>
<td>182</td>
<td>754</td>
<td>1</td>
<td>259</td>
<td>1196</td>
</tr>
<tr>
<td>2001-2002</td>
<td>1637</td>
<td>1836</td>
<td>25</td>
<td>347</td>
<td>3845</td>
</tr>
<tr>
<td>2002-2003</td>
<td>2483</td>
<td>1280</td>
<td>116</td>
<td>641</td>
<td>4520</td>
</tr>
<tr>
<td>Total</td>
<td>4302</td>
<td>3870</td>
<td>142</td>
<td>1247</td>
<td>9561</td>
</tr>
</tbody>
</table>

Table 3B: Illegal replica detections July 2000 - June 2003

<table>
<thead>
<tr>
<th></th>
<th>Pending</th>
<th>Released</th>
<th>Re-exported</th>
<th>Seized</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000-2001</td>
<td>31</td>
<td>29</td>
<td>0</td>
<td>118</td>
<td>178</td>
</tr>
<tr>
<td>2001-2002</td>
<td>134</td>
<td>36</td>
<td>4</td>
<td>159</td>
<td>333</td>
</tr>
<tr>
<td>2002-2003</td>
<td>338</td>
<td>183</td>
<td>8</td>
<td>251</td>
<td>780</td>
</tr>
<tr>
<td>Total</td>
<td>503</td>
<td>248</td>
<td>12</td>
<td>528</td>
<td>1291</td>
</tr>
</tbody>
</table>

Comments
• The apparent increase in detections of replica firearms is more likely to reflect a change in reporting standards of Customs Stores than an increase of this magnitude in detections.
• Illegal firearms statistics are collected bi-annually. Figures for each six monthly period refer to those firearms/parts that have entered the country in that period. At the end of each six monthly reporting period there are a number of detections that have not been fully processed; these are recorded in the statistics as ‘Pending’. These pending firearms detections will have been subsequently released, seized or re-exported in the next data collection period.

(4) Forty-five of the above firearms parts detections were items recorded as being purchased on E-bay; one of the above handgun detections was an item recorded as purchased on E-bay.
Comments

- E-bay is not the only internet site used by Australians to import weapons over the internet, only the most prominent. The offence provisions under the Customs Act relate only to the restricted goods, not the means by which they are purchased.
- Whichever way the goods are purchased, the method of transportation must still be through one of the main transport streams (post, air cargo, sea cargo), which are covered by routine Customs screening procedures.

Appendix A: Definitions

- Imported Firearms
- Firearms imported and for which a customs entry was completed
- Figures relating to the number of imported firearms do not include a very small number of firearms legally imported by post or sea or air freight below the threshold requiring Customs entry. These firearms however require all other formalities to be met, including necessary permits, prior to release.
- Detected Where Customs identifies goods imported as prohibited or restricted goods and for which appropriate documentation is not available at the time of import. This includes goods that are declared to Customs.
- Seized Where goods detected and detained by Customs are subsequently seized as a result of the owner failing to obtain the relevant permits and/or the goods failing safety testing.
- Released Where goods detected and detained by Customs are subsequently released to the owner upon production of the relevant permits, successful safety testing and/or the correct entry of the goods.
- Re-exported Where imported goods detected and detained by Customs are subsequently permitted to be exported out of Australia following the failure of the owner to obtain the relevant permits and/or the goods having failed safety testing.
- Pending Where the status of goods detected and detained by Customs has yet to be determined.