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

COMMITTEES

Environment, Communications, Information Technology and the Arts References Committee

Meeting
Senator FERRIS (South Australia) (12.31 p.m.)—by leave—At the request of the Chair of the Environment, Communications, Information Technology and the Arts References Committee, 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 today, from 12.30 pm, to take evidence for the committee’s inquiry into competition in broadband services.

Question agreed to.

TEMPORARY CHAIRMEN OF COMMITTEES

The PRESIDENT—Pursuant to standing order 12, I lay on the table a warrant revoking the warrant nominating Senator Cook to act as a Temporary Chairman of Committees when the Deputy President and Chair of Committees is absent.

BUSINESS

Consideration of Legislation

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (12.32 p.m.)—I move:

That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the Intelligence Services Amendment Bill 2003 [No. 2] yesterday, I was talking about the lack of regional services, an issue that has been avoided by this government. I was particularly referring to the shire of Logan, which is 20 minutes from the centre of Brisbane. Logan is one of the largest cities in Queensland, but Telstra has been unable to provide adequate broadband Internet services to that area. Given that it is an emerging area, the demand is there but Telstra seems unable to provide the service to new areas within Logan. Of course, this highlights the problem with this government: its inability to deal with Telstra in a pragmatic way. This government wants to wash its hands of the affair and sell off its stake. There are better ways to achieve a result. I have raised this issue before in the parliament. For 18 months residents have struggled to obtain services in Logan. These residents can now intermittently receive broadband services through an ADSL exchange, although these services are neither reliable nor up to the standard that others in the metropolitan area receive. New residential areas are screaming out for these
issues to be addressed by Telstra. However, Telstra’s failure to lay cable in new residential areas has seen a fall in services to metropolitan areas.

The sale of Telstra is particularly galling for residents living in Forde, Groom and Maranoa. Let me give an example of Telstra’s failure to provide adequate and timely services to semirural areas such as those in the federal seat of Forde. I received a call from a constituent whose wife is disabled with a terminal illness. From Christmas until March this year, this family lost the use of their phone line for days at a time. On one occasion they lost the use of their phone for 11 consecutive days. My office sought to follow up on these complaints and contacted Telstra. My staff were told that services had been affected due to storm activity. Anyone who spent Christmas in south-east Queensland would know that, despite soaring temperatures—perhaps high humidity for those who live in Canberra—we did not see a scrap of rain over the Christmas period. In fact, in Queensland we baked during that period, which was absent of any storm activity.

The constituent phoned Telstra on several occasions to have the family’s phone connection restored, and was told the delays were due to ongoing difficulties with the line in the area, which had been caused by storm damage. The odd part about the explanation was that no-one else in the street lost their telephone service during this period, as far as I am aware, due to storm damage. Although my office inquired, no-one could recollect whether anyone else’s phone lines had been subject to intermittent storm damage in that street or in the nearby area.

After the constituent made a number of complaints, Telstra offered to divert incoming calls to the constituent’s mobile phone in an effort to address, in part, the problem of lack of telecommunications. I am told that the constituent, thinking this was a nice gesture, agreed to the diversion of calls to his mobile. What he did not realise at the time, I was subsequently informed, was that Telstra was going to refuse to cover the cost of the diversion and did not offer to credit the costs incurred by making local calls on a mobile telephone. In fact, Telstra refused to give any sort of credit for out-of-pocket expenses. My office was informed by the constituent that the reasoning behind this was that the mobile phone contract was with a rival telco.

It was only after my office intervened with the telco that the ball started to finally get rolling. Telstra started to at least come round to understanding some of the problems. I do not think they had realised that there had not been a storm to that date, but at least they started to address the problem on behalf of the constituent. But it stalled again. After several more calls to the customer relations offices in both Brisbane and the Gold Coast, a resolution was finally reached. It seems the problem was not due to local storms, as was suggested, but was due to a fault in the substation where the constituent’s line is located. The problem was subsequently corrected. It was not a huge issue to be resolved, but it did take a significant amount of work from my office and a lot of work from the constituent to motivate Telstra to fix the problem.

Had my office not intervened in the issue, it could have continued on with little resolution. It is my understanding that the message relayed by Telstra in relation to the fault was not correct. Telstra finally admitted—to local storms but to a lack of technicians to follow up on issues of concern. This underlines the point that there is already a lack of technicians who are from Telstra and that the sale of Telstra will not fix these problems. They should not exist. Telstra should be able to address these issues quickly and effectively. In fact, it would be fair to say that in this case Telstra
made very little effort to rectify the problem. They had—and still have, as far as I am aware—no intention of making reparations to the family for the inconvenience and additional expense caused by this incident until my office intervened. Even then their compensation offer amounted to a paltry $30. To add insult to injury, the family is still expected to pay full line rental fees for the time the phone was inoperable. This instance alone gives rise to the belief by the opposition that, once control of Telstra is sold off, services to local communities will continue to deteriorate and no recourse will be available to clients of Telstra to fix these issues. The leaked internal Telstra document that was exposed by Labor several weeks ago proved conclusively in my mind that Telstra’s services were anything but up to scratch. The document stated that Telstra’s fault levels were soaring and that this was due to underinvestment in the network—and not due to the government’s and Telstra’s usual excuse of weather incidents.

In my view, if the full transfer to privatisation goes ahead, intervention efforts by my office will not yield results. At least in this instance the constituent managed to have the fault addressed and, eventually, to have the restoration of the phone line. In my view, it is unlikely that will happen under a fully privatised Telstra.

Senator LUDWIG—Perhaps ‘rear window’ is a better description. Thank you, Whip. The article states:

The groan from investment bankers was almost audible yesterday, after another bad set of numbers for Prime Minister John Howard. This is a tragedy for the bankers, who were told to be ready to go on T3 “five minutes after the next election” if the Libs are returned. With this in mind, face time has been very valuable of late, given the fat fees possibly coming their way. “They [bankers] are always down in Canberra giving free advice,” one of our spies says.

The government should come clean on the reasons for the sale rather than lob this bill into the Senate again and hope for the best.

Senator GREIG (Western Australia) (12.41 p.m.)—The Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2] is one of the key reasons the government is currently in so much difficulty. The bill shows the extraordinary short-sightedness of the government and its preparedness to put ideology before good governance. The problem is that the government simply does not understand and does not realise that Telstra is not just another company; it is not just another asset to be sold to provide the funds for the next round of election promises. Telstra is different. Telstra owns a very valuable and increasingly vital piece of national infrastructure. The Australian people clearly understand this, which is why they continually reject the full sale of this public asset.

A very substantial percentage of any government’s spending is on information technology. Yet we have a cabinet whose members are largely IT illiterate, a cabinet which has overseen $5 million being spent on one departmental web site and $4 million of taxpayers’ money being spent on one minister’s web site. Clearly, there is a lack of comprehension of the issues and of the waste involved here. We have a communications and information technology minister describing
an enormous singularity in the balance of payments in IT as being ‘good for business’ and failing totally to realise that IT is the business.

The 2002 report by the Australian Computer Society showed a $14 billion black hole in Australia’s IT imports compared to IT exports. The minister responsible said that this was ‘good for business’. What the government continues to fail to realise in this area is that IT is not just good for business; IT is the business. A brief comparison may help the government understand this. The current cash reserves of just one IT software company—admittedly the biggest—are sufficiently large to buy the entire unfunded superannuation debt of the entire department of primary industry. In addition, the cash reserves are set to grow with the company backing their own future with vast investments in research and development and guaranteeing their own place in the world. That is another lesson that this government would do well to learn.

The new minister seemed to take it as a mark of pride that he had no understanding at all of the allocation of at least 50 per cent and probably more of the previous minister’s spending. He did not even have an email address so that someone could let him know that it might be a good idea to find out. The reason we are here today debating this legislation is to try to fix up another of the government’s mistakes. Try as it might to blame the Senate or the Democrats, the problems with Telstra are of the government’s own making and are the product of the government’s complete failure to understand the technology which underscores all business today.

Telstra is a company in a mess. It is a company suffering from multiple personality disorder. It is an IT company which rushes out to buy a newspaper, yet it had to be dragged kicking and screaming into the large-scale supply of affordable broadband. It is a company which is half-owned by the government, which can afford to throw hundreds of millions of dollars at Foxtel and which can afford to buy the Trading Post newspaper, yet it worries that fibre to the home, or FTTH, is too expensive to provide. In countries such as Sweden, Holland and Japan, governments are encouraging companies to use fibre rather than copper. Where broadband and Foxtel are concerned, Telstra is also competing against itself—and it is they who are picking the winner rather than letting the market decide. I will return to that point later.

I do not want to address the whole issue of Telstra here. I can do no better than to recommend the excellent summation of the issue found in the minority report of the Senate inquiry from my colleague Senator John Cherry. For the purposes of my speech today I want to confine my comments to information technology and the supply of digital content. This is where the future lies. Should it be delivered the old broadcast way where the provider supplies not just the programming but the times that this programming will be available, or is it time to move into the new century and supply the content and empower the user?

Digital TV is the way of the future; however, this does not mean that digital broadcast pay TV is the future—it is not. TV delivery using broadband technologies is the answer. The smoke and mirrors being flashed around by Foxtel at the moment are designed to conceal the fact that Telstra had a ‘reach’ moment before investing in Foxtel too. Hundreds of millions of dollars later the people of Australia are being held hostage and denied new technology to enable Telstra to recover from its latest misunderstanding about the future direction of technology.
Let us compare the offerings of the new and much-vaunted Foxtel relaunch with the alternative style of delivery provided by Pacific Century CyberWorks. Currently Pacific delivers 26 TV channels, including sport, movies, Discovery and ABC Asia Pacific, at DVD quality via ADSL broadband over the phone line. Pacific already has close to 200,000 customers, and it expects that to reach half a million by next year.

The Hong Kong experiment is being watched around the world not only as the future of television but also as the future of telecommunications. But Telstra is not interested in broadband TV for two reasons. The first is that Australia’s ADSL network is far too slow. Hong Kong’s ADSL runs at six megabits per second. Broadband TV needs 4.5 megabits and this leaves room for Internet surfing on the same line. Australia’s ADSL runs at 1.5 megabits—and that is on a good day.

Another major difference is that Pacific’s broadband TV is an a la carte service. With this service you pay for each channel separately, buying as few or as many as you want for between $2 and $7.50 a month. This contrasts with the minimum $49.95 package from Foxtel, which does not include the new movies or sport. To get the new movies and sport you have to subscribe to the $94.95 package. An a la carte competitor would be Foxtel’s nemesis. This leads us to the second reason that Telstra is not interested in broadband TV—that is, that Telstra owns half of Foxtel.

What do you think customers would prefer: genuine programming on demand where they pay for only those programs they want to a maximum of $7.50 per month, or receiving the programs the provider wants to send to them at the minimum of $50 per month? We should let the market decide, not the accountants at Telstra. Admittedly, FTTH is a lot more expensive, but it would be a $15 billion investment in our future. It is an investment that must be made—and will be made. Telstra’s reluctance is only delaying the inevitable. All of Australia, particularly business Australia, will suffer as a result of this delay.

The principal metric that the government set as a requirement before the sale was a decent level of service, but even Telstra’s own spin doctors are forced into defensive mode on this issue. The recent results from the Telecommunications Industry Ombudsman show a disproportionately large number of complaints are to do with Telstra. In fact recent studies show that Telstra is consistently one of the worst performers in the area of customer service. The recent Whirlpool study conducted in October and November 2003 showed that, while three per cent found BigPond ADSL customer service to be excellent—and that was the lowest rate of any ISP—over 75 per cent found the service itself to be average to awful. In fact, this survey found there was only one company with a lower ranking: BigPond Cable. It should be noted here that only 5.3 per cent of respondents agreed with the statement that the government’s broadband policies are a lot better than they used to be. The real noteworthy thing regarding this survey is the high proportion of experienced users it included. The general population can expect a much worse time of Telstra’s service levels.

It is revealing to see Telstra’s approach to this poor placing in the market. Does Telstra improve its service? Does Telstra attempt to contest the others by providing a better and cheaper service? We all know the answer to that, for even as we debate this issue Telstra is in receipt of a competition order. Rather than beat the others by improving its service, it used its market power to launch a predatory pricing regime to drive the better and cheaper providers out of the market.
I want to pause here to tell you of my own experience recently with Telstra’s service. At home in Perth I had ADSL installed by Telstra. In the course of the installation the technician disconnected my home network. Then, rather than supply the equipment that is advertised as being part of the job, the technician simply used the pieces from my own, now destroyed, network for the installation. As a result of that I was denied access to my own data and could not use my own equipment.

Telstra’s response to my complaints was extraordinary. For a week Telstra refused to allow me access to my own equipment unless I paid a service fee of several hundred dollars. Despite Telstra’s admission that the problem was of its own making, it still insisted on a full service fee to undo the original work. It took a total of 30 hours of time and energy to get Telstra to correctly perform the installation—which took fewer than four minutes by a properly trained technician.

Telstra has admitted that in 90 per cent of broadband installations Telstra does not supply the advertised equipment but rather just resumes control of the customer’s equipment. When we challenged Telstra on this, rather than undertake to improve its service and agree to simply supply the equipment, it altered the Telstra web site to remove the promise to supply what is basically an essential piece of equipment. That action will result in the continued practice of commandeering the customer’s own access and passing on an unnecessary cost to the customer to avoid its own responsibilities. However, I now have ADSL installed at home, and so far it seems to be working well.

Currently Telstra is overadvertising its expensive reiteration of the old technology, with the Foxtel partners having pumped another $500 million into the coffers, despite only 1,000 of the 5,000 exchanges in Australia having been ADSL enabled. This may suit the other Foxtel partners, but it puts Foxtel in direct competition with the role that BigPond should be in—namely, the delivery of digital content via broadband. To put it more clearly, Telstra does not see its interests as being the same as Australia’s. If the future of Australia is to be handicapped to enable Telstra to deliver today’s profit, then that is okay by Telstra, it is okay by this minister and it is okay by the government—but it is not okay with the people of Australia. They deserve better than the government is prepared to let them have.

Each year Australia drops further down the international digital access rankings. Each year that we fail to act makes it that much harder to begin working on the solution. It is time for the government to stop wasting its time and energy on this attempt to sweep a problem of its own making under the carpet and supposedly out of sight. It is time for the government to accept its responsibilities and ensure the supply of high-quality bandwidth to every Australian. It is time to break the digital divide and get broadband out into the bush. It is time to get service levels up to an acceptable level. But, instead, they are going downhill. As I said, it is time to break the digital divide and, most particularly, get services out into the bush. Most of all, it is time to get services up to an acceptable level. The time that we are debating the possible and future sale of Telstra is not the time to sell off the nation’s vital infrastructure.

Senator MARSHALL (Victoria) (12.54 p.m.)—I rise today to address the Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]. Public ownership of Telstra is the only guarantee we have to ensure that all Australians, no matter where they live, are able to access essential, reliable and affordable telecommunications services. As I outlined the last time I spoke about this issue
here in the Senate, Labor recognise that in the digital age Australians rely on telecommunications services as essential services. Unlike the Howard government, we do not view telecommunications services as luxury items that people could do without. Such a view is, in my opinion, ignorant and out of touch.

We recognise that 21st century Australians rely upon telephones and broader telecommunications services as fundamental tools used in everyday, ordinary life. People use them to keep in touch with loved ones, families, friends, colleagues and acquaintances. We organise social lives with them. We consume and conduct business via them. We use them to access emergency services, educational services, help and advice. We undertake household chores, such as paying bills and dealing with government agencies and companies, with them. To suggest that telecommunications services are not fundamental in every aspect of Australian society is simply misleading. Everyone knows that they are.

For many years now, the Howard government has been hell-bent on fulfilling its ideological dream of fully privatising Telstra. It has been fattening it up for many years and has effectively allowed it to act as if it were already a company in full private hands. Under the watch of the Howard government, Telstra’s performance in numerous areas of its operations has declined dramatically. Consumers have been hit with ever-escalating Telstra line rental fees, yet they have not been adequately compensated with reductions in call prices. Telstra’s network has been deteriorating for some time, crippled by major investment reductions and mass staff cutbacks. Telstra’s investments in Asia have backfired, resulting in enormous financial losses for the company and its shareholders. Telstra’s roll-out and Australia’s take-up of broadband technology, compared with equivalent countries, has been totally inadequate. Telstra has been operating in a market dogged by inadequate competition and has used—and some would argue abused—its market dominance and control of the fixed line network. These deficiencies have been exacerbated by inappropriate corporate behaviour, such as supplying $15,000 plasma televisions to the Prime Minister and the former Minister for Communications, Information Technology and the Arts, former Senator Alston, and offering Telstra’s CEO a $1 million plus golden handshake if he were to be sacked—on top of his $7 million salary package.

Telstra’s capital expenditure has been falling dramatically over the past few years. From a peak of $4.7 billion in 1999-2000, Telstra’s financing of capital infrastructure fell to an estimated $3.25 billion in 2002-03, which represented a 30 per cent decline since 1999-2000 alone. Over the same time, more than 13,000 full-time staff have been slashed from Telstra’s work force. A substantial proportion of these staff cuts have occurred in areas such as direct customer service and network maintenance, particularly in regional Australia. Moreover, as has been widely reported throughout the media, a growing number of Australian full-time IT jobs are being exported by Telstra to India. Surely this cannot be in the national interest. But it was the Howard government, as majority stakeholder, that gave Telstra the green light to send these jobs offshore many months ago. It is the Howard government, not only Telstra management, that is to blame for these poor business decisions. As I have already stated, the Howard government has been fattening up Telstra for full privatisation for many years now. It does not mind if it guts Australia’s IT industry in the process. As a consequence of this and other staffing decisions, Telstra’s services and service standards around the country, and in particu-
lar in rural and regional areas, have severely suffered. The Australian Communications Authority has conceded that 11 per cent of Telstra’s services were faulty in 2003. Telstra’s urban fault rectification performance is languishing, with 14 per cent of phone faults not fixed on time.

These concessions come on top of leaked Telstra documents received by Labor which outline that faults in Telstra’s network are at a six-year high; that the fault rate has been increasing since June 2001 and has accelerated in the last nine months of 2003; that the fault rate growth appears to be due to a general network deterioration rather than specific exceptional cause; and that the fault rate is climbing in both regional and metropolitan Australia. The documents also predict that the fault rate will continue to grow between now and mid-2005. On top of all the problems, customers have experienced massive price increases and, as all the facts would suggest, will continue to do so in the future.

Just three and a bit years ago, line rental costs stood at $11.65 per month. Today that figure has reached between $23.50 and $26.50 a month. In the next year or two, this charge is expected to rise to over $30 per month. So one can only conclude that, within the space of four or five years, the price for the privilege of having a phone in your home before you pay a single cent for a telephone call is going to soar to well over $400 a year if this rate of price increase continues. In the last half year Telstra’s line rental revenue increased by $54 million, despite the number of Telstra rented lines having decreased marginally. With this coming on top of the $130 million Telstra made in extra revenue from the line rental increases in 2002-03, it is little wonder many customers are angry that service levels are far from adequate. Many are now complaining that they are paying more in line rental charges than in call costs.

Australians have every right to be concerned about what a fully privatised Telstra might charge customers in the future and the decisions they might make with respect to particular services offered today. As recent history has indicated, Telstra will continue to hike up line rental fees and has no problem doing this while winding back popular services. Telstra’s reasonably recent decision to axe its 15c local neighbourhood call while continuing to raise line rental fees serves as a prime example of this practice.

Australians recognise that programs such as discount concession schemes for pensioners will be immediately abolished or scaled back if Telstra is fully privatised. Australians also know that a fully privatised Telstra will put enormous and irresistible pressure on the government to introduce timed local calls. Australians demand that Telstra operates and acts in their interest and in the national interest and that consumer interests are not subservient to Telstra’s corporate interests.

Under this bill, as its title would suggest, ministerial power of direction over Telstra will be removed once the Commonwealth’s equity falls below 50 per cent. This is an important power for the government to hold and use if Telstra acts in an inappropriate manner and refuses to remedy such action. Such power should not be given up. Under the proposal, Telstra will cease to be subject to the Freedom of Information Act and will no longer be required to provide employees with Commonwealth standard long service leave, maternity leave and occupational health and safety provisions. Telstra’s reporting obligations will also cease once the Commonwealth’s equity falls below 15 per cent. This means that Telstra will no longer have to provide the Commonwealth with financial statements or notifications of significant events. A privatised Telstra would no longer have to keep ministers informed on issues pertaining to the operation of the
company. The government will lose all effective control over Telstra.

As we know, for some time now the Howard government has pretended that the full sale of Telstra has been contingent upon it being ‘fully satisfied that arrangements are in place to deliver adequate services to all Australians’. But Australians know this is just another Howard government porky. Here again is legislation to bring about the full privatisation of Telstra and, by virtue of the Howard government, it again contends to the Australian people that services in rural and regional Australia are up to scratch. To do this is to play a harsh joke on people living all around Australia who know all too well that the realities of Telstra’s performance are worlds away from this out of touch view.

The Howard government has spent a lot of time and money conducting sham inquiries into service levels in rural and regional Australia in order to extract at least one view favourable to its theory. The findings of these sham investigations, in line with Howard government policy, have come about despite hundreds of public submissions detailing actual poor experiences with Telstra. Hundreds of submissions have outlined instances of poor mobile phone coverage, faulty telephone lines, poor broadband coverage, inadequate dial-up Internet data speeds, constant Internet line drop-outs and many others.

The regional telecommunications inquiry—the Estens inquiry—launched in August 2002 was an absolute joke, and everyone knew it. The inquiry took place under the chairmanship of Mr Dick Estens, a National Party member and mate of the Deputy Prime Minister. It certainly came as no surprise to me or, I would suggest, to anyone who takes an interest in these matters that the committee came up with exactly the report the government wanted, and the very next day this bill was introduced into the parliament for the first time. Everyone knows that telecommunications services in the bush are not up to scratch. They are totally inadequate and continue to decline.

The Howard government’s mantra was again disproved by the release the other week of the leaked Telstra documents I referred to earlier. There is widespread acceptance that, under a fully privatised Telstra, service levels in rural and regional Australia would at best remain stagnant but would more probably further decline. Either way, everyone knows that service levels in rural and regional Australia will not improve in any way under Telstra’s full privatisation—not now and not in the future.

The bill provides for the Minister for Communications, Information Technology and the Arts or the ACA to make licence conditions requiring Telstra to maintain a local presence in regional, rural and remote parts of Australia. It also requires regular reviews of regional telecommunications every five years by an expert committee appointed by the minister. These provisions cannot be taken seriously. They are inadequate, hopeless and nothing more than a laughable attempt by the government to pull the wool over the eyes of Australians. But Australians know better than to fall for that Howard government trick again.

The future-proofing arrangements for regional telecommunications services in this bill offer absolutely no guarantee of reasonable future levels of service for regional Australians. A huge privately owned Telstra would dictate to the government what the licence conditions should be. Under full privatisation the government would have no role in Telstra whatsoever. That is the whole point of the bill. As for the provisions in the bill establishing an independent expert committee appointed by the minister, the last one of those was the Estens committee. Austra-
lians simply do not accept this government’s notion of an independent committee following its track record in this regard. There is no guarantee of equitable service levels in rural and regional Australia if Telstra were fully privatised, and everyone knows it.

Labor believes a privately owned Telstra would be a giant private monopoly too powerful for any government to effectively regulate. It would focus on the more lucrative markets in the bigger cities and neglect the interests of lower income and regional Australians. That is business. Under full privatisation, there would be no impetus or pressure upon Telstra to invest in new technologies and their roll-out. Under the control of the Howard government, Telstra’s investment in new technologies has been totally inadequate. Australia’s broadband take-up rate is languishing because of Telstra’s indifference to it and inadequate competition in this area of the sector.

Over the past 2½ years, Australia has fallen from 13th to 20th in the OECD table depicting broadband access rates. Only 2.65 per cent of Australians had broadband access as at June 2003. This position has worsened since the same report was released at the end of 2002, when Australia ranked 19th out of the 30 OECD countries. According to the latest table, Canada has a per capita broadband access rate five times higher than Australia’s. Korea’s rate is nine times higher than Australia’s. The EU’s position is nearly twice as good. The OECD average is over twice as good, and the US’s rate is over three times higher than Australia’s. Whereas Australians have generally been at the forefront of adopting new technology, in broadband we are falling further and further behind the rest of the world and particularly the rest of the OECD countries. We cannot allow this trend to continue.

As the telecommunications industry moves from a voice framework to a data framework it is imperative that Telstra remains in public hands to ensure that all Australians have sound, practical and equitable access to future services such as broadband. Majority public ownership of Telstra will ensure that Telstra acts in the national interest as new services such as broadband are rolled out. It is essential that Telstra acts in the Australian national interest and focuses its activities in Australia and on its Australian customers.

Telstra’s overseas losses in the vicinity of $2 billion have been extremely concerning, particularly for the many Australians experiencing faults with Telstra’s traditional services in Australia today. It is an unacceptable situation that Telstra is allowed to squander billions of dollars on overseas markets while it makes cuts to its network investments and core staffing levels in Australia and continues to hike up customers’ line rental charges. This situation is indicative of the misplaced priorities of Telstra under the Howard government and gives little heart to those concerned about where Telstra might concentrate its activities if and when it were to be fully privatised.

Telstra is a public asset and one that provides the Commonwealth with substantial annual share dividends. In 2002-03 alone, the Commonwealth derived around $1.7 billion in share dividends from Telstra. Over the past 10 years, the Commonwealth has reaped over $16 billion in Telstra dividends. Once Telstra is sold the Commonwealth will receive one more lump sum but, once in receipt of that, the taxpayer will lose any future dividend payable to Telstra shareholders. Labor has consistently argued that the Telstra sale will have negative longer term consequences for Commonwealth finances. The reduction in public debt interest will not offset the loss of dividends from Telstra in the
medium term. Telstra remains essentially a public utility with pervasive monopoly characteristics. On simple economic grounds there is no justification for its privatisation.

A majority publicly owned Telstra is the only effective means of guaranteeing universal telecommunications access for all Australians, especially for those in less profitable markets and areas. Labor want to see Telstra act as a builder, not a speculator. We want Telstra to be a carrier, not a broadcaster. Labor want to ensure that consumers receive the highest quality services, widest choice and cheapest and fairest prices possible. We want to ensure that consumers in regional and rural Australia have full access to communications services and that businesses have access to globally competitive and innovative communications services. We want to maximise employment in the communications and IT sectors and maximise competition, investment and innovation in Australia’s communications networks.

Australia needs a telecommunications sector characterised by universal access, vigorous competition, rapid innovation and high-quality services delivered at the lowest possible prices. Labor has been the only party that has maintained a consistent, unambiguous and unequivocal opposition to any further sale of Telstra and is the only party with any real plan about how to get Telstra back on the job.

The Commonwealth’s equity in Telstra must not fall below 50 per cent. Like the telcos in Belgium, the Czech Republic, Finland, France, Iceland, India, Indonesia, Israel, Luxembourg, Norway, Pakistan, Singapore, Sweden, Switzerland and Turkey, Australia’s Telstra must remain in public hands for the future benefit of all Australians. I call on the Senate to reject this bill and I look forward to the possibility of a double dissolution election being fought on and around this issue in particular. Let us bring it on.

Senator LEES (South Australia) (1.13 p.m.)—I rise again to speak on the sale of Telstra and the Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]. I am not sure why we are here again. The government has returned the same bill to the Senate and just seems to be going through the motions. I have to ask: why are we doing this again? Let me repeat: this is exactly the same bill that was rejected last year. There have been no changes and no amendments. There is no material with the bill suggesting that service levels have improved or giving any insight as to what is happening with the recommendations from the Estens inquiry. There has been no effort to convince the chamber that it should change its mind. So why? One theory is that the government wants another double dissolution trigger, but it only needs one. It now has five or six. There are a number of industrial relations bills as well as the bill to increase the cost of medications under the PBS by 30 per cent. Why does it need another?

Another theory is that the government is confident that it is on a winner here—that people actually want the rest of Telstra sold, that this bill will go into the basket with those other bills for a double dissolution and then they can all be put to a joint sitting after the government wins the election so that Telstra can be sold that way. Perhaps this bill is being introduced in the hope that it will go down and then the government can use our decision not to pass it to beat us over the head with: ‘Obstruction! Obstruction! Look how awful the Senate is. We need to reform it.’ Another theory is that the bill has been put up once again because of Australia’s obligations under the US free trade agreement. The 2002 US National Trade Estimate Report on Foreign Trade Barriers Country Review addresses the trade obstacles that the
US believes it faces from Australia. The report states:

Serious concerns have been raised about the apparent inability of Australia’s telecommunications regulator to curb alleged anticompetitive conduct by the government-owned Telstra Telecom including delays in access to its network and the inflated pricing of its wholesale services. Such conduct limits U.S. carriers’ ability to compete effectively in this market. The United States continues to urge the Australian Government to privatize its 50.1 percent share of Telstra.

So perhaps there is some truth in that theory. What I do know is that it feels like Groundhog Day. However, I will deal with a couple of issues very quickly.

Firstly, competition is something the government puts a lot of faith in. But Telstra is simply too large and too powerful—it controls the infrastructure, which the other service providers have to access through Telstra. In its Emerging market structures in the communications sector report the ACCC identified that without competition between telecommunications providers it is likely that ‘networks will not be developed and used to their full potential’, that high speed Internet will not be introduced as early as it should be and that ‘services will not be provided efficiently and at least cost for consumers’. So basically we do not have a competitive market.

As we all know, Telstra was recently caught retailing services at a price below the price Telstra Wholesale was charging other Internet providers for access to its network. Minister Williams says that the decision by:

... the Australian Competition and Consumer Commission to issue a competition notice to Telstra last week is a perfect example of the regulatory framework at work.

Well, yes, the regulator is working, but how well is the ACCC able to work? I argue that the ownership of the infrastructure gives Telstra an absolutely impossible advantage over its supposed competitors. Government must step in as the majority shareholder and ensure fair competition is possible. That is one reason why we have left it in government hands. These structural impediments are not being adequately addressed by the regulatory regime. The ACCC simply does not have the power, so we do not have an effective competitive telecommunications market. We could give extra antitrust powers to the ACCC. We could restructure Telstra leaving just the network—the cables, the wires and the towers—in public hands and then let whoever wants to run services using those do so. If the government is not serious about ensuring a competitive telecommunications market then it is actually dangerous to allow the privatisation of Telstra.

The customer service guarantee is simply not good enough. Surely this government must agree that high-quality Internet services are not a luxury. I would go further and say that, for people in rural and regional Australia and outer metropolitan areas of our big cities, they are essential. For people who are trying to run a small business or to study, it is not a luxury to have reliable, speedy Internet access. All Australians, particularly those in rural areas who already face difficulties in accessing a range of services including education, health, banking and transport need access to e-health, e-education, e-banking et cetera. The more remote you are from our big cities, surely the greater the importance of these services. Unfortunately, it is the case at the moment that you are less likely to have access to the Internet. Rather than wait and hope that services improve, this government should do what other governments are doing around the world and insist on broadband services as the basic standard. In other words, it should redo the requirements for the universal service obligations, give Telstra and the other telcos 10 years to get the infrastructure in place—basically, it will be over
to Telstra—and insist that it is done properly. At present it seems that there is little pressure on Telstra to meet current standards, so they do very little.

Everybody has their own horror stories. In my state it seems that we get ‘sticky tape’ telecommunications infrastructure. I will give an example of a place in the south-east of South Australia. For the benefit of the Hansard I will describe these four photographs. They show the telephone line coming in running along the road, outside of any plastic container. It then goes into an old white plastic pipe and is hung across the street, suspended partly on either side of the bridge. The piping is not attached at either end. These photos were only taken last month. This has apparently been the case now since 2000, and the person whose phone this is has argued again and again with Telstra—they actually had workmen near the site in 2003 and still it was not fixed. Once the cable gets to the other side of the creek it re-emerges from the old white piping and runs across the open ground before eventually disappearing under the road.

If that were an isolated case, perhaps we could simply sort it out. But it is case after case, from place after place, and it is a disgrace. Stories have come to me in the last few months, as this bill has been put back on the public agenda, from Orange in New South Wales, from southern parts of New South Wales and from all across South Australia. These are complaints about basic phone services, let alone Internet access. There is no chance of doctors who cannot even get a reliable phone getting access to telemedicine.

In light of the growing concerns about service levels and wanting to find out how people felt, particularly how people in South Australia felt, I surveyed around 120,000 people, asking them what they thought about the sale and about what should generally be done. I had thousands of responses. It may take a month, certainly a few weeks, to go through those. At the moment I am only reading letters that have accompanied the survey returns, and they paint a very bleak picture indeed of enormous frustrations with Telstra and very real concerns about what would happen with full privatisation. With the same bill and the same if not worse service standards, with the very real concerns raised by many who have responded to our survey, with no debate or discussion whatsoever by the government about what is going to happen to the money and no discussion about the nation building opportunities or the chance to do some real good in the Murray-Darling Basin and on other environment programs, my vote will simply be no, again.

Where to now? All the reports indicate that much of our nation’s telecommunications infrastructure is old, dilapidated, out of date and in need of extensive refurbishment. Surely this tells us that we need to think ahead to develop information networks that can transport voice, data, images and information. Australia has yet to establish a telecommunications policy that will allow the orderly introduction of such an information highway. Consumers are demanding more bandwidth and higher quality broadband capacity. They do not want what I would call Telstra’s information cart way. In fact, in some places it is becoming more like a goat track. I liken it to refusing to upgrade the road networks and leaving in place the old road over the Blue Mountains that followed the footsteps of Blaxland, Lawson and Wentworth or to leaving forever the old road over Eagle on the Hill through the Adelaide Hills that linked Melbourne to Adelaide. Australians need an information highway that can become a superhighway. Consumers well and truly understand the advantages of an information superhighway in the form of a
network that is able to support full video-on-demand services. We are certainly a long way from that.

Telstra offers Internet access often just via a run-down phone network. It has equated the term broadband with DSL, or ordinary phone lines, but these phone lines are at best a partial and limited interim option for providing Internet services and more. There are other ways to open the doors to a real broadband future. We can make a major investment in new national fibre-optic cable network along Canadian lines. We can emphasise access to broadband through the use of high bandwidth and remote access wireless systems. We can develop satellite technology that will provide everyone—from large corporations to the householder—with affordable access to an array of high-speed, multimedia products. Broadcasting and telecommunications, which a few decades ago seemed entirely different operations, are now converging. A few decades ago, the telephone seemed very much a different service from radio or television. But today television signals, telephone conversations and exchanges between computers are all routinely carried out by cable, fibre optics, microwave and satellite. We have to prepare for this future. We cannot hang onto copper wires.

What sorts of telecommunications will we need? One guide is e-medicine, and we can see the enormous potential that that provides us with. For that to work successfully it needs an information network that can support full video-on-demand services. Australian movie and TV program producers may need to join forces with telephone companies and install centrally switched, fibre-optic, star networks that support full video-on-demand services. I say to the government: let us not have another ‘sale of the rest of Telstra’ bill but let us look at what Australia and Australians need to get access to information; to get access to the bank that is no longer just down the road; to get access to education resources; to communicate with universities, TAFE colleges or schools; to enable people, regardless of where they live, to submit assignments instantly; to instantly communicate with children and grandchildren who live not just in this country but around the world; and to have the latest medical opinion and treatment options, even though the specialist is 400 or 500 kilometres away. Let us look around the world and expand our horizons from ‘to sell or not to sell’ to arguing about what we should do to get ourselves a real, national, up-to-date communications strategy. Then we can have the debate about how to fund it.

Senator HARRADINE (Tasmania) (1.26 p.m.)—I have not heard one new argument in the debate on the Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2] which would influence my strongly held belief, expressed both inside this place and outside on every occasion the matter of the full sale of Telstra has been raised, that the majority holdings in Telstra should not be taken out of public hands. That has been my view and it remains my view in the absence of any very clear and influential arguments to the contrary.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (1.27 p.m.)—The debate on the full privatisation of Telstra has had a lot of airing, so I will attempt to be brief. I do not think I can be as brief as Senator Harradine, the previous speaker, but I shall try. The Democrats, as will be no surprise to anybody, are opposed to the Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2] and will vote against its second reading. We believe the fundamental principle behind enabling the further privatisation of Telstra is flawed. Our party’s record on the issue of privatising significant public assets has been consistent and clear over a long period of time. That is in
marked contrast to the approach of the Labor Party, which when it was in government established a record of privatising major public assets unparalleled by any other government in our history, and it did so often without signalling its intention at the previous election.

Senator Harradine—The Commonwealth Bank.

Senator Bartlett—Of course the Commonwealth Bank stands out as perhaps the largest of those public assets which were sold, and we think in many ways we are still bearing the consequences of that negative decision. There are plenty of other examples of public assets being privatised under the previous Labor government. However, Labor’s position now matches that of the Democrats—that is, that Telstra should not be further privatised and ideally should not have been privatised at all. Unfortunately the Democrats were not able to prevent the sale of the first two tranches of Telstra, but we retain our opposition to enabling the sale of Telstra for the same reason that we opposed previous privatisations of significant public assets: we believe the federal government should not divest itself of a major and valuable public asset unless it can be clearly demonstrated that it is in the public interest to do so. That has clearly not been done in relation to Telstra. As Senator Harradine said, there has been no advance in making that justification since this bill was brought on the first time around, last year.

It is in the government’s power to bring forward bills for debate in whatever order they wish but, frankly, they are wasting the Senate’s time by bringing forward this legislation when they know that the Senate will oppose it. There has been no change in the circumstances surrounding the debate that would in any way change the position of the Senate. Therefore we are spending time debating this bill because we have to—because the government have brought it on. The sale of Telstra is an important public issue. If it is brought on for debate, it is appropriate that we treat it with the interest that many in the public expect. But do not let us hear the government say, as I am sure they will over the course of the rest of this week: ‘We don’t have enough time. The Senate’s chewing up time. It has delayed everything. It’s holding things up. We can’t get our legislative program through.’ I am sure we will hear all of those arguments over the next couple of days, given that this is the last sitting week for five weeks before the budget, but the fact is that a whole day has been needlessly spent on this legislation. The government made that happen. They cannot in any credible way complain about not having enough time to advance their legislative agenda, when they fill up the time with legislation that has already been rejected.

The government will use this opportunity to bring out the same tired old myths about Senate obstructionism and the Senate getting in the way of the government’s mandate. In the Democrats’ view, there is no way at all that that argument can be sustained. The facts and the statistics speak quite clearly. Less than three per cent of all of the legislation that has been put before the Senate by this government has failed to pass the Senate. There have been over 300 bills passed in the last two and a bit years. That is an enormous amount of legislation, and it places an enormous responsibility on the Senate to deal with that workload. Not only have we passed all of those bills but we have actually improved a significant number of them through amendment. The Democrats did not support all of those bills and, quite frankly, we believe that the country would have been better off if they had not passed, but that is what democracy is all about. Some of the bills passed because the majority view...
of the Senate was that they should, despite the Democrats not agreeing with them. The government should remind itself from time to time of that basic fact of democracy. The Senate is practising democracy—that is, ensuring that the majority view prevails.

The Senate is elected in a representative fashion much more so than the House of Representatives. The fact is—and I do not think even the government would pretend otherwise—that the majority of people do not support the further sale of Telstra. This bill is about to be rejected a second time and is thus about to become another double-dissolution trigger. In the Democrats’ view, this is not a case of a parliamentary deadlock. A deadlock implies an unresolved situation, and this has been resolved. The Senate has resolved it by deciding the bill should not pass. If the government wants to get a different resolution, it can put it to the people via a double-dissolution election. That is the mechanism that has been in place in our Constitution for over 100 years. If the government genuinely wants to find a different resolution, it has an avenue open to it.

It is worth taking the opportunity to note the Prime Minister’s brief movement into public debate about other mechanisms to deal with circumstances where the government cannot get legislation through the Senate. The Prime Minister phrased it as resolving Senate deadlocks. I think the word ‘deadlock’ is misleading because it implies that something is not resolved or that it is stuck. Clearly in this circumstance nothing is stuck. The bill will be thrown out, therefore a resolution will occur. That is simply a resolution that the government does not like. So it tries to portray it as something negative, whereas I think the majority of the public would see it as something positive, a result that they believe is desirable.

The Prime Minister put forward some other ways of dealing with such situations. Last year, I think it is fair to say, there was not overwhelming public interest in that—in fact, there was no public support at all. The Democrats nonetheless engaged in that process because we believe it is worthwhile debating all of our parliamentary and political processes to look for ways to improve things. We put forward another model to deal with legislation not being passed through the Senate where the government wanted to progress it. The basis was to have a referendum rather than a double-dissolution election. Before people say that that is some whacky, new-fangled modern idea, I hasten to add that, at the constitutional conventions in the 1890s, it was one of the serious proposals put forward to deal with these sorts of situations. It is a shame that it was not adopted at that time. It would not only have enhanced democracy by giving the public a direct say on issues where the two houses of parliament are not able to reach agreement, but it would be a clear test of the word ‘mandate’ that is thrown about a lot.

The government like to say it has a mandate because they were elected, that they should be able to pass whatever bill they feel like and that the Senate’s job is to just let it happen. That is not the Senate’s job. The evidence is quite clear that the public supports the Senate’s job of reviewing what the government puts forward. It is only on the rare occasion—certainly since the Democrats have held the balance of power in the Senate—that legislation does not pass, but this is certainly one of those circumstances. Less than three per cent is a fairly good strike rate for the government, I would suggest. It has always been around that level throughout the more than 20 years the Democrats have held or shared the balance of power in various forms since 1981. Of course, the only time the level did get up to what most people
would see as dramatically unacceptable was in 1975, when a huge proportion—I think it was one in four pieces of legislation, not the least of which was supply—was not able to pass through the Senate chamber. That is obstructive. What we have now is nothing like that. What we have now is a responsible Senate.

In my view, it makes the case yet again for why it is important to have the Democrats as a responsible party where they hold the balance of power and are able to make judgments and do basic tests about whether legislation should be halted or opposed, whether legislation should be passed or improved by amendment, and whether it is a positive overall net gain for the public or a move backwards.

In the last few months there have been a few other circumstances where the Democrat view has been that legislation that passed through this place has been a net move in the wrong direction—one being university fees, the other being the undermining of the universality of Medicare. From my point of view, this makes the case yet again for why it is better to have the Democrats holding the clear balance of power to make those judgment calls correctly. Either way, not only is it the right of the Senate but it is the responsibility of the Senate to consider legislation and, where it believes it is inappropriate, to reject it. I do not really care how much the government wants to moan, squeal and kick about so-called Senate obstructionism. It is not obstructionism; it is the Senate acting responsibly. It is not a deadlock; it is a resolution. I am pleased to say that the resolution that this legislation be thrown out is one which the Democrats support and agree with.

Senator MURPHY (Tasmania) (1.38 p.m.)—I wish to say a few brief words on the Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2] to ensure that the minister does not become too exasperated with the situation. The government only has itself to blame and, I think, Minister Minchin, you should take your exasperation out on your government for bringing this piece of legislation back into the parliament. The legislation was not too well explained in the first attempt to pass it. I am almost tempted to vote it through to the Committee of the Whole to see whether we can get a better explanation but, on the face of it, I think that would be highly unlikely. I will not repeat some of the very important and well made statements by the speakers. I am curious about Telstra’s approach in more recent times and about whether it knows what it wants to be—a media company or a telecommunications service provider.

Since the sale of the first tranche of Telstra, it has become clearer, in the interests of the general public in this country, that we must have a company looking after the network infrastructure and providing good telecommunications services and that that must be done from a competitive point of view. It is fairly clear from evidence that Telstra has taken many actions and has been caught out on a number of occasions for being anticompetitive, the most recent being on broadband pricing.

This government—and any government in the future—needs to have a long hard look at exactly what it wants to do to ensure that this country has good telecommunications services and has the type of infrastructure that can provide those services to world’s best practice and standards. We do not have that now. There is no indication that Telstra would deliver that in the future—in fact, quite the contrary. The network and the network infrastructure, in many aspects, are in need of a significant upgrade. If Telstra were privatised, it would probably continue down the same road that it is going down at the moment—that is, it would be interested in
generating more profit for its shareholders. That is a responsible thing to do as a private company but, as a government and as a parliament, we have a responsibility to ensure that such a fundamental aspect of life in this country is going to be delivered in the future.

It is interesting to note that the government said that it had responded to the Estens inquiry and had agreed with or was implementing all 39 recommendations of the Estens report. I posed one question to the new Minister for Communications, Information Technology and the Arts with regard to one aspect of the 39 recommendations—recommendation 9, I think—which went to the question of ongoing funding for infrastructure and service provision, particularly for rural, regional and remote Australia, where the infrastructure needed to be upgraded from a technological point of view. The Estens report suggested that a significant fund should be set up and that the fund would be ongoing. I have yet to hear how the government even proposes to provide the funds either now or in the future, and I still have not received an answer to that question from the minister. For that reason and a long list of other reasons, I am unable to support the bill at this time.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (1.43 p.m.)—In the interests of brevity and perhaps having a resolution to the Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2] before question time, I will be extremely brief. I reiterate the government’s profound disappointment that the Senate refuses to see the importance of the government being given the authority to sell its remaining shares in Telstra—a profound public policy issue for Australia. I think the Senate is failing to recognise that Telstra—whether other senators like it or not—now has 1.7 million ordinary shareholders, who own 49.9 per cent of the company. It is a fully listed public company. It is Australia’s biggest commercial enterprise, required by this parliament to operate commercially and in a businesslike fashion.

The Senate is now putting Telstra in the impossible position of having the government as the majority shareholder with millions of ordinary shareholders also on its books. It is an impossible position for the company and an impossible position for the government. Inherent in my position as Minister for Finance and Administration—and as one of the two ministerial shareholders—is my responsibility to maximise the value of this company and to get the best result for those shareholders who are conscripted to own half the company, while it is the job of the other shareholder minister who is the regulator, the Minister for Communications, Information Technology and the Arts, to regulate the whole industry in the interests of all 90 competitors that Telstra has in this very important industry.

That is an impossible conflict of interest for the government, which was recognised by the former Labor government when it sold the Commonwealth Bank and Qantas. Of course, now that it is in opposition it has the luxury of hypocrisy. Despite recognising the wisdom of governments not owning things like airlines and banks when they were in opposition, they do not see that same wisdom in this government not owning telecommunications companies that are in competition with a whole range of other companies. It is ridiculous for the government to have $30 billion tied up in a telephone company in a very fast moving industry which is subject to very rapid technological change. I hope and pray that the value of Telstra does not erode in any way but, having lived in a state where the government of the day owned a very large enterprise—called the State Bank of South Australia—which ended up with taxpayers wearing the then biggest loss
in the history of the commercial world in Australia, the perils of taxpayers being forced into public ownership of government business enterprises of this kind have been evidenced by that recent Australian experience.

The government’s role is to regulate telecommunications, not to own or half-own one of the companies in the industry. Under the Constitution, the government has a full array of legal recourse to ensure the proper regulation of this industry without owning half the company and to ensure that the community is properly serviced through the mechanisms of universal service obligations, customer service guarantees or proper tenders for the provision of services which may not be able to be provided on a commercial basis. So there is a full array of capacity to ensure the proper servicing of Australians regarding telecommunications without the unsustainable conflict of interest that is inherent in the government owning such a company. If Labor ever gets back into government, I am sure they will move to sell Telstra. There is no doubt about that because they will—as they were previously—be mugged by reality and know that the government cannot sustain ownership of this company. In the interest of brevity, I conclude my remarks and move that the bill be adopted.

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

The Senate divided. [1.52 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes………… 30
Noes………… 35
Majority…….. 5

AYES

Abetz, E. Barnett, G.
Boswell, R.L.D. Brandis, G.H.
Calvert, P.H. Campbell, I.G.

NOES

Colbeck, R.
Coonan, H.L. Eggleston, A. *
Ellison, C.M. Ferguson, A.B.
Ferris, J.M. Heffernan, W.
Hill, R.M. Humphries, G.
Knowles, S.C. Lightfoot, P.R.
Mason, B.J. McGauran, J.J.J.
Minchin, N.H. Patterson, K.C.
Payne, M.A. Santoro, S.
Scullion, N.G. Tchen, T.
Tieney, J.W. Troeth, J.M.
Vanstone, A.E. Watson, J.O.W.

QUESTIONs WITHOUT NOTICE

Social Welfare: Pensions and Benefits

Senator JACINTA COLLINS (2.00 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Is the minister aware that the Prime

PAIRS

Johnston, D. Crossin, P.M.
Kemp, C.R. Cook, P.F.S.
Macdonald, I. O’Brien, K.W.K.
Macdonald, J.A.L. Faulkner, J.P.

* denotes teller

Question negatived.

Senator Webber did not vote, to compensate for the vacancy caused by the resignation of Senator Alston.
Minister has refused to rule out tightening eligibility for work force age pension payments such as the disability support pension, single parent pension and carer payments? Will the minister now rule out extending activity testing for single parents whose children are aged under 12 or limiting the payment of single parents whose children are under 13?

Senator PATTerson—Senator Collins has been here long enough to know you do not ask such stupid, hypothetical questions like that. What the Australian public wants to know is: what is the Labor Party going to do about increasing participation in the work force? We have 2.7 million Australians of working age who are on income support. What we want to do—now that we have put the economy in a shape that means we have now increased the number of jobs by 1.3 million—

Senator Jacinta Collins—You claim you’ve already done that, but there are still children in poverty.

Senator PATTerson—We do not want to do what Labor was doing—spending the next generation’s money rather than building for the future. In your last year of government, you spent $10 billion. You had one million people unemployed; you had no opportunities. Now the government have created almost 1.3 million jobs, we can encourage people to be in the work force. For women whose youngest child is under 13, we have personal assistants to help them at Centrelink. As I said yesterday, I sat with some of those personal assistants working throughout the Sydney area and heard that some of these women say that, for the very first time in their lives since they have had children, somebody is talking to them about what they might do with their lives—somebody is taking an interest in them. It never happened under Labor.

Senator Jacinta Collins—The number of children has grown by 20,000; there are 20,000 more children in jobless families.

Senator PATTerson—Senator Collins keeps shouting across the chamber. If she has got something to say, she should—

The PRESIDENT—Order! Ignore the interjections and address your remarks through the chair.

Senator PATTerson—I am actually answering a question. Senator Collins has had her chance to ask the question. What we are doing is giving people opportunities, giving hope to people who have children under 16 and whose youngest child is over 13. We expect these people to make some contribution back to the community in the form of volunteering. We also have legislation before the Senate to encourage people who are on a disability pension to participate in the work force. This legislation provides that if people moving onto the disability support pension are assessed as being capable of being employed we are able to give them the opportunity to do so by spending $258 million on them—and those who are currently on the DSP, if they choose to participate in the program—to assist them back into the work force. That is what we are doing. But what do Labor do? If they have not got a policy, they concoct a conspiracy, they manufacture a myth and they scaremonger. That is Labor’s tactic. They concoct a conspiracy or manufacture a myth—like Mr Swan, who goes around telling half-truths all the time.

Opposition senator—There is no concoction there!

Senator PATTerson—you just wait about that document!

The PRESIDENT—Order! Minister, please address your remarks through the chair.

Opposition senators interjecting—
Senator PATTERSON—Oh yes!

The PRESIDENT—Senator Patterson, please address your remarks through the chair.

Senator PATTERSON—They wave around a document that a person has leaked, in breach of the law, but they do not worry about using it. We have a program to give people choice and opportunity. Labor has no policies. Mr Swan runs around telling half-truths, misconstruing everything everyone says, manufacturing things, concocting conspiracies and scaremongering. That is all he is capable of. What he needs to do is get on and develop some policies so the Australian public knows what the Labor Party’s position is on assisting the 2.7 million people who are on income support and how it is going to give them the opportunity and choice to get back into employment.

Senator JACINTA COLLINS—Mr President, I ask a supplementary question. Can the minister confirm that in her letter to the Prime Minister she promises a submission on reform of the income support system for people of working age that will reduce welfare dependency amongst jobless families? Minister, isn’t this just code for restricting parents’ access to pension level payments?

Senator PATTERSON—I know what a double hypothetical is, and that is a double hypothetical. What I said yesterday—and I will say it very clearly again today, as maybe the Labor Party did not understand me—was that I am not going to comment on what may or may not be in the budget or what may or may not have been in any leaked document. I am going to talk about our policy. Our policy, unlike Labor’s, is to create jobs. We will not borrow from the future to create jobs, but we will create 1.3 million jobs. Senator Collins needs to hear this: we will create almost 1.3 million jobs. Then we will encourage people to get into those jobs and to move from welfare to work. That is the most important thing we can do: create jobs and get the economy in a shape where we can assist people to move from welfare to work. They are much better off in a job than they are on welfare, and our ambition is to encourage and assist them and give them every opportunity.

Australian Defence Force: Deployment

Senator FERGUSON (2.06 p.m.)—My question is to the Leader of the Government in the Senate and Minister for Defence, Senator Hill. Will the minister inform the Senate of how the Australian Defence Force is contributing to international security? What is the Australian Defence Force doing to respond to the threat of terrorism both at home and abroad? I further ask: is the minister aware of any other policies?

Senator HILL—I thank Senator Ferguson for his important question. The Australian Defence Force is working on a number of fronts to confront the threat to international security posed by terrorist groups and the spread of weapons of mass destruction. Australia does not have the luxury of withdrawing from the international effort to defeat terrorism. No nation which seeks to protect the freedom of its own citizens can walk away from this challenge. The Bali bombings were the most graphic illustration that Australia’s national interest does not end at our coastline. Through its work in Afghanistan, Iraq and elsewhere, the Australian Defence Force is making a significant contribution to the global effort to defeat terrorism and eliminate threats associated with weapons of mass destruction. Our starting point for that contribution has always been to ensure that Australia is as prepared as possible for any terrorist attack on our homeland. While around 850 ADF personnel are deployed in the Middle East and smaller num-
bers are on duty in East Timor and the Solomons, the bulk of Australia’s 52,000 permanent Defence Force members are on duty on the home front, including protecting our borders. That includes all of our special forces, who have just proven their ability in the biggest national counter-terrorism exercise in our history—Operation Mercury. Again they showed just how effective they are.

Since the September 11 attacks on the United States, this government has committed more than $550 million in strengthening our special forces. Our special forces on duty here, in Australia, are now stronger, faster and more lethal than ever before. Counter-terrorism forces are now based on both the east and west coasts of Australia. They now have the added ability to handle biological and chemical attacks. While our forces stand ready to confront terrorist attacks at home, they are also playing a vital role overseas. Our P3 Orion aircraft are providing vital intelligence on the night-time movement of insurgents in Iraq. That protects the lives of Iraqis and our coalition colleagues. Our ship is assisting the coalition to intercept illegal maritime activities. In Iraq, our troops are protecting Australian officials and Australian interests, as well as helping to rebuild institutions to provide a better future for the Iraqi people.

Mr Latham dismisses this as ‘adventurism’ on the other side of the world. Rather than going forward to confront a threat, his option is to sit at home and wait for the threat to come to us. How could that possibly make Australia a safer place? It might be that Mr Latham simply does not understand the issues. Perhaps Mr Latham has not done the hard work. Today he said, ‘Yeah, well, I’ve had discussions with officials from Foreign Affairs and Defence about the situation in Iraq.’ But interestingly, he has refused all briefings from the foreign affairs department and the defence department. It is very myste-

rious. Perhaps he might explain. Perhaps he is not telling the truth. Mr Latham is now out of step with the international community. He is out of step with his Labor Party colleagues. He is out of step with the Australian community. It is time for him to step back and reconsider his position.

Social Welfare: Pensions and Benefits

Senator FORSHAW (2.11 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Is the minister aware that her press release of yesterday promising no cuts to pensions and allowances leaves open the door to forcing single parents, the disabled and carers who make future claims for income support payments to accept a lower level payment than they would be entitled to under today’s rules? Isn’t this another angle to the Howard government’s plan to force everyone to work till they drop? Will the minister now clarify her ‘no cuts’ pledge by ruling out lowering the safety net for anyone who applies for income support during a fourth-term Howard government—if that unfortunately were to happen?

Senator PATTERSON—What I find despicable about Labor is that, when they have no policies, they resort to scaremongering. That is all they are capable of. They have absolutely not one skerrick of a policy. They sit on the other side and make up all sorts of ridiculous possibilities, all hypothetical, just to scare people. What the Prime Minister has said and what I have said is that there will be no reductions in pensions. What we have done is increase pensions by MTAWE—male total average weekly earnings. Senator Sherry is very aware of that, because of his super blooper where he was actually going to increase them by an indexation factor. That would have meant an $8 billion super blooper. If that had been extended to all of the pensions, as MTAWE is,
it would have been a super-duper blooper, because it would have been $17 billion. They do not even pay attention to the detail. They sit across on the other side, sledging and scaremongering. That is no substitute for developing a policy. Instead, Labor should come to this place and cooperatively work out ways in which we can encourage the 2.7 million Australians who are on income benefits and give them opportunities to get jobs. We have created 1.3 million jobs.

Opposition senators interjecting—

Senator PATTERSON—I will keep repeating that we have created almost 1.3 million jobs, because there were a million people unemployed under Labor. What we have now is people with the opportunity to have jobs. We are giving them choice. What we want to do is to encourage people to go into the work force, to give them choice, to give them opportunity and to give them hope.

Senator FORSHAW—Mr President, I notice that once again the minister has just totally ignored the question. So I ask a supplementary question and, hopefully, she might also clarify this position. Can the minister clarify her ‘no cuts’ pledge of yesterday by ruling out forcing working age payment recipients to accept pensions or allowances that have less generous indexation arrangements or income tests than would apply to those people today?

Senator PATTERSON—I am not going to play into Labor’s hands by ruling in or ruling out. Labor never did that when they were in government. What I can say is that we have increased pensions by MTAWE, which means that people on a pension now have $43 more a fortnight—

Opposition senators interjecting—

Senator PATTERSON—They do not want to hear this, Mr President. People on a pension have $43 more a fortnight than they would have had under the indexation that existed under Labor. We have given people on pensions a greater increase. We have put legislation in here to give people who are on disability support pensions opportunities to be assisted into the work force and to give people who might otherwise have gone on disability support pensions the opportunity to work—to assess if they are capable of working. We want to give them assistance. There is $258 million attached to that. If Labor are concerned about people, they need to look at that legislation, ring Mr Latham and tell him to ring me and say, ‘We will put that legislation in’—(Time expired)

Indigenous Affairs

Senator MASON (2.15 p.m.)—My question is to the Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone. Will the minister inform the Senate of the government’s commitment to achieving practical benefits for Indigenous Australians? Will the minister advise the Senate of the government’s response to any alternative policies?

Senator VANSTONE—I thank the senator for his question. This government’s approach to Indigenous affairs has always been very clear—

Honourable senators interjecting—

The PRESIDENT—Order! Shouting across the chamber is disorderly.

Senator VANSTONE—Our approach has always been that we must deliver better practical outcomes on the ground. The rest of it is Indigenous politics. The substance of it is getting better services on the ground. We recognised that there was something badly wrong with Labor’s creation of ATSIC so we ordered a review. We had consultations—I think 156 submissions were made and 41 meetings were held around the country. So that is the first thing—consultation.
We recognised, and the review recognised, that it is the local communities that need the help, not the people who would be national politicians but not necessarily good at delivering policy. The Prime Minister recognised two years ago that this was such an important policy, and such a desperate need because the ATSIC experiment had not worked, that we would go to COAG and work with the state premiers. The Prime Minister and the state premiers two years ago recognised the need for that to be done. They also recognised two years ago that the important thing to do in Indigenous affairs was not so much to concentrate on the politics of the national stage but to work with local communities in partnerships. That is why the COAG process with Labor premiers two years ago committed to setting up the COAG trials where the states would work with the Commonwealth and with the local communities. This would also see much greater accountability for spending on Indigenous services.

It was, therefore, some surprise today to hear Mr Latham announcing the realisation that suddenly dawned on him: ‘There is something wrong with ATSIC.’ Hold on, mate! Mate, buddy, pal, where have you been? He announced we will have some consultation on this. Again, mate, buddy, pal, where have you been? I see Mr Latham announcing that it is now all about empowering local communities. What about the Labor premiers—can’t they help this bloke out? Can’t you tell him that the Labor premiers have been on this project for two years with us—or is it all a bit late? We have had the partnerships—they are up, they are running and they are doing well.

Mr President, you would have heard me say in this place the words of Theodora Narndu announcing that the COAG trials represent the opening of a door through which her community can go because no previous government has ever listened to her community. There is plenty more to say on this, Senator Mason. But, having announced the principles today and having announced that he has finally caught up—Mr Latham is a bit late, but he has finally caught up to where the Prime Minister and the premiers have been for some time—we look for the detail and what do we see? It isn’t there; there isn’t any detail there—no detail. We are uncertain, but I think Labor might be thinking of creating 37 little ATSICs. The bottom line is: Labor created ATSIC, Labor created the opportunity for nepotism and corruption, for the money not to get on the ground, and we will not support the creation of 37 little ATSICs around the country for their failure to be continued. We will, however, have something to say on this matter. (Time expired)

Senator MASON—Mr President, I ask a supplementary question. As I asked the minister, will the minister further advise the Senate of the government’s response to any alternative policies?

Senator VANSTONE—I can make that clear. If Mr Latham is talking about abolishing ATSIC at a national level and making it a divisionary body, I welcome his agreement with the separation of powers, taking the money away from ATSIC, which we did earlier last year. He is a bit late again, but he has finally cottoned on. We welcome that support as well.

We will always continue to spend more on Indigenous affairs than Labor ever did. That is why we are spending 37 per cent more on Indigenous specific programs in real terms than you people ever got anywhere near and nearly 100 per cent more on Indigenous health than you ever did. The cheek of people opposite to today announce some principles that the premiers have been adopting for two years and think that covers up the flip-
flop on Iraq—using Indigenous affairs as a little blockage to cover up your own mishaps and not have the detail on what you are going to do; I am sorry, you are not ready for government yet. \(\text{Time expired}\)

Social Welfare: Pensions and Benefits

Senator MOORE (2.21 p.m.)—My question is again to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm that the government’s consultation paper entitled ‘Building a simpler system to help jobless families and individuals’ proposes a common working age payment that includes a basic payment and additional modules paid on the basis of disability, participation or housing need? Can the minister confirm whether under this model of payment each module would be indexed to the consumer price index or to male total average weekly earnings?

Senator Ian Campbell—Don’t get nasty.

Senator PATTERSON—I would not get nasty with Senator Moore. She actually is one of the more decent human beings on the other side of the chamber, and I do not want to affect her preselection either. A couple of them over there—

\(\text{Opposition senators interjecting}\)—

Senator PATTERSON—I know, I have done it to you too. Let me just say that it was a good try of Senator Moore’s to ask the same question in another guise, but it is not going to work. I am not going to be drawn into answering hypothetical questions. What I will tell Senator Moore is that we have actually increased pensions—and I will keep saying it—by male total average weekly earnings, which means that pensioners now get $43 a fortnight more than they would have with the indexation that was used by Labor. We have also given people who are on unemployment benefits or Newstart allowance, as it is now called, the opportunity to keep more of their money by using working credits when they go from welfare to work. This government is determined to ensure that it gives everyone the opportunity to have employment by creating more jobs and by actually assisting them in moving from welfare to work. We actually had, as I said before, a package in the chamber here that will give people who are capable of working and who would otherwise have gone onto the disability support pension assistance to go into the work force.

What Labor need to do and what Senator Moore can do is to go down, pick up the telephone, ring up Mr Latham and, rather than catching up on the policy that has been implemented over two years with the premiers, actually get with the game about what is happening in this place and what his responsibilities are. He has said over and over again that we need to do something about the number of people on disability support pension. I read out yesterday three occasions on which he indicated that we needed to do something. He can take the opportunity of working with the government to actually give people who would otherwise have gone on the disability support pension an opportunity to get a job and to receive some of the $258 million that we have allocated to give them assistance. That is what I am going to talk about rather than being caught up in some attempt to answer hypothetical questions that are being put in all sorts of guises by the opposition. They need to get on, develop some policy or at least come on board and cooperate with some of the policy we have which will give people opportunity and choice.

Senator MOORE—Mr President, I ask a supplementary question. Can the minister confirm that, without the changes to the indexation of future work force age payments, the government will be unable to realise the kinds of savings that the minister stated in

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her letter to the Prime Minister need to be found within the portfolio?

Senator PATTERSON—Senator Moore most probably would never understand, but the best way to achieve savings in my portfolio is to give people jobs.

Environment: Murray-Darling River System

Senator BARTLETT (2.25 p.m.)—My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry and the Minister representing the Minister for the Environment and Heritage, Senator Ian Macdonald. I refer to recent reports that, despite recent heavy rainfall in Queensland, the Murray-Darling river system is facing another extremely dry year and the usual downstream flow of floodwaters has not occurred and to the reports that have also highlighted the impact on Cubbie Station in Queensland, which is currently licensed to store 450,000 megalitres of water. Given the enormous damage that we all know has already been done by excessive extraction of water from the river systems of Australia, what is the federal government doing about the ridiculous situation of a farm being allowed to take the equivalent of the water in Sydney Harbour for storage and irrigation out of a struggling river system?

Senator IAN MACDONALD—I am aware of the concerns that Senator Bartlett raises. In fact, they are concerns that I think my colleague Senator Heffernan has raised with Mr Truss, Dr Kemp and me. Those concerns are about the amount of floodwaters entering the New South Wales system after flooding in the Condamine-Balonne system. The Queensland and New South Wales governments have established a ministerial council forum for the border rivers, made up of the resource and environment ministers in both states, to manage issues associated with the sharing of water resources in the border river regions. This would, of course, be the appropriate forum to address the issues that Senator Bartlett raises. I am aware that the Queensland government is currently considering a draft water resources plan for the Condamine-Balonne, and community consultation and meetings on the plan were held on both sides of the border in the latter half of 2003 and earlier this year. It is important that those responsible for water allocation decisions in Queensland consider the impacts of these extractions on downstream users.

Senator Bartlett generally raises the issue of the Murray-Darling Basin. There has been a very dry period—

Senator Heffernan—Still is.

Senator IAN MACDONALD—which I think everyone is familiar with and conscious of—and, as Senator Heffernan says, it still is a very dry period. It does require restraint and discipline on behalf of all of the users to use the available water fairly and appropriately. Senator Bartlett may not be aware that the Murray-Darling Basin Ministerial Council met last Friday in Sydney and discussed and determined a range of issues in relation to the water flows and the water use in the Murray-Darling Basin area. A lot of work is being done on ways to conserve water and to fix infrastructure that is leaking or otherwise wasting some of that very precious water system.

New South Wales has a particular difficulty because over the years governments of all persuasions, particularly the Labor Party in recent years, have been overallocating water. They have been issuing more water than there is available. People have come to rely upon that and then, when it becomes quite clear that there is not enough to go around, there have to be restrictions and the taking back of water allocations, and that of course causes all sorts of individual and community difficulties. It is a difficult prob-
problem, but I am pleased to say that the Howard government has started to address a lot of these issues in conjunction with the relevant state governments. Whilst it is never easy, we hope to get to a situation where we can fairly share the water that is available in the Murray-Darling system. 

Senator BARTLETT—Mr President, I ask a supplementary question. The minister’s response outlined that state governments had established a forum and the Queensland government is considering a draft plan after it has already licensed the extraction of such a huge amount of water by Cubbie Station. My question was: what is the federal government doing about this situation? Will the government ensure that the national water initiative includes provisions that guarantee that entitlements in all overallocated systems such as the minister mentioned are reduced to sustainable levels before the right to compensation for changes in the size of the consumptive pool is enshrined in legislation? Will the federal government ensure that the national water initiative includes provisions to ensure water users are required to pay the full costs of delivering, taking and using water, including the environmental costs?

Senator IAN MACDONALD—In relation to the last part of the question, the national water initiative will be looking at all those sorts of issues that Senator Bartlett has raised. I am not going to pre-empt COAG in their discussions of the national water initiative, but I know all of those things are on the table for the Prime Minister and the premiers. In relation to actual water allocation, Senator Bartlett should know these are issues—perhaps one might say regretfully—that only state governments can address, because they have the constitutional power to deal with these issues; the federal government does not. Through the Murray-Darling Basin Commission and the injection of investment money, we can play a part in getting the solutions, but in the end it is the states that issue the licences and it will have to be the states that take them back. They will do so in a cooperative way. The federal government will help where it can, but it is something over which we simply do not have the constitutional power to act as Senator Bartlett would like us to. (Time expired)

Family Services: Stronger Families and Communities Strategy

Senator STEPHENS (2.31 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm she is planning to use money currently provided under the Stronger Families and Communities Strategy to improve parenting skills and family connections to communities? Is the minister aware that the Minister for Children and Youth Affairs stated in a press release dated 5 March this year that he would be going forward in the next budget to have the highly successful Stronger Families and Communities Strategy continued beyond the end of this financial year? Why is the Minister for Children and Youth Affairs arguing publicly in support of the program as it is when it is clear that you are planning to reshape the program and fund part of your national agenda for early childhood using Stronger Families money?

Senator PATTERSON—This gives me the opportunity—and I acknowledge that Senator Stephens said the highly successful Stronger Families program; thank you to Senator Stephens for acknowledging a program—

Senator Stephens interjecting—

Senator PATTERSON—It must have been a mistake—I heard her say ‘the highly successful Stronger Families program’. Labor has just admitted that we have a program, a highly successful one. Thank you, Senator Stephens, for an own goal. A
Stronger Families and Communities program—

Opposition senators interjecting—

The PRESIDENT—Order on my left!

Senator Faulkner interjecting—

Senator Hill interjecting—

The PRESIDENT—Senator Faulkner, come to order!

Senator Faulkner—What about him?

The PRESIDENT—Senators on both sides of the chamber come to order so that we can hear the answer to the question.

Senator PATTERSON—Somebody said in an interjection that she was quoting something. At least she has admitted that it is a successful program. This is about working with communities. We are committed to working with communities to strengthen and build them through programs like Stronger Families and Communities partnerships where we have seen outstanding things occur between business and communities in developing stronger families and stronger communities.

Mr Latham, a bit like he has been with the Indigenous affairs issue, came to this as a Johnny-come-lately—the late Mr Latham, you could always call him—coming in, running in behind on government policies, but we have got a disagreement between Mr Swan and Mr Latham. Mr Swan was going out saying that he was going to change Stronger Families and Communities and have two major programs being directed out of Canberra. That is really clever. That is really smart in the ways in which you would actually deliver programs on the ground to communities. We have seen some very interesting and exciting developments occur out of Stronger Families and Communities, and we have seen Mr Latham saying he wants to do things at a local level and Mr Swan saying he wants to run something out of Canberra. Until they can actually get together, develop a policy and work out what they are going to do, they will sit on the sidelines scaremongering, carping, concocting conspiracies and misrepresenting what is going on. Labor need to get on, develop some policies and tell the Australian government what they are going to do, if they think they are going to ever have their hands on the levers.

We have a program which Senator Stephens has now admitted is a highly successive program. It is about developing that program in a way that continues to deliver services to families and assist them in building a stronger community.

Senator STEPHENS—Mr President, I ask a supplementary question. I cannot believe that that was the answer to a question about the national agenda for early childhood. I ask the minister to confirm her plans to reshape the program. Can she explain why the government has still not brought forward its national agenda for early childhood, which was a strategy first recommended by its Child Care Advisory Council in September 2001? Why have Australian children had to wait three years until the eve of another federal election for any assistance?

Senator PATTERSON—Mr President, I can understand that Senator Stephens may not be aware of the very significant research programs we have undertaken on early childhood—the one that the Australian Institute of Family Studies is undertaking and the two other projects that are being undertaken to develop a better understanding of the important developmental aspects of early childhood in Australia. A lot of the research we rely on is not from Australia. There are two major longitudinal studies. We have been working on the early childhood agenda. It will always be a work in progress. I am not going to, however many times—and Labor can get up here from now until the election—they ask me, say what might or might
not be in the budget. No minister has ever done that in the past, and I am not going to start to do it now. Labor need to get on and develop some policies of their own, come out and put them on the table. Let us examine them and see what they think they would do if they ever got their hands on the levers of government. *(Time expired)*

**Ireland**

**Senator NETTLE** *(2.37 p.m.)*—My question is to the Minister for Defence, Senator Hill. Is the minister aware of reports that the United States have abandoned their plans to expand the US appointed Iraqi interim governing council and, instead, have proposed to transfer power in Iraq to a hand-picked Prime Minister? Given that the decisions of the US provisional authority will remain in force after 30 June, given that all but one industry is open to foreign ownership with no requirement for even a percentage of the profits to stay in the country and given that elections have been delayed and debate continues about whether any elections would be free and fair, on what basis can Iraqis and Australians be expected to believe that this process is a genuine handover of Iraqi sovereignty?

**Senator HILL**—It is a two-stage process as set out in the transitional law. It provides for a transitional authority that will consist of a presidential council, an elected legislature—or some such term—and a cabinet and prime minister. That is the first step. After a constitution is drawn up, the second step will be an election pursuant to that constitution and the final transfer to a fully sovereign Iraqi government. I cannot see how it is within the capacity of any party, even the United States, to unilaterally change the provisions of that law.

**Senator NETTLE**—Mr President, I ask a supplementary question. If power is being transferred to the Iraqis as the minister states, can the minister explain why the interim constitution states that all ‘laws, regulations, orders, and directives’ issued by the US occupation authority will remain in force? Can the Minister also explain why this week in the *New York Times* it was reported that Paul Bremer had issued an executive authority specifying that the newly formed Iraqi armed forces will be placed under the operational control of an American commander for at least two years after the end of the so-called transition to sovereignty?

**Senator HILL**—Under the terms of the transitional law, the Iraqi armed forces are to operate in cooperation with the multinational force. That is also part of the law. It is what the Iraqi people have decided themselves through the governing council—

**Senator Nettle**—No, it’s not; it’s Paul Bremer.

**Senator HILL**—I invite the honourable senator to go back and read the transitional law which is to exist until after the new constitution comes into effect, elections have taken place and there has been a full transfer to a new sovereign Iraqi government.

**Taxation: Family Payments**

**Senator DENMAN** *(2.40 p.m.)*—My question is to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm that her department has prepared options for non-legislative members to reduce family payment debts? Can the minister explain why it is that nearly four years after the introduction of the family tax benefits system and after 2.9 million families have been paid $2.5 billion worth of payments incorrectly the government is still to introduce administrative changes to prevent families from falling into debt?

**Senator PATTERSON**—This gives me the opportunity to remind honourable senators that since the introduction of the new tax system we have given families almost $2
billion more in family tax benefits—$2 billion a year more in assistance.

**Senator Jacinta Collins**—You clawed back one—$1 billion was clawed back.

**Senator Patterson**—Senator Collins sits there and says $1 billion was clawed back.

**The President**—Senator Patterson, ignore the interjections.

**Senator Patterson**—When Senator Collins can look at some budget statements and budget papers and understand them, I will give her a gold star. Senator Vanstone has gold stars in her office, but it will be a long time before I walk down the corridor to get a gold star from Senator Vanstone to give to Senator Collins. She could not read a budget paper if her life depended on it. We have not clawed back. You do not understand that a family tax benefit is an uncapped benefit. When you increase the number of people in jobs, the amount of money you spend on assistance to families is reduced. We have given families almost $2 billion a year more in assistance. That means that the average family gets almost $6,000 each year as a result of that almost $2 billion additional funding that we have given to families.

I have gone out, sat down and talked to people who have had overpayments in family tax benefits and gone through with them the form that they have to fill in when they apply. I believe that it is too complicated. I believe we need to streamline the choices. We have a task force working on that. I am doing that. The new form will be introduced at the beginning of the tax year to make it easier for people to understand. We have just notified all families whom we think are at risk of receiving an overpayment that they need to ring Centrelink and update their income details. We have made a number of changes to assist families.

I remind honourable senators that over 500,000 families receive a top-up. When Labor provided family assistance and were running the system, people who got too little in any one year did not get a top-up. We are ensuring that families in similar circumstances receive similar assistance from the taxpayer. That is what we believe is fair. What we need to do is to make sure—

**Senator Jacinta Collins**—It’s a catch-up, not a top-up. It’s a different system.

**The President**—Senator Collins, interjections are disorderly.

**Senator Patterson**—We have increased assistance to families by almost $2 billion a year. I am ensuring that we make it as simple as possible for families to understand what they need to do to reduce the likelihood of receiving an overpayment. Let me remind people that under Labor’s system those who got too little in any one year never got a top-up.

**Senator Denman**—Mr President, I ask a supplementary question. Can the minister confirm that she is considering cutting funding to or abolishing the Family Assistance Office, which administers family tax benefits and child-care benefit payments? Wouldn’t further administrative cuts over and above the 1.5 per cent across-the-board running costs savings put in place in Centrelink recently actually increase the chance of families receiving debts?

**Senator Patterson**—What I am considering doing is making sure that every single Australian family knows that we have given almost $2 billion a year more to families in family assistance. We have given families choice. We have FTB B to assist families where a parent chooses to stay at home. We have given families more choice than they ever got under Labor, more assistance than they ever got under Labor and
more opportunity to have jobs than they ever had under Labor.

**Telstra: Privatisation**

**Senator HEFFERNAN (2.45 p.m.)**—My question is to the Minister for Finance and Administration, Senator Minchin. Will the minister outline to the Senate how the rejection again today of the Telstra sale bill will effect the millions of Australians who have invested in Telstra?

**Senator Carr**—Are you going to reflect on a debate before the Senate?

**The PRESIDENT**—Order! Senator Carr.

**Senator HEFFERNAN**—What other threats exist to the value of shareholder’s investments?

**Opposition senators interjecting**—

**The PRESIDENT**—Order! Senators on my left, as I said repeatedly this week and last week, when someone is asking or answering a question it is for senators to remain silent. I ask senators again to remain silent while Senator Heffernan asks his question.

**Senator MINCHIN**—I thank Senator Heffernan for that very good question. We are asked in this place a lot of questions about Telstra’s standards but never questions about the issue of Telstra shareholders, their interests and their points of view. The fact is that about 1.7 million Australians are ordinary shareholders in this company and about five million Australians are shareholders through their superannuation funds. Of course, all Australian taxpayers are exposed to the value of Telstra shares given that they are conscripted, involuntary shareholders through the government’s half ownership of this company. The fact is that the government and taxpayers have $30 billion tied up in a telephone company, and frankly they are all losers from the Labor Party continuing to reject the full privatisation of this telephone company. With it continuing to be half owned by the Commonwealth they could all lose a lot of value if Mr Lindsay Tanner becomes communications minister in a future Labor government.

What is the Labor Party’s position in relation to Telstra? We learned from the Financial Review last week that Mr Latham had a meeting with Mr Lachlan Murdoch in which he was reported to have confirmed that Labor would force Telstra to divest its 50 per cent share in Foxtel. News Limited and PBL have a first right of refusal on the question of Telstra’s 50 per cent share in Foxtel, so the question is: what fire sale price would Telstra get for its shares if it were forced by a Labor government to sell its half share in Foxtel? Just as Foxtel is beginning its digital roll-out, just as the company is moving into profitability, the ALP would come in and force Telstra into a fire sale of this growth opportunity for this telephone company.

Labor is also committed to delivering for its union mates on this issue. The communications union, the CEPU, have given Labor some $3 million over the last 10 years and they want to extract their pound of flesh. The ALP is doing their bidding on Telstra issues. I have seen a copy of the most recent CEPU bulletin, which reports:

We were asked by Queensland ALP senator, Claire Moore, to provide her with prompts to help her prepare for the sale debate in the Senate. She wanted to be sure she didn’t miss anything. There is nothing really new in the list we gave her— all the same old tired arguments—... but members can rest assured that we’ve got good political contacts, and we use them.

So these Pavlov’s dogs over the road here just mouth what the union want them to say in relation to Telstra.

If Australians want cheaper telecommunications, Telstra has to be at least as efficient and effective as Optus and its 90 other com-
petitors—there are 90 companies involved in the telecommunications industry in this country. But Labor’s policy is to continue to support union featherbedding and oppose Telstra being a modern, efficient, world class telecommunications company. Labor consistently criticise any new acquisition by Telstra, even though the acquisition of the Trading Post does have real synergies with Telstra’s subsidiary, Sensis.

Labor’s policy, in summary, is to force Telstra’s to increase its cost, to reduce its revenues, to force it to exit growth opportunities like Foxtel, to deny it chances to acquire new growth businesses. The end result will be a stagnant company with no growth opportunities if Mr Tanner has his way. Denying Telstra any growth opportunity does mean it has less resources and less incentive to keep providing better telecommunications services for all Australians. So not only would Labor policy be bad for Telstra shareholders but it would be bad for the very people Labor claims it wants to help: Australian telecommunications consumers.

Trade: Ugg Boots

Senator CARR (2.50 p.m.)—My question without notice is to Senator Minister, the Minister representing the Minister for Industry, Tourism and Resources. Can the minister confirm that a US firm, Deckers Outdoor Corporation, is now in possession of a trademark for the great Australian icon, the ‘ugg boot’? Can the minister advise why the generic term ‘ugg’ was allowed to be trademarked by IP Australia in the first place? Will the government be offering any assistance to save Australia’s ugg boot industry and its workers’ jobs? What assurances will the minister be giving to the workers of Clobber Leather in Wollongong and Ugg and Rugs in Kenwick, Western Australia, which have been making and exporting ugg boots for years, that the ugg boot will remain Australian?

Senator MINCHIN—On behalf of the Minister for Industry, Tourism and Resources may I say that we are informed that the US owner of the trademarks has threatened with litigation Australian exporters of sheepskin boots and American importers of these Australian products who may be using ‘ugg’ or ‘ugh’ as a descriptive term. There is concern about the possible impact on the sheepskin boot industry in Australia if its members are faced with litigation. The enforcement of trademark rights is a matter for private legal dispute between the relevant parties. IP Australia—the Australian government agency responsible for granting IP rights in patents, trademarks and industrial designs—is not an enforcer of IP rights and does not have a basis for intervention in this dispute. It is a legal dispute between the parties. In disputes such as this, those affected should seek legal advice from legal practitioners expert in trademark matters. The powers of the Registrar of Trade Marks currently do not provide a mechanism for review of registered trademarks in situations such as this, but this case shows that there may be a need to reconsider the registrar’s role in matters like this. IP Australia has conducted education programs over many years in an attempt to ensure Australian exporters are aware of these critical IP issues.

Senator CARR—Mr President, I ask a supplementary question. I thank the minister for the answer. Can the minister also confirm that the US company Deckers have threatened not only manufacturers of ugg boots but also the Australian Macquarie Dictionary because it lists the generic word ‘ugg’? Minister, given that the government is now claiming that this is a ‘private legal dispute’, what other action will the government take to save hundreds of jobs and our popular culture from a large US corporation? Further,
given that you have now been looking at the powers of the Registrar of Trade Marks for nearly two months, what conclusions have you reached?

Senator MINCHIN—Obviously the government are extremely disappointed with this threat of legal action. We would hope that it will not proceed. But the fact is that the legal right to the trademark ‘ugg’ is owned by this corporation. Disputes in an economy like ours or like America’s between parties over the legal rights to trademarks are matters for those private parties and are not matters in which a government can simply intervene at will or contrary to the legal interests and legal prerogatives of the parties involved. We will, I would hope, provide as much assistance as we possibly can to the parties involved from the Australian end to ensure that their interests are protected and preserved and to avoid any legal action against them or any effect on Australian industry. This is a great Australian product and we want to see it continue to be sold around the world, to the great benefit of Australian workers in this field.

Trade: Free Trade Agreement

Senator RIDGEWAY (2.55 p.m.)—My question is to the Minister for the Arts and Sport, Senator Kemp. In the investment chapter of the recently concluded free trade agreement, Australia has agreed to national treatment rules which prohibit either country from discriminating against investors of the other country in any way. As the minister will be aware, much of the financial support for the development and production of Australian feature films, TV programs and other projects in this country is provided by way of government assistance through investment rather than grants or subsidies—the Film Finance Corporation being a case in point. Do these national treatment obligations mean that these agencies cannot exclusively invest in Australian films? Can the minister guarantee the Senate that our ability to invest in Australian film and television production will not be compromised as a result of the free trade agreement?

Senator KEMP—Thank you to Senator Ridgeway for that question. Senator Ridgeway, this government is a great supporter of the Australian film industry. I am very happy to inform you that under the free trade agreement the government’s capacity to provide grants and subsidies, including tax incentives to support our national cultural institutions and agencies including bodies like the ABC and SBS, remains completely unaffected. The government believes the audiovisual outcome negotiated under the free trade agreement is a good outcome. The government has kept its commitment to the cultural sector and retained its capacity to support the sector and to regulate audiovisual media to meet our cultural policy objectives. Senator, I hope that gives you the assurances that you were seeking. The government believes, as I said, that the free trade agreement is good for Australia and that the Senate should support it.

Senator RIDGEWAY—Mr President, I ask a supplementary question. I thank the minister for his answer. Article 11.9 of the agreement says that Australia must not adopt any measures that require that preference be given to domestic suppliers as a condition of investment approval. Does this mean that governments wishing to support new investments subject to conditions which relate to local production or purchasing will not be able to do so? As the minister would be aware, and as is evidenced in the case of studios such as Docklands, Fox and Warner Brothers, obligations to use local talent and local production crews are imposed on foreign investors and investments. Can you guarantee that the jobs of so many in the Australian film-making community will not
be threatened by this FTA, particularly given that the issue was not raised, as I understand it, during the negotiation of the free trade agreement?

Senator KEMP—Senator, I invite you to read in the Hansard the explanation I gave you. I believe you were concerned about the capacity of the government to give grants and subsidies to our cultural institutions. We are able to do that. That is not at all affected by the free trade agreement. The government are an enormous supporter of the film sector; it is a sector the government particularly value. As I said, I believe the interests of that sector have been protected under the free trade agreement.

Auslan: Funding

Senator FORSHAW (2.59 p.m.)—My question is directed to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm that she received a personal request from the Prime Minister in April last year to investigate the level of funding available to Auslan interpreting services for deaf people? Isn’t it true that the Deaf Society wrote to the minister’s department prior to the Prime Minister alerting her to a deficit in Auslan’s funding of around $1 million per annum nationally? Minister, given the small amount of funding involved, why did the Prime Minister have to personally follow up this issue with you and why haven’t you acted yet to assist deaf Australians?

Senator PATTERSON—The Prime Minister wrote to Senator Vanstone, as the then Minister for Family and Community Services, and to me, as the then Minister for Health and Ageing, in late April 2003. That is correct. The request was for Minister Vanstone to commission a scoping study of supply and demand for Auslan interpreters, to be conducted by an independent research consultant. The Prime Minister did write to both of us and asked Senator Vanstone to commission that. The access to services for all Australians to enhance independence is of major importance to the Howard government. The Australian government provides Auslan interpreting services to help people access Commonwealth services, for example services provided by Centrelink, the Job Network and CSR Australia.

State and territory governments are responsible for providing Auslan interpreters in some settings, for example, in schools. Some state and territory governments directly fund interpreting service providers, but the amount of funding varies across states and territories. A scoping study for supply and demand for Auslan interpreters has been done by an independent researcher. It includes a reference group and members of the deaf sector, guided by the researcher. It also includes the ACT member of the National Disability Administrators, who represented all states and territories and represented his Australian government department. This issue requires consideration by Australian state and territory governments. To make decisions about funding prior to the completion of the research would be premature but, now that the study has been completed, the government is better placed to consider this important issue.

Senator FORSHAW—Mr President, I ask a supplementary question. I thank the minister for the answer, but I note that she did not answer that part of the question about whether the Deaf Society had written to the department before the Prime Minister wrote to her predecessor. I ask her to answer that. Can the minister also confirm that the delay in approving the additional funding to meet the shortfall for Auslan interpreting services for the deaf is because this measure will be funded by the savings derived from her budget proposal to reassess 22,600 people off disability pensions?
Senator PATTERSON—I am not going to answer yet another hypothetical question. What I have indicated over and over in this chamber is that we have a goal to give opportunities for employment to as many people as possible. To link those two things together is totally unacceptable. We have some research that we are looking at, and that will inform our decision about assisting with Auslan interpreters.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Environment: Salinity and Water Quality

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (3.02 p.m.)—On 23 March 2004 Senator Bartlett asked me, as Minister representing the Minister for the Environment and Heritage, a question about water quality. I seek leave to incorporate the answer in Hansard.

Leave granted.

The answer read as follows—

The government is on track to meet the Prime Minister’s commitment to invest $350 million between 2002/2003 and 2006/2007 from the Natural Heritage Trust extension in measures to improve water quality. Monies under the second phase of the Natural Heritage Trust are largely invested according to the regional strategic plans in 56 regions across Australia.

As of 24 March 2004, $37.6 million has been approved from the Trust for expenditure directly on measures to improve water quality. This is approximately 11% of the promised $350 million.

This does not include more than $19 million in investment the Government has recently approved in NSW and Victoria which is still being assessed for its contribution to this commitment. Substantial further funds will flow as regional investment strategies are accredited. The Government will have approved investment strategies for most natural resource management regions nationwide by June 2004.

The Government is also spending money to improve our water quality through a number of other programs.

The National Action Plan for Salinity and Water Quality will provide $700 million in Australian Government funding (matched by the States and Territories) to tackle salinity and water issues. Some $170 million in National Action Plan funds has already been spent on projects such as the Upper South East Program in South Australia—where $19.15 million of Australian Government money is flowing to key priorities such as internationally significant wetlands.

The Living Murray Works and Measures Program, with total funding of $150 million over 7 years (a quarter of which is paid by the Australian Government), is working to improve environmental water management through infrastructure improvement. This year the Government has also provided almost $5 million to the Commission for managing the shared water resources of the Murray Darling Basin.

In relation to the Great Barrier Reef Wetland Protection Program, the Government has committed to ensure funding for the program at the level of $16 million over five years, with $1 million to be spent in the 2003/2004 financial year. Thus far $376,000 has been expended/committed in this financial year.

Correspondence from Minister Truss to Senator Andrew Bartlett of 11 December 2003 stated that: “The program will establish, through a process involving independent scientific advice, and inventory and assessment of wetlands that would include identification of areas of greatest risk as a high priority for the early stage of the package’s implementation. The inventory process will also establish a target area of wetland protection for the program. It will also include the development of criteria and priorities for management and restoration of wetland areas. It is expected that the inventory and assessment will be complete within 12 months.”
The Government’s progress on the program is consistent with this commitment, with activities underway to support the development of the inventory and incentive measures, program elements such as monitoring and evaluation; and a communication strategy.

ANSWERS TO QUESTIONS ON NOTICE

Question Nos 2523 and 2529

Senator ALLISON (Victoria) (3.03 p.m.)—Under standing order 74(5) I ask the Minister representing the Minister for Health and Ageing for an explanation as to why my question No. 2523, dated 3 February 2004, and my question No. 2529, dated 4 February 2004, have not been answered.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (3.03 p.m.)—Mr President, I do not know the answer to that question, but I will ask the Minister for Health and Ageing. I am not sure whether Minister Ellison’s office contacted mine prior to question time. It has been indicated to me that they did, so I apologise and I will come back to her within the next half hour if I can.

Question No. 2360

Senator ALLISON (Victoria) (3.03 p.m.)—Also pursuant to standing order 74(5), I ask the Minister for Immigration and Multicultural and Indigenous Affairs for an explanation as to why an answer has not been provided to my question No. 2360, which Senator Vanstone indicated would be provided shortly after I asked the same question yesterday.

The PRESIDENT—Unfortunately the senator is not here, so I cannot get an answer to that one. Did you alert her office today?

Senator ALLISON—Yes, I did.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Immigration: People-Smuggling

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.04 p.m.)—During question time on 25 March 2004, Senator Greig asked me a question about trafficking persons, and I undertook to provide further information. I seek leave to incorporate that further information in Hansard.

Leave granted.

The answer read as follows—

Comprehensive victim support is available to all persons identified by the Australian Federal Police as potential victims of trafficking for a period of up to 30 days while the person is on a Bridging Visa F. During this time, the potential victim has access to the kinds of support set out in Senator Patterson’s answer in the Senate on 23 March 2004. During this period of up to 30 days, the Australian Federal Police conducts further inquiries into case. If the AFP then determines that the victim is required to assist its investigation (and any subsequent prosecution), and the victim is willing to remain in Australia, then the victim transfers to a Criminal Justice Stay Visa and continues to receive victim support under the interim program in place now, or, once finalised, the permanent program described by Senator Patterson. The Government’s package of measures to combat trafficking in persons includes a reintegration project being designed and implemented by AusAID to link victims returning to key source countries in South East Asia with similar services in those countries.

Further details can be sought from Senator Patterson, the Minister responsible for provision of victim support.

In relation to Senator Greig’s question on the communication awareness campaign, I can advise that as part of its commitment to eliminating the problem of trafficking in persons, the Australian Government is undertaking a domestic communication strategy. The strategy comprises four stages over four years at a total cost of $0.4 million from the Government’s overall $20 million
package of anti-trafficking initiatives announced on 13 October 2003. The tender process for stage one, exploratory and developmental research, is now underway. In accordance with Australian Government requirements for communication activities, five consultants have been selected and asked to submit a proposal. They were selected because of their experience and expertise in social marketing on sensitive topics and to hard-to-reach audiences. Project Respect is not a specialist in the development of communication activities and does not have expertise in social marketing. The successful tenderer will be assisted by a specialist project advisory group and will be required to directly consult and liaise closely with key non-government organisations.

The Australian Government consulted Project Respect during the development of its package of anti-trafficking initiatives. I met with representatives of Project Respect and other non-government organisations to seek their views. I acknowledge the valuable work undertaken by Project Respect and other non-government organisations on trafficking in persons. We are continuing to consult with non-government organisations on the implementation of the Australian Government’s anti-trafficking initiatives.

Foreign Affairs: Hong Kong

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.04 p.m.)—Mr President, during question time on 10 March 2004, Senator Faulkner asked me a question about an extradition matter and requested information in relation to representations that I had received. I table a document in relation to that.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Social Welfare: Pensions and Benefits

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

That the Senate take note of the answers given by the Minister for Family and Community Services (Senator Patterson) to questions without notice asked today relating to family and community services.

You can tell when the government is feeling particularly uncomfortable by the character of the answers provided in question time. Today Senator Patterson followed the trend she set yesterday, with ongoing insults and a lack of preparedness to address the question—for instance, the silly statement that I was not able to read budget papers. Senator Vanstone had a doozy when she felt threatened in the past. I think she said that we played patience during Senate estimates. These indicate how threatened the government feels about this cabinet-in-confidence document. It is perhaps time that we focused on a little more of the detail of this document. This is no hypothetical plan that we have been referring to. This plan is a comprehensive, detailed plan about how to make significant cuts to the minister’s budget. For every one dollar extra she asks for recycled programs, she proposes $2 in cuts. This is at a time when other countries are saying that they need to invest more in particular areas within her portfolio in order to make savings in other areas for the long-term future and benefit of their nations. Can this approach be applied by this government? No. We have a very narrow, short-sighted approach of making additional cuts.

Perhaps the incomprehensible aspect of this plan, though, is that it has surfaced in the immediate pre-budget stage. That element is completely incomprehensible. The only thing that helps explain the element of the plan detailed in the document is that the government, at the same time, talks about coming out with its election sweeteners through a national agenda for early childhood and a national agenda for youth, which are still yet to be outlined.

I made some mention yesterday of the national agenda for early childhood, which we have been waiting for now for five years. We
are continuing to wait for the long-term benefits that could be reaped by an adequate strategy, while our children continue to suffer. But in this document we find that the same applies to a youth strategy. Two years ago cabinet asked for a youth strategy. This week is Youth Week, but we still have no youth strategy. There is no goal, no strategy, as Senator Patterson sought to reflect on in her answer to Senator Forshaw’s question about Auslan. There is no goal, there is no strategy, other than further cuts.

I agree with Senator Patterson that, if we can give people jobs, often they will be far better off. But we are not talking about ‘work till you drop’. We are not talking about trying to ensure our future financial viability by making the aged and disabled work until they drop. If this government were serious about these areas, we would not face the problems that we face today. We would not have the problems that we have had with the Job Network and its inability to deliver jobs to the long-term unemployed. We would not have an outcome, such as an additional 20,000 Australian children living in jobless households. But that is what this government has delivered. Senator Vanstone talked about outcomes for our Indigenous children. Those outcomes have worsened because we have no strategy. The most alarming thing about this document is it further highlights that there is no strategy. The only strategy that Senator Patterson in her new role in this portfolio has put forward to cabinet is further cuts—cuts without the support, incentives and services to help people such as single parents and the disabled into jobs, without assisting in generating the types of jobs these people could move into in order to further their wellbeing. None of those things are provided in this statement; just further examples of how more and more cuts could be made.

Senator Patterson accuses Mr Swan of comparing apples with pears. That is what she did in question time today. At the last election the government offered $2 billion in family payments. But we know through Senate estimates that $1 billion of that was a massive underspend and was never delivered. She should be held accountable for these things. (Time expired)

Senator KNOWLES (Western Australia)
(3.10 p.m.)—Mr Deputy President, you and I must have a feeling of deja vu. Here we are, yet again, debating the same issue as yesterday on the same basis, a motion to take note by the same silly proponent. It is very silly. There is no way in which one can look at this whole debate and say that this is not mischief-making. Senator Patterson was quite right in identifying that Senator Collins and many of her colleagues, particularly Mr Swan, do not know how to read budget papers. It is simple—game, set and match. They demonstrate it day in and day out. Senator Collins has come in here for the second time in a row—and she is stalking out of the chamber now; she is not even interested to know the response nor does she have the courtesy to wait for the response. The same proposition is put forward time and time again: that there are some cuts that are going to be made. As I said yesterday, this is all about the Labor Party taking the Graham Richardson line: ‘Do whatever it takes to win government. Do whatever it takes. Don’t let truth get in the road. Don’t let your concern about the less privileged in society worry you, because whatever it takes we’ll make sure we win government.’

This is a classic example. Mr Swan has it wrong again. Senator Collins has it wrong again. The entire opposition in all their questions today have it wrong again, but they do not care. They do not listen to the answers. More importantly, they have these inane supplementary questions written before the an-
swer is even given. They do not have the wit or the intelligence to look at the supplementary and say: ‘There was an answer given to this question; maybe I should not ask this supplementary question.’ They just carry on. I remind you that this government has increased pensions, this government has lowered the inflation level; this government has reduced unemployment; this government has reduced interest rates; and, this government has introduced carer payments. It is all to do with the benefits that this government’s strong economic management has provided. Yet not once are the opposition prepared to accept that as realistic and factual. They cannot read the budget papers. They do not know or understand how to even put a budget together, let alone read the budget papers.

We have Mr Swan and the Labor Party coming out time and time again saying that there are going to be cuts. The idea of a common working age payment is not new. Senator Collins cannot get her head around that. She was not even able to read the McClure report, which was released in August 2000. I suppose that is back in the Stone Age for Senator Collins. We cannot possibly put the fibs that have been told now back to the McClure report, because it would be irresponsible of any government not to consider the options with regard to welfare. This government is not—and has never been—about cutting payments. This government has increased payments.

When you look at some of the statistics that I mentioned yesterday, you can see that this government has increased the real level of family support pensions. This has meant an average increase in disposable incomes for low-income households of eight per cent after inflation. The Labor Party could not get anywhere near that. Pensions have increased by 32 per cent for single and partner pensions under this government—32 per cent after Labor left office, and here they are talking about this government being the one to make cuts. They are the ones who did not ever increase pensions. Low-income working families are better off, which is apart from the wage increases made possible by greater employment. Let us face it, there is one important statistic: this government has provided more full-time jobs in the last six months—1.2 million of them—than the Labor government provided in the last six years of their government. If I were them, I would be ashamed of that statistic, but here they are coming in here yet again making false accusations. (Time expired)

Senator MOORE (Queensland) (3.15 p.m.)—It is clear that we are not going to achieve any sense of agreement on this process. The minister made that clear in her first answer this afternoon when she said it was not her job to answer any stupid questions. In answer to a supplementary question further down the way the minister said that the problem with the people on this side of the house was that we could not understand detail, that we were always going over the top. It seems to me that the role of any effective opposition is to ask specific questions to try to find out exactly what the details of proposed policies are. It is not good enough just to throw questions and strong numbers across the chamber and it is certainly not good enough to cover up any attempt to answer with personal abuse. It is very disappointing, in fact to quote the minister, ‘almost despicable’, to descend to this level in this debate.

The role of the opposition in this place at this particular point, looking at the very important issue of family and community services, is to attempt to discover exactly what the government has planned for the budget, to ensure that we are able to find out the way the payments—that the minister is seeking to give to us—will be implemented, not the rhetoric, not the way the media releases will
be put out but rather to see what the government’s plans are, looking at the real issue of payments. It is not good enough to say what policies have been because we have seen in this place that this government has attempted, through a number of social security-Centrelink policies to cut back payments, to actually impose greater penalties and to cut back on the very people in the community who are crying out most for support. It is not good enough to say what policies have been because we have seen in this place that this government has attempted, through a number of social security-Centrelink policies to cut back payments, to actually impose greater penalties and to cut back on the very people in the community who are crying out most for support.

These issues were raised quite clearly in the recent Senate poverty inquiry, where, on this particular issue of family support, of payments to those in our community who most need them, the concerns of the people working in the field were raised about people who are relying on the government to provide that security for them into their future. Over the past few months we have seen the implementation or attempted implementation of increased penalties, of breaching, of cutting back the way that taxation operates, in the whole way of secure payments for the people with the most need. This is instead of being able to work together to develop an effective policy, to genuinely look at the issues—and this is the minister who said that it was going to be her aim to go out and work with the people who are currently receiving payments—to sit down with those people and listen to their concerns and find out what the real needs are.

They are the people who are asking what is going to happen to their payments in the next six months, in the next two years. They need to know what is happening to their families now but they also need to have security into the future. There are always concerns about possible reductions in social welfare payments. That is not new. As Senator Knowles has pointed out, many of these concerns and many of these proposals about social welfare are not new. It is part of this process. People are constantly searching to find better ways to balance the budget and ensure that people do have opportunities that move them off complete welfare into the work force. That is something on which we agree.

We have to know how that is going to work for people, for families. Exchanging abuse—in fact, saying that people on different sides of the house cannot understand budget papers, cannot read and would struggle to understand the welfare system—does not achieve a solution. All that does is show that people are covering up and are not prepared to respond effectively to direct questions. When Senator Patterson talks about the very questions that we are asking—the very questions by which we are trying to find out what is going to happen to the social welfare system in this country—and she accuses us of scaremongering, of carping, of conspiracy hunting, she should know that the best way to ensure that that does not happen is to be open with the direction of the policy, with how the policy is going to work and by trying to engage all of us in coming up with a solution rather than being involved in unnecessary and quite capricious scaremongering and despicable name-calling.

**Senator HUMPHRIES (Australian Capital Territory) (3.20 p.m.)**—Senator Moore attempts to introduce a somewhat high-minded element into this debate by suggesting that the Australian Labor Party is just trying to uncover the facts, to have a debate about what we should be doing with Australia’s welfare system, just to see what is going on. If you were interested in simply getting to the facts, you would not be engaged in the scare campaign of which this debate is an integral part. You would not be running around suggesting seriously that the government is about to slash and burn the welfare entitlements of thousands of Australians as part of your quest to find out what is going on in our system. I do not know what is go-
We have a government which has a record of increasing the effectiveness of Australia’s welfare safety net. Throughout its eight years in office it has consistently increased the effectiveness and efficiency of that welfare safety net. It has improved the standard of living of Australians by such things as improving real wages, reducing inflation, increasing employment opportunities and increasing growth. Now we are expected to believe that in this, an election year, we are about to get stuck into concessions and benefits which are available to Australians.

I am sorry, but you people are either very naive or have a less than creditable agenda under way to attempt to scare Australians about what is likely to happen in the coming budget. I do not know what is going to happen, but I do know that this government has an impeccable record of improving the lives of Australians in a variety of ways. We have increased spending on the needs of Australians who are unable to assist themselves to fully provide for their families and their own welfare. We have significantly improved the position of people in those circumstances. In the last six years, for example, this government has spent $8 billion on child care—in actual dollars that is more than double the amount spent in the last six years of Labor’s term in office. We are spending an additional $79.5 million over four years to provide an extra 10,000 outside of school hours care places, 2,500 family day care places and 4,000 more playgroups. That is what we are doing to make things better for Australians in need.

Senator Jacinta Collins—There’s another 20,000 you have not provided for—20,000 families waiting.

Senator HUMPHRIES—This government has increased pensions, Senator Collins, by 32 per cent for single and partnered pensioners. Look at the total picture. Of course you can find places where particular individuals might not be better off in particular circumstances for a variety of reasons, but look at the big picture. That big picture discloses a position where Australians are much better off, including Australians in lower socioeconomic circumstances, than they ever were under Labor. The reason is that we have taken care of the basics. We have looked at what is required to make the Australian economy strong enough to support as many people as possible independently of the welfare system, to allow them to make decisions about their lives, to have opportunities and jobs and to be able to free themselves of dependency on the taxpayer.

That is demonstrated by the statistics. When Labor was in office in 1992, 934,000 Australians were unemployed. We have assisted those Australians by lifting them out of unemployment. Today, despite the increase in the population, that figure is just 595,000. Female unemployment under Labor was 7.6 per cent; today, it is just 6.1 per cent. Male unemployment under Labor was 8.6 per cent; today, it is 5.4 per cent.

Senator Jacinta Collins—What about children in jobless households?

Senator HUMPHRIES—Well, let us talk about youth unemployment. Youth unemployment under Labor in March 1996 was 11.6 per cent; today, Senator Collins, it is 9.5 per cent. There is more work to be done, yes, but we are certainly heading in the right direction and we have certainly done a better job than you have. The fact remains that we have created more full-time jobs in the last six months than you were able to create in the last six years you were in office. Those are the basic facts which are assisting Austra-
lian families. Your scaremongering about this does you no credit. *(Time expired)*

Senator McLUCAS (Queensland) *(3.25 p.m.)*—I also rise to support the motion to take note of answers to questions posed to Senator Patterson by Labor senators in the chamber today. It is extremely difficult to do that because, as happened yesterday, Senator Patterson avoided responding with any substance at all to the questions that we posed in order to elicit information about people who are in need, people who are receiving payments and who are wondering what will happen to them in the future. Rather than respond with real information, with answers to these questions, we had to endure not only Senator Patterson’s avoidance of responding to questions but also, as other senators have said, the language that she used during question time. It was extremely condescending in part and, from the other point of view, on many occasions was extremely abusive.

We wanted to know the answers to questions about activity testing for single parents. We wanted to know what the future payment regime might be for disability support pension recipients, especially for carer payments. We wanted to know what the government was considering to reduce the complexity of the payment system, which has increased over the time it has been in government. We also wanted to know what support measures will be in operation for parents, especially for the government’s proposal to develop parenting skills. That is the sort of information people want to know about. That is what question time is for. That is what we are here for and that is what the government is meant to do: tell us what is being proposed.

But we did not get any answers to those questions. Rather, we had to endure, as I said, avoidance of the questions and also, to my mind, extremely abusive language. Senator Patterson will know, as all of us know, that following a question time like this we do get emails and we do get telephone calls from people who are astonished that question time can be allowed to occur in that way. Whilst Senator Patterson has not provided any responses to our questions, through the leaking of the document we do have some detail about what the government is proposing to do. In the cabinet-in-confidence document that has come to light we know there are 23 new key budget measures proposed. But those budget measures contain virtually no proposals to ease the pressure on average families. What we are facing and what the proposals include are significant budget cuts that will come into effect after the election. Those budget cuts would see future benefits cut for sole parent families, for carers and for disability pensioners in particular.

I was also very concerned to read the minister’s comment in the letter she wrote to the Prime Minister where she said, ‘This reform can only be productively addressed through a carefully managed process.’ That is code for: ‘We have to do it very quietly and using language that the community will not understand so that we can get these proposals through.’ We have seen this before, with the proposed changes to the disability support pension, and it looks as though we are about to see it again.

The proposals contained $436 million worth of cuts, which are to be funded mainly from compliance measures and making people wait longer to claim their benefits—to delay the process of claiming benefits. There is $167 million of new spending, but much of that includes proposals that we have seen previously. This is not a plan to make the lives of people in our community better; it is very clear that the lives of recipients of payments through these sorts of measures will, in fact, be worse.
We know that yesterday Senator Patterson was asked to guarantee that pensions would maintain their value. That guarantee was not given. In fact, the minister referred to the Prime Minister, which was quite interesting. She said the Prime Minister has said that the government would not be cutting pensions or allowances. We have heard that before. Prior to the 2001 election, the Prime Minister said that nobody’s benefit would be cut as a result of changes to the social security system. That did not happen. *(Time expired)*

Question agreed to.

Environment: Murray-Darling River System

Senator CHERRY (3.30 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) to a question without notice asked by the Leader of the Australian Democrats (Senator Bartlett) today relating to water levels in the Murray-Darling River system.

Senator Macdonald’s answer to Senator Bartlett’s question highlights how difficult it is to get decent environmental policies out of this government. Water policy has been identified for the past 10 years as probably the major single environmental crisis facing Australia, and yet we have seen such small and insignificant steps taken by this government in its seven years of talking about water policy. We saw recently a $150 million package proposed by the Deputy Prime Minister, John Anderson, to save the Murray, but this figure needs to be compared with the $5 billion price tag placed on decent rehabilitation. This is a price tag that even the National Farmers Federation agrees with.

We also need to see much more pressure being put on state governments to play their part in ensuring that decent water reform occurs. It needs to include a commitment to ensure farmers are given the incentives and the sticks to invest effectively in decent, new and upgraded irrigation technology to make maximum use of the water that is available. We need to ensure that the water is prioritised to go to those areas that can maximise its value, rather than its being wasted and squandered on low-value produce. We need to ensure that absolute environmental vandalism like the Cubbie Station dams are destroyed and not allowed to come in under the eyes of regulators in the future. We need to ensure that there is a decent environmental flow going into the Murray so that the people of Adelaide have decent drinking water.

All of these things need to be part of an environmental policy, but in the past five or six years we have seen nothing but inaction from this government. These are just some of the examples I can cite of the inaction and indecision and flip-flopping associated with this government’s environmental policy. The government’s policy on renewable fuels and renewable energy is another area that has been significantly impaired by its flip-flopping and indecision. We saw overnight the decision by the federal government to change the excise-free arrangements on ethanol—a decision the Democrats have welcomed. We think it is absolutely essential that the eight-year excise-free period be put in place to ensure that the ethanol and biofuel industries can develop in this country.

But more steps will now be needed. We need confidence-building measures to ensure that the damage done to ethanol by negative campaigning last year is fixed. We need a decent renewable energy target to ensure that a renewable energy industry can be developed in regional Australia. We need to ensure that these sorts of things flow on from the excise decision for it to have a real impact on developing opportunities in regional Australia. We need to ensure that, whether we are looking at energy policy or water policy, the interests of regional Australia come first. We need to make sure that the interests of the
environment and the economy are balanced so that we can deliver better environmental outcomes while, at the same time, ensuring that the economy and the regions continue to get a fair go. This can be done, and the renewable energy field is one area where there is much more the government can do to deliver better outcomes for regional Australia as well as better outcomes for the environment and the economy.

Returning to water, the Democrats initiated—with the Senate’s support—an inquiry into rural water usage that was chaired by my colleague Senator Aden Ridgeway. It has heard extensive evidence about water policy in the Murray-Darling area and elsewhere around Australia. It is significant that in the most recent floods—I have seen the photographs, and any visitor to Senator Heffernan’s rooms can also see them—enormous water storages at Cubbie Station corralled the flood water, stopping it from flowing into the flood plains further down the river. This is a disaster. It is extraordinary that governments at state and federal levels can simply stand by and allow this to occur.

At one stage Premier Beattie was talking about resuming the water rights of Cubbie Station, so that the water could be released back into the river. Yet, whilst Mr Beattie was graciously prepared to put up, from memory, five per cent of the purchase price of the Cubbie Station, he was insisting on the other states and the Commonwealth government putting up the other 95 per cent. That highlights the fact that the Queensland government, in charge of the top of the Murray-Darling Basin, is not prepared to share this resource, the resource of the Murray-Darling, with the rest of Australia in a fair manner. It is something that needs to be fixed, and something that state and federal governments need to work on together to deliver better environmental outcomes—whether it be on water or energy or greenhouse or land management. We need much more commitment from this government, a better outcome, a national approach and more funding. (Time expired)

Question agreed to.

PETITIONS

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

Defence: Involvement in Overseas Conflict Legislation

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

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

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

The Howard Government has been the first Government in our history to go to war without majority Parliament support. It is time to take the decision to commit troops to overseas conflict out of the hands of the Prime Minister and Cabinet, and place it with the Parliament.

by Senator Bartlett (from four citizens).

Education: Funding

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

The petition of the citizens of Australia undersigned shows:

A well funded Public Education system is vital to the maintenance of a fair and democratic Australian society.

We need our public schools to be well resourced.

This requires the Federal Government to provide a fairer model for funding Australian schools.
Your petitioners therefore request the Senate to:

Ensure that the funding policies of the Commonwealth Government are reformed to provide increased and fairer funding for public schools.

by Senator Buckland (from 17 citizens).

Petitions received.

NOTICES

Presentation

Senator Heffernan to move on the next day of sitting:

That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 31 March 2004, from 5 pm, to take evidence for the committee’s inquiry into the administration of Biodiversity Australia concerning the revised draft import risk analysis for apples.

Senator McLucas to move on the next day of sitting:

That the Community Affairs References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 1 April 2004, from 3.15 pm, to take evidence for the committee’s inquiry into Hepatitis C in Australia.

Senator McLucas to move on the next day of sitting:

That the time for the presentation of the report of the Community Affairs References Committee on children in institutional care be extended to 21 June 2004.

Senator Ian Campbell to move on the next day of sitting:

(1) That so much of the standing orders be suspended as would prevent the succeeding provisions of this resolution having effect.

(2) That the government business order of the day for the further consideration of the Customs Tariff Amendment Bill (No. 2) 2003 and the Excise Tariff Amendment Bill (No. 1) 2003 be called on immediately.

Senator Allison to move on 11 May 2004:

That the following matter be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by 11 August 2004:

Government funding of government and non-government schools, with particular reference to:

(a) the adequacy of funding levels to meet current and future school needs and the achievement of the Adelaide Declaration (1999) on National Goals for Schooling in the Twenty-First Century;

(b) the desirability of, and extent of, needs-based funding;

(c) the extent to which current resources provide equal opportunity and equity in outcomes for students;

(d) the effectiveness of accountability requirements for state, territory and Commonwealth funding provided to non-government schools and for funding provided to state governments for government schools;

(e) the extent to which current school funding arrangements between the Commonwealth and the states and territories represent an effective and efficient use of resources; and

(f) in relation to the above terms of reference, how school funding systems compare with other Organisation for Economic Co-operation and Development countries.

Senator Nettle to move on the next day of sitting:

That the Senate notes that:

(a) 27 March to 4 April 2004 is National Youth Week;

(b) an unacceptable number of young Australians live in poverty; and

(c) the lives of young people have been made more difficult as a direct result of the Federal Government’s policies, including:

(i) its encouragement and entrenchment of a system of youth wages, which breaches Australia’s obligations under
the International Covenant on
Economic, Social and Cultural Rights
and reinforces the stereotype that the
work that young people undertake is
less valuable than that of older
workers,

(ii) its abuse of the notion of mutual
obligation and the creation of the
punitive work for the dole scheme,
which impedes young peoples’ access
to genuine employment opportunities,

(iii) its continuing attacks on Austudy and
refusal to extend rent assistance to
Austudy recipients.

Senator Brown to move on 11 May 2004:
That the following matters be referred to the
Employment, Workplace Relations and Education
References Committee for inquiry and report by
24 June 2004:
(a) the functioning of the Office of the Chief
Scientist; and

(b) potential conflicts of interest arising from
the dual role of the Chief Scientist.

BUSINESS
Rearrangement
Senator IAN CAMPBELL (Western
Australia—Manager of Government Busi-
ness in the Senate) (3.37 p.m.)—by leave—I
move:
That, on Tuesday, 30 March 2004:
(a) the hours of meeting shall be 12.30 pm to
adjournment; and

(b) the question for the adjournment of the
Senate shall be proposed at 9.50 pm.
Question agreed to.

NOTICES
Postponement
Senator IAN CAMPBELL (Western
Australia—Manager of Government Busi-
ness in the Senate) (3.37 p.m.)—by leave—I
move:
That business of the Senate order of the day
no. 2, relating to the consideration of a report of
the Procedure Committee, be postponed till
Question agreed to.

Items of business were postponed as fol-
lows:

Business of the Senate notice of motion no. 1
standing in the name of Senator Forshaw for
today, relating to the reference of matters to
the Community Affairs References
Committee, postponed till 12 May 2004.

General business notice of motion no. 832
standing in the name of Senator Cherry for
today, relating to the superannuation
preservation age, postponed till 31 March
2004.

General business notice of motion no. 835
standing in the names of Senators Cherry and
Stott Despoja for today, relating to human
rights in Syria, postponed till 31 March
2004.

COMMITTEES
Employment, Workplace Relations and
Education References Committee
Extension of time
Senator MACKAY (Tasmania) (3.38
p.m.)—At the request of the Chair of the
Employment, Workplace Relations and Edu-
cation References Committee, Senator
George Campbell, I move:
That the time for the presentation of the report
of the Employment, Workplace Relations and
Education References Committee on the exposure
draft of the Building and Construction Industry
Improvement Bill 2003 and the provisions of the
Building and Construction Industry Improvement
Bill 2003 and a related bill be extended to 15 June
2004.
Question agreed to.

Foreign Affairs, Defence and Trade
References Committee
Extension of time
Senator MACKAY (Tasmania) (3.38
p.m.)—At the request of the Chair of the
Foreign Affairs, Defence and Trade References Committee, Senator Hutchins, I move:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the performance of government agencies in the assessment and dissemination of security threats in South East Asia in the period 11 September 2001 to 12 October 2002 be extended to 24 June 2004.

Question agreed to.

Environment, Communications, Information Technology and the Arts References Committee

Extension of time

Senator MACKAY (Tasmania) (3.38 p.m.)—At the request of the Chair of the Environment, Communications, Information Technology and the Arts References Committee, Senator Cherry, I move:

That the time for the presentation of reports of the Environment, Communications, Information Technology and the Arts References Committee be extended as follows:

(a) Australian telecommunications network—to 16 June 2004;
(b) competition in broadband services—to 24 June 2004;
(c) regulation, control and management of invasive species—to 25 November 2004; and

Question agreed to.

LEAVE OF ABSENCE

Senator MACKAY (Tasmania) (3.39 p.m.)—by leave—I move:

That leave of absence be granted to Senator Webber for the period 30 March to the end of the 2004 autumn sittings, on account of parliamentary business overseas.

Question agreed to.

GENETICALLY MODIFIED ORGANISMS

Senator CHERRY (Queensland) (3.39 p.m.)—I move:

That there be laid on the table, no later than the conclusion of question time on Thursday, 1 April 2004:

(a) the documents described in paragraphs (b) and (c), relating to information produced as part of the 2000-2003 Commonwealth Scientific and Industrial Research Organisation (CSIRO) Biodiversity Division project, ‘Ecological Implications of GMOs [genetically-modified organisms]’;
(b) all documents identified by CSIRO as outputs of the following projects:
   (i) robust risk/benefit decision tools adapted for Australian conditions (2003), probabilistic/quantitative estimates of risk for GMOs (2003) and recommendations for policy makers on best practice in risk assessment (2001),
   (ii) risk assessments, up to landscape scale, of direct and indirect ecological impacts of Bt cotton, legumes with high sulphur protein and herbicide canola (2003),
   (iii) risk assessments, up to landscape scale, of ecological impacts of potential GMOs in eucalypts, rumen biota, oysters and mouse cytomegalovirus (2003), and
   (iv) reports on predicted risk and benefit scenarios resulting from different GMOs (2002), and recommendations on how to mitigate undesirable impacts if they occur (200 Methods for large scale monitoring of GMO benefits and impacts) (2001); and
(c) all documents produced further to the ‘Paths of adoption’ commitments published on the CSIRO website at http://www.biodiversity.csiro.au/2nd_level/3rd_level/plan_gmos.htm.

Question agreed to.
PARLIAMENT HOUSE ART COLLECTION

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.40 p.m.)—by leave—At the request of Senator Ridgeway, I move the motion as amended:

That the Senate

(a) notes the vibrant and varied Parliament House art collection, which is valued at $85.6 million and is spread throughout 4 000 rooms in 25 kilometres of corridors;

(b) notes also that:

(i) the collection contains works from a range of Australian artists including Fred Williams, Arthur Boyd, Sidney Nolan, Tracey Moffatt, Howard Arkley and Fiona Foley,

(ii) the current policy of purchasing the work of emerging and living artists means the value of the collection has increased almost fivefold over the initial investment,

(iii) the review of the Parliament House art collection recommends that it should not, as a rule, collect the works of emerging artists, and

(iv) if this recommendation is accepted, the work of artists such as Patricia Piccinini, one of our most successful international artists, whose work Psychogeography was initially purchased for $1 500 and is now worth $160 000, would not have been purchased for the collection; and

(c) calls on each House by resolution to reject this recommendation and to retain this important aspect of the collection.

Question agreed to.

MATTERS OF URGENCY

Australian Defence Force: Deployment

The DEPUTY PRESIDENT—I inform the Senate that the President has received the following letter, dated 30 March, from Senator Bartlett:

Dear Mr President,

Pursuant to standing order 75, I give notice that today I propose to move:

“That, in the opinion of the Senate, the following is a matter of urgency:

(a) the need for the Senate to express its continuing support for and confidence in the women and men in the Australian Defence Force currently deployed in or around Iraq, and its appreciation for the high standard of professionalism they have displayed in carrying out their duties;

(b) given Australia’s military participation in the invasion of Iraq, Australia’s legal and moral obligation to assist with the administration and security of Iraqi civilians and to rebuild infrastructure in Iraq; and

(c) the requirement for the Prime Minister publicly to define clear criteria of the jobs that are still required to be undertaken by our defence personnel, so that it is clear when the job is done, and so that prompt withdrawal of troops can then occur.”

Yours sincerely,

Andrew Bartlett
Australian Democrats Senator for Queensland

Is the proposal supported?

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

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

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

That, in the opinion of the Senate, the following is a matter of urgency:
(a) the need for the Senate to express its continuing support for and confidence in the women and men in the Australian Defence Force currently deployed in or around Iraq, and its appreciation for the high standard of professionalism they have displayed in carrying out their duties;

(b) given Australia’s military participation in the invasion of Iraq, Australia’s legal and moral obligation to assist with the administration and security of Iraqi civilians and to rebuild infrastructure in Iraq; and

(c) the requirement for the Prime Minister publicly to define clear criteria of the jobs that are still required to be undertaken by our defence personnel, so that it is clear when the job is done, and so that prompt withdrawal of troops can then occur.

This is an important matter. It is a matter that the Prime Minister, Mr Howard, has put forward for debate in the House of Representatives by way of a different motion. The Democrats have brought on this debate because we believe it is appropriate that the matter also be considered in the Senate. We find it unacceptable and typical of the Prime Minister that he did not bother thinking that it was necessary to get the approval of parliament to send Australian troops to Iraq. He only did that after the troops were committed. Of course, he did not actually have the support of parliament and the support of the Senate in particular for committing those troops. He is now quite happy to put a motion to the parliament calling for the troops to be left there—but only in the House of Representatives, no doubt because he knows that he would get a much more accurate and realistic debate on the facts of the matter in the Senate. It is unfortunate that in the House of Representatives motions of this type are more about theatre and political positioning than about the substance of what is an important matter, a matter that is appropriate to debate and a matter on which we are bound to have differing views. We should have a comprehensive debate on this important matter.

Let me say at the outset that I am quite happy, indeed keen, for this motion to be voted on in separate parts, because I hope that all senators would support paragraph (a) of the motion. It is certainly not my intention to try and create a wedge by forcing senators to vote against a strong expression of support for our troops. Again I think it is unfortunate that in the Prime Minister’s motion in the House of Representatives he has basically done that to try and force people to vote against a motion that contains an expression of support. One of the positive things about the debate that we have been having around the nation for well over a year is that, regardless of people’s views about the use of our troops in Afghanistan and Iraq—what they have done there, whether they should be coming home—all viewpoints have consistently emphasised that our disagreement is about the government’s policy approach and not about our troops. We all support them and recognise the job they are doing and that they are using rules of engagement that are of a higher standard than those of other troops engaged in that area.

In this debate we should forget about the nice sounding phrases because what we have yet again is the government being dishonest and misleading the Australian people. Mr Howard says, ‘We have to be there until the job is done’, but he will not say what the job is. Let him define the job so that we all know what we are aiming for and when the job will be done. If the job were to find weapons of mass destruction then we may as well have gone long ago, because they are not there. We could have just let the UN keep doing that. If the job were to get rid of Saddam, that is done. What is the other job? If we are
there to rebuild democracy, stability and security for the Iraqi people, which is a very important job, frankly, we will be there for years and years. If that is the job, we should have more troops there than we have committed.

Mr Howard uses pejorative phrases like ‘cut and run’ as though every time one of our personnel is withdrawn it is some act of cowardice. I think it is a poor reflection on anybody who puts forward a suggestion of withdrawing troops that somehow that implies an act of cowardice. Is he suggesting that the SAS, because they were withdrawn, ‘cut and run’? I would like to see him say that to the SAS people. They could have stayed there and played a role. Let us remove that ridiculous language and look at the facts.

The Democrats have brought this matter of urgency on for debate in the Senate to try to at least debate the facts of the matter. In response to a question about when we will know the job is done Mr Downer said, ‘We will let you know.’ That is not good enough: it is not good enough for the Australian people and it is particularly not good enough for the troops themselves and their friends and families who are here in Australia.

A mess has been created in Iraq. Nobody was stronger in their opposition to our troops being committed to an invasion or an invasion occurring than the Democrats, but the fact is that it has happened and we have to conduct this debate on the basis of the reality now, not on the basis of wishful thinking. There is a mess and, frankly, a lot still needs to be done. It is worth noting Mr Latham’s initial comments that I supported—setting an aspiration by saying, ‘Let us attempt to get our troops home as soon as possible.’ I am not sure it was wise to set down a specific date—I would not have done that—but I think his suggestion of not letting this drift indefinitely and aspiring to get them home as soon as possible was appropriate. The Democrats have always had an approach of saying that once the action was taken, once the war had happened, we do need to keep our troops in there. We do have an ongoing obligation as an occupying power to the safety and security of the troops. We have not supported, as some others who opposed the war have done, an immediate withdrawal of troops.

Let us recognise how many troops we are talking about. It is a very small number. If the government were genuine in its big chested rhetoric it would have far more in there. This is a deliberate wedge on the part of the Prime Minister. I refer people to Brian Toohy’s article in the Financial Review of last weekend. I do not have time to go into it now, but it talked about just what a small number of troops are involved here. The fact is that 80 of the Air Force air traffic controllers will be coming home in any case in May or June. Their work will be done. There are 53 Australian Army units training the new Iraqi army.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.48 p.m.)—The opposition will not be supporting this urgency motion in its entirety. If Senator Bartlett is willing to have his motion put in two separate parts—paragraph (a) as a single motion and paragraphs (b) and (c) as a separate motion—the opposition will support the first and will seek leave to amend the second. I seek leave to move an amendment to the motion that stands in Senator Bartlett’s name.

Leave granted.

Senator FAULKNER—I move:

Omit paragraphs (b) and (c), substitute:

(b) the need for any Australian Government committing Australian forces overseas to have a defined exit strategy for the eventual withdrawal of those forces;
(c) the need for Australian military forces in Iraq to be withdrawn from that country as soon as practicable once Australia’s responsibilities as an occupying power have been discharged, with the intention of returning our forces to Australia by the end of 2004; and

(d) the need for Australia to continue to provide strong levels of humanitarian assistance and economic reconstruction assistance to the Iraqi people for the rebuilding of the Iraqi nation.

Let me now in this debate set out in some detail the opposition’s position. Australia’s international security policy should have as its principal priorities the ongoing war against terrorism, enhancing the security and stability of our immediate region, and the protection of Australians both at home and overseas. Decisions to deploy Australian defence forces overseas need to be made on the basis of these priorities. Any government committing Australian forces overseas must have a defined exit strategy in place. History has shown that open-ended military commitments can entail considerable cost and diversion of scarce military resources from key priorities.

The government is yet to articulate a clear strategy for our forces in Iraq. The Howard government has previously provided public undertakings to the Australian people ruling out a postwar Australian military commitment in Iraq altogether or else limiting that commitment to months, not years. Labor did not support Australia’s involvement in the war against Iraq, but Labor has always supported the men and women deployed by the government to Iraq.

Labor’s position on the withdrawal of our troops from Iraq has been consistent. Labor has always said that this should take place as soon as practicable once our responsibilities as an occupying power in Iraq have been discharged. The handover of power from the Coalition Provisional Authority to an interim Iraqi government on 30 June this year is a critical milestone in this respect. A Labor government’s intention, if elected later this year, is to withdraw the following Australian military forces from Iraq by the end of 2004: the 60 personnel assigned to air traffic control functions at Baghdad International Airport; the up to 15 Australian analysts and technical experts supporting the Iraq Survey Group in its search for weapons of mass destruction; the 11 personnel assigned to the Coalition Provisional Authority; the Royal Australian Navy training team of 12 sailors; the Army training team of 60 soldiers; the military liaison officer with the Australian mission in Baghdad; and the military adviser to the United Nations Secretary-General’s representative in Iraq.

Labor will also withdraw Australian forces based outside Iraq operating in direct support of Australian operations inside Iraq: the two C-130 Hercules and the 120 personnel crewing and servicing them and the 90 Australian personnel assigned to coalition headquarters, logistics and communications units. Labor recognise that some Australian military personnel in Iraq are protecting Australian officials working in our representative office in Baghdad. While our intention is to withdraw these troops, Labor will consult the Chief of the Defence Force and the diplomatic security experts of the Department of Foreign Affairs and Trade on the likely security needs of these officers at the appropriate time. Labor’s commitment is to the War on Terror, and the following assets operating in the Middle East in support of this war will remain in place: one ship—currently the HMAS Melbourne, to be replaced by the HMAS Stuart—currently stationed in the gulf as part of a multinational interception force, and a RAAF AP-3C Orion detachment conducting maritime patrol operations.
Australia should continue to provide strong levels of humanitarian assistance and economic reconstruction assistance to the Iraqi people for the rebuilding of the Iraqi nation. Of course, the real issue in relation to our military involvement in Iraq is the basis on which the government made the decision to deploy our troops. The real issue is weapons of mass destruction. Let us not forget what Mr Howard, the Prime Minister, told the Australian people at the time of the troops’ deployment. In his televised address to the nation on 20 March last year, Prime Minister Howard said:

We are determined to join other countries to deprive Iraq of its weapons of mass destruction, its chemical and biological weapons, which even in minute quantities are capable of causing death and destruction on a mammoth scale.

They are the words of Prime Minister Howard. A year later, with no weapons of mass destruction having been discovered and this justification for war lying in tatters, Mr Howard and his colleagues are intent on reinterpreting history and emphasising regime change as the justification for the war. But it was the same Mr Howard who, at the National Press Club on 13 March last year, had ruled out regime change. Mr Howard ruled it out. I want to quote him again:

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

They were Mr Howard’s words at that time—at the Press Club on 13 March 2003. The fact is that the Australian people were persuaded to go to war in Iraq in order to deprive Saddam Hussein of his arsenal of weapons of mass destruction. A year later, after the most extensive searching by the Iraq Survey Group, no such weapons have been found. None have been found, but do we get an apology from Prime Minister Howard on this? Of course not—not on your life. And I would suggest to the Senate: do not hold your breath for an apology from Mr Howard on this.

The only member of the Howard government to tell the truth on this issue was good old Senator Hill. Good old Senator Hill, from his hot-air balloon, told the truth. Of course, he admitted—and I give him credit for having the decency to admit—that there are no weapons of mass destruction. But what happened to poor old Senator Hill? It is quite symbolic, isn’t it, Mr Deputy President? Senator Hill tells the truth, goes up in a hot-air balloon, bumps down to land—and what happens to him? He is immediately gagged by Mr Howard and forced to retract what he said. The truth lasted three hours. It stood for three hours before Senator Hill was heavied by the Prime Minister. As I said, the opposition can support the first paragraph of the urgency motion, but the remaining paragraphs do not capture our position on this issue and, accordingly, I have moved an amendment which I would commend to the Senate.

Senator HILL (South Australia—Leader of the Government in the Senate) (4.00 p.m.)—That was a colourful contribution from Senator Faulkner—plenty of life, little relevance to the motion before the chamber and perhaps some failure in accuracy, but that seems to be the Labor Party way at the moment. The issue today is whether Mr Latham has become fast and loose with the truth. Mr Latham has got himself into an awful political mess over this issue by making policy on the run and determining that he would be adopting a populist position by a decision that, if in government, he would return the troops by Christmas—no matter what the situation in Iraq, no matter what the consequences for the Iraqi people and no matter what the consequences for peace and stability within the region or the state of re-
construction of the country. It seemed to Mr Latham to be a good idea at the time to make such an announcement, and he simply made it. He did not bother to consult his colleagues. He did not take into account—maybe he did not even know—that his shadow spokesman for foreign affairs had been advocating that the government continue with its efforts in supporting the reconstruction of Iraq, even arguably increase its efforts. So Mr Latham adopted what he thought was a populist position, but he made an error of judgment because that was not really the attitude of the Australian people at all.

The Australian people believe that when a job is being done and it is an important job, particularly when others are reliant on Australia, it should be completed. That created a difficult political issue for Mr Latham and he needed to find a way out. We have seen a number of embarrassing moments over the last few days when he has varied his policy position according to the pressures of the moment. It was brought to his attention that by bringing the Australian troops out he would leave the Australian diplomats vulnerable, so he said that perhaps he would leave the security forces there that were protecting Australian diplomats. When he was told that those security forces are supplied and supported by Australian Hercules aircraft operating in and out of Iraq, he changed his position again and said that perhaps he would leave the Hercules aircraft there as well. Now he has been told that the P3 Orion aircraft are actually carrying out work that is relevant to the safety of not only the Iraqi people in surveillance operations but also the coalition forces. He is refusing to respond to the issue of whether he would leave the P3s operating over Iraq or not.

What all this means is that not only did he make policy on the run but he had not done the hard work to determine exactly what the situation was in Iraq, what our forces were doing and what the consequences would be of the policy he made on the run. Today it has been suggested to him that he should have done some more hard work, and he of course came out with that statement that he had in fact been listening to advice from both DFAT and Defence. He said: ‘Yeah, well, I’ve had discussions with officials from Foreign Affairs and Defence about the situation in Iraq.’ In actual fact, he has been offered briefings by officials in both departments and has refused those briefings. But, again, caught on the run today, having to try and explain the basis for his positions rather than acknowledging that he had not done the hard work and had got himself into such an embarrassing position, fast and loose with the truth, he comes up with this nonsense about discussions with Foreign Affairs and Defence officials.

It tells us a lot about Mr Latham and the way in which he would manage issues of the highest national importance—that is, issues of national significance. He will not think through the consequences of his actions. He will not do the hard work that is necessary to ensure that his positions are soundly based. He will say whatever it seems to him at the time is necessary to attract popular appeal and whatever the consequences of that might be is of no particular concern to him. I think that is something that the Australian people should clearly take into account as this year progresses and they have to look at both the government and the opposition as to who they would prefer as the future government of this country.

The position of the government is obviously clear on these issues. We believe the Australian forces are doing a great job in and around Iraq at the moment in helping to rebuild that country and create opportunities for the future—a democratic opportunity, an opportunity for economic growth and per-
haps, just as important, an opportunity for that economic growth to be better shared so that all Iraqis have the chance for a better future, not only the privileged, as has been the case in the past.

The country is delicately poised at the moment. It is moving towards its transitional government. It is being undermined by an insurgency that is both cruel and ruthless. It cannot achieve its objectives without the support of the international community. It is in that environment that Mr Latham argues that Australian forces should not do the job but rather should leave. The contrast between the positions of the two parties is clear. The government says the job is half done and it is important for the Iraqi people and for Australia’s national security in that a free democracy, if it can be built in that region progressing on a different path to that which has been the case in the past, can make a significant contribution to peace and security in the whole region.

It is the view of the government that a better set of words to be voted on in this place today would be those in the motion that was moved in the other chamber. I therefore foreshadow that, in the event of the defeat of Senator Faulkner’s amendment, a government amendment—which I will not read out now, because I do not have time, but which basically commends the role the troops are playing—be put. I would hope that this chamber, in a bipartisan mood, might recognise that that is important. They are doing a great job and the job is still not complete. The job needs to be completed, and that is where the Australian people should put their support. I foreshadow that amendment in the event of Senator Faulkner’s amendment failing.

**Senator BROWN (Tasmania)** (4.09 p.m.)—The Greens will be supporting the Labor amendment to the motion but not the government amendment. We do not believe the motion as it has been brought forward is satisfactory. I also foreshadow the Greens amendment as circulated which has the additional component of calling for the immediate withdrawal of the Australian Defence Force from Iraq with the exception of any personnel required to protect Australian diplomatic representatives.

I have just three minutes to speak and I want to point out that between the cruelty of Saddam Hussein’s regime and the insurgency that Senator Hill has just spoken about was the cruelty of 10,000 to 25,000 people in Iraq being killed. The fact is that Australian Defence Force personnel refused to go on some of the bombing sorties of civilian targets during that cruel war—the invasion of Iraq. All senators have expressed—and I join them in expressing—our support for the Australian Defence Force personnel. They are in Iraq in the service of this country, but we totally disagree with the government having deployed them in this way. We want them brought home—and have said so right from the outset—to help secure this country and to take part in the defence of this region at a time of heightened security concerns.

The government made a historic error: it lied to the Australian people and deceived the Defence Force personnel in sending them to the Iraq theatre of war. It did so on the basis of information coming from the George W. Bush White House in the United States, which has now been found out in hearings being held in the United States—and this goes right to the President who influenced our Prime Minister—as having ignored the information before it and having determined to override the information to say, ‘We must align Iraq with al-Qaeda, deceive our own people and send our defence forces to war.’ It was wrong, it was unethical, it was based on a lie; and it should be rectified. And that is
why we bring forward this motion now—to rectify it.

Of course we support an ongoing humanitarian effort in Iraq. Why not put the extra $65 billion being spent on so-called ‘offence’ by the United States into the reconstruction of that country? How much better it would be if we had that humanitarian approach instead of spending on armaments to occupy the country for however long it takes until the American ethic is fulfilled. (*Time expired*)

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (4.12 p.m.)—I support the Prime Minister’s motion in the other house—and the amendment that Senator Hill will be moving in the Senate today—as it is the only motion that expresses absolute confidence in and appreciation of the Australian Defence Force and says that we will be there to finish the job.

On 18 March, Mr Latham said, ‘If the federal election is held in September and there was a change of government, we would be hoping to have the troops back by Christmas.’ There were no caveats that we would leave some people there—that we would leave forces there to protect the embassy and do other things. It was a completely unilateral decision to remove all troops from Iraq. What message does that send to terrorists? Go in, kill 200 people, bomb people in Bali and in America, blow buildings up, hijack planes and you will be rewarded. Australian people will be frightened. The going will get tough and the Australians will run. Mr Latham, you have grossly underestimated what Australians think.

A poll reported in the *Sydney Morning Herald* today found that 61 per cent of people in Australia wanted to maintain troops in Iraq. If that poll had been taken in rural Australia, the approval rating would have been up to 95 per cent because people in rural Australia do not run. They depend on each other and their communities. They work together and do not quit until the job is done. I am surprised it is only 61 per cent. I would have thought 95 per cent of people would say that if you bow, if you submit, if you say peace in our time then you are running up the white flag; you are saying Australians are cowards. Australians are not cowards. They will not be beaten into submission. They will hold the line. They will stay there until the job is done. I want to quote Mr Jack Straw, who eloquently said:

So, we walk out of Iraq, abandon Afghanistan. Does anyone think that this would satisfy their appetite? Of course not. Their appetite would simply be whetted, for it is insatiable.

No-one could say it better than that. But Mr Latham, following his ideologue and mentor, Gough Whitlam, thought he would hop on the bandwagon. He thought it worked for Gough Whitlam when he brought the troops home from Vietnam. So he decided on the spot that it would be a great idea—he had not had a bit of publicity for a while, he wanted a bit of populism and he found that this was one way he could get attention. He got attention all right. He stepped right over the mark. But what he did show Australians was that he would be a very dangerous person to be in charge of this nation. He showed very distinctly that this nation would be put at risk.

When you reward terrorism you actually invite more terrorism. That is what Mr Latham has done. On top of that, I think Mr Latham has threatened Australia’s reputation as a proud nation—a nation that is prepared to stand and fight cruelty and injustice. Australian soldiers are respected all over the world. Mr Latham has shown that he does not want that respect for our Australian soldiers. We know that when the going gets tough we stick in there. We undertook to help
the Iraqis. We said that we would stay there and do the job—we would not rat on them, we would not walk out on them. Now Mr Latham is saying that we will cut and run, that we will walk away, that we do not care what happens to them. Imagine if every one of the Poles, the Japanese, the English and the Canadians all walked away. What a mess that would leave Iraq in.

There really is no alternative but to support the foreshadowed amendment that will be moved by Senator Hill, the Leader of the Government in the Senate. We may have had differences over whether we should be in Iraq. I can see the arguments in that, although I do not support them—I always thought we should be there. But there is no argument that the opposition and the crossbenchers can construct that we should walk away from a people that are getting bombed and shot at and who need our support. You could say that we could bring back Saddam Hussein, because that is what would happen. Some other cruel dictator would crawl to the top. We have got to stay there until democracy is returned, until there is a credible business sector where people can make a living and until farming is developed so that they can feed themselves. We took this job on and I am very sorry that the opposition, the alternative government, have shown that they want to reward cowardice, that they want to reward the terrorists for carrying out their acts of terrorism. They want to say to them, ‘Good job. You’ve killed 200 people in Spain. You’ve killed 80 people in—

Senator Chris Evans—you ought to give it away, Bossie.

Senator BOSWELL—No, I should not give it away. I know this is embarrassing you. This is what the people of Australia are saying: you are rewarding terrorism. It might be hurtful to you, but that is what the people are saying out there. That is why 61 per cent of the people of Australia said, ‘Leave the troops there. Do the job, protect the people and don’t walk away from them.’ You go out there and ask them. If you can put any other construction on it I would be very surprised and so would the people of Australia.

Senator CHRIS EVANS (Western Australia) (4.20 p.m.)—In the midst of the political debate about Australia’s strategic direction, on 1 May this year a very senior parliamentarian had this to say about Australia’s role in postwar Iraq:

Well, the task of rebuilding Iraq will be essentially a civilian task ... we are committed to play a part in the reconstruction of Iraq, but it won’t be predominantly a military contribution; it will be predominantly a contribution provided by the private sector.

That was not Mark Latham. It was the Minister for Defence, Minister Hill, expressing the government’s view about what it saw at the time as its role in Iraq. It is one of a number of assurances the people of Australia were given by this government that our involvement in Iraq would be short, that we would be out quickly and that we would be making no contribution to peacekeeping in Iraq. Mr Howard made it very clear he would not be embroiled in Iraq, that we would not be there for the long term—we would be there at the sharp end, for the invasion phase and the occupation, but as soon as we could we would be out. It was his very clear intention that was repeated on a number of occasions, supported by Senator Hill and Minister Downer, that we would be out of Iraq.

How is it that we have gone from that to this hysterical debate of the last few days, with people like Senator Boswell making such claims as bin Laden has been given comfort and terrorists have been encouraged? I remind Senator Boswell and some others that bin Laden was last reported seen in Afghanistan, not Iraq. I also remind him that we currently have one member of the
ADF in Afghanistan, compared to 400 or so in Iraq, because this government made a decision, which it said was in the national interest, to remove our military commitment—our SAS soldiers—from Afghanistan because we had played our role and it was time to do so. This government said our military involvement in Afghanistan was no longer a priority, and it made the decision to withdraw. No-one pretends the security situation in Afghanistan is safe. No-one pretends that democracy is not under threat. No-one pretends that there are not very serious problems there. This government, after having the support of the Australian Labor Party for its involvement in Afghanistan, made the decision to withdraw its military contribution and it justified that decision in terms of Australia’s strategic priorities.

The government are now trying to run the argument that Labor arguing the same case with respect to our military commitment in Iraq—that is, that we will withdraw our commitment at a time of our decision—is somehow giving comfort to terrorists. That is a complete nonsense. An alternative Labor government would have the ability to make a decision about our national strategic interests. We have decided, we have announced publicly and we will argue up until the election that military involvement in Iraq is not a strategic priority for Australia. It is not a defence priority for this country. We have played a role in Iraq in a military sense, and we ought to withdraw our military commitment from Iraq in order to address other priorities for our defence forces—which the government say are and have been stretched for some time. That is a legitimate opinion for an opposition to hold. It is legitimate for an opposition to say that, as an alternative government, we have an alternative position which we will advance if in government.

What I really find difficult about today’s debate is the way the Prime Minister has again tried to politicise defence. The first part of the Prime Minister’s motion in the House of Representatives talks about support for the troops. This chamber and the House of Representatives have unanimously supported our troops in Iraq before, during and since the war. We have worked very hard to achieve a—

Senator McGauran—We have not!

Senator CHRIS EVANS—Senator, I will take your interjection, because we have and those troops value it. Idiots like you who do not pay attention to those sentiments—

The ACTING DEPUTY PRESIDENT (Senator Brandis)—Order, Senator Evans!

Senator CHRIS EVANS—I withdraw, Mr Acting Deputy President.

Senator Ferguson—You’re getting steamed up here!

Senator CHRIS EVANS—I do get steamed up, because I know how important it is to the troops that they have bipartisan support. I know how much they value it. I have been to the farewells and I have been to the welcome homes. Despite knowing there was a difference of political opinion in this parliament on this issue, they have appreciated the fact that the ADF have not been drawn into that and have not been made the butt of the political debate. The Prime Minister today, in a low, sneaky attempt to create division, was to wrap up in a motion support for the troops with support for his stance on when they might be withdrawn. He would not split the motion. He would not agree to allow the parliament to express its view about the troops—to express our support for their professionalism, their integrity and the job they have done—because he wanted to try to create a cheap political debate. I think he has lowered himself. He has demeaned himself, and he has demeaned the Liberal Party and the National Party. We have always made it very clear that, despite our op-
position to involvement in Iraq, we have supported the troops wholeheartedly. I have been at pains to make that clear to them, and it has been appreciated.

That has not changed. Today’s debate marks a new low in the Prime Minister’s attempts to hold onto government. He has refused to set aside the issue at the centre of the political debate. We have had a genuine political disagreement about withdrawal of troops from Iraq. The alternative government, the Labor Party, have an exit strategy. We say that at the end of the year it will no longer be a military priority for us to be involved in Iraq. We gave a commitment to the Australian people about that. Labor’s position on this has been consistent. We opposed the war and from the day we opposed the war we said we would bring the troops home, and we have said that on the occasion of every decision. The Leader of the Opposition the other day defined the timetable for that with respect to when Iraq got its own independent government. He said that if there was a June handover to an Iraqi government and if a Labor government were elected in, say, September we would hope to have the troops home by Christmas.

Senator Ferguson—He didn’t say ‘we hope’.

Senator CHRIS EVANS—He did say ‘we hope’. He said that very clearly. He made a commitment. He said, ‘We’ll bring the troops home.’ We are saying this is what a Labor government will do. We are out there with a very clear policy that we will bring the troops home.

Government senators interjecting—

Senator CHRIS EVANS—Mr Acting Deputy President, am I speaking or are the other senators interjecting? I just want to be clear. I know how fastidious you are.

The ACTING DEPUTY PRESIDENT— I am sorry, Senator Evans. I was talking to the Clerk. I ask senators on my right to hear Senator Evans in silence and with courtesy.

Senator CHRIS EVANS—Thank you, Mr Acting Deputy President. It is important that we have this public policy debate, and there is a genuine division between the parties on this issue. That is a good thing in some ways, because it allows us to have a proper debate. Labor have an exit strategy. We have made an honest commitment to the Australian people that we will bring the troops home. We say we have other priorities. We are far more concerned about the war on terrorism and about its impact on Australia and on Australia’s strategic and defence needs. The war on terrorism will be our priority, along with our ongoing commitments in Timor and the Solomons. We supported the government’s commitment in the Solomons because of our responsibilities in the region. We have other priorities, which this government has previously recognised and argued for. This government made a strong argument against providing more peacekeepers for Iraq and resisted American requests for that because it had other priorities. The government has made public on a number of occasions its commitment to bringing the troops home as soon as it can.

Funnily enough, it seems that the government has now changed its mind. It had a view that we ought not have peacekeepers in Iraq. It had a view that we ought not be caught up in Iraq for a long period of time. But something happened last week that made it change its view. Now it is very committed to staying in Iraq for a longer period. It is pure opportunism to now try and reverse what has been for a long period of time a very sound policy to not provide peacekeepers in Iraq. Labor’s priority is to withdraw those troops and to prioritise our commitments in the region and to the war on terrorism. Labor’s priority is to make the same sort of decision that the Howard government...
made in relation to Afghanistan. The government made a contribution to the military invasion of Afghanistan and then said that Australia had other more pressing priorities closer to home and that we could not continue to supply military forces to Afghanistan. Labor’s argument is much the same with respect to Iraq. We say we will maintain our commitment to the war on terrorism and we will continue to make very strong contributions to that as well as fulfil our role in the region. Our priorities lie in the defence of Australia and in our involvement in the region and in the war on terrorism.

Those are our defence and strategic priorities, and we are prepared to argue them. We think that the war on terrorism is a much greater priority for Australians and for Australia’s defence efforts and that the growth of terrorist cells in countries to our immediate north requires a concentration of effort and a concentration of defence resources directed at that. What we have seen with the war on Iraq is a diversion from the fight against terrorism and a diversion from the war on terrorism, with thousands and thousands of resources being poured into Iraq against what could have been used on the war on terrorism.

What we know is that we have a very small commitment to Iraq—albeit a very effective commitment of highly professional ADF soldiers—of about 400 ADF members compared to the total of 130,000 British, American and other troops inside Iraq. Our contribution is small. We are not providing peacekeeping; we are not providing security for the Iraqi people. As the minister is fond of saying, we are providing some niche capabilities. Each of those niche capabilities can be withdrawn without impacting on the security of the Iraqis or the security situation inside Iraq. The minister has already indicated that the air traffic controllers will be coming home as soon as the function is moved to a private contract. Clearly the weapons search team are coming home. They have been searching and searching for a long time; they have not found anything. I suspect that if they have not found anything by Christmas it is reasonable to say, ‘Come home, chaps. There is nothing to find.’ As for some of the other detachments we have got inside Iraq, clearly these forces can safely be removed without impacting on the security of Iraqis or the security situation inside Iraq.

This is an important debate. Labor is very committed to providing a strong defence policy but one centred on our priorities: the war on terror, security in our region and defence of Australia’s interests. We say that those are our priorities, not Iraq. We have an alternative defence posture to the government’s. We are entitled to that, we are entitled to argue it and it is important that it be argued, because we say Australia’s interests do not lie in a long-term military engagement inside Iraq. There is no walking away from the Iraqi people but it is reasonable to withdraw from our military commitment. (Time expired)

Senator MURPHY (Tasmania) (4.32 p.m.)—I am sure our defence forces would be somewhat bemused by the matter of urgency debate in this parliament at the moment and by what can really only be described as total political one-upmanship using the troops in Iraq. We have the government position, which seeks to exploit the opposition’s view—or at least the Leader of the Opposition’s view—or at least the Leader of the Opposition’s view—that the troops ought to be brought home by Christmas. We have the Democrats’ position, which seems to be contradictory to positions they have previously expressed but which is also seeking to exploit the situation from a public and political point of view. Of course, the opposition is seeking to amend the Democrats’ motion with a somewhat changed view of attempting to bring the troops home by the end of 2004. Then we have the Greens’ position, which is
for an immediate withdrawal of some of the defence personnel, with the exception of those that are required to protect Australian diplomatic representatives, which is a rather interesting position as well.

I am sure that the defence forces of this country would be somewhat disappointed that we are having this debate. Sure, there was a situation that occurred so that, in essence, we participated in the invasion of Iraq on a false premise, on wrong information. We will never know to what extent the government of the day knew about—or to what extent they had information that would at least indicate to them that there were no—weapons of mass destruction. We have heard that position change time and time again, and it continues to change. Of course we did go there; we are there. The country of Iraq is in a terrible state and it would be a shame if we were to walk away from something that we probably should not have started in the first place. If we were to walk away from it, that would not allow the Iraqis the opportunity to get their country rebuilt and it would not give them some opportunity for the future. But this is not really the way to go about it.

I think that the time we are consuming in the Senate by what can only be described as political opportunism in an election year and kicking our defence forces around like a political football is reprehensible. That really should not be the case. We should not be arguing about when they should come home. Even the opposition suggest that they should come home after the job is done. I am amused by the call by the Democrats to get the Prime Minister of the day to somehow define the task that needs to be done, which is a very interesting proposition. (Time expired)

Senator FERGUSON (South Australia) (4.35 p.m.)—I can understand this matter of urgency motion being brought forward by the Democrats because in fact the Democrats have been quite consistent on these issues—consistently wrong, I might say, but they have been quite consistent. I can understand the Greens’ position and Senator Brown’s because, as he appeals to the loony Left and those people who could not be considered to be in the mainstream of Australians, he has been quite consistent in his position. He has been consistently wrong, but he has been consistent.

Then we come to the position of the Australian Labor Party and, to be honest with you, I have no idea what their position is because they have five or six different positions and they have had them over this past week. They have changed their position on the withdrawal of Australian troops on a daily basis. We listened to Senator Faulkner today as he meandered along talking briefly to the motion that was before us but then getting onto the issue of weapons of mass destruction. The last half of his contribution bore no relation to the motion that is before us today. So we saw yet another position of the Labor Party because we find now that the Labor Party are not going to bring the troops home by Christmas but that it is in fact their intention to return our forces to Australia by the end of 2004 or as soon as practicable. So once again it is changed and the position of the Labor Party is just simply not known.

I listened to Senator Brown talking about the terrible events and the numbers of people that had been killed in the war in Iraq. This is the same Senator Brown who came into this chamber prior to the commitment of our troops and said there would be 500,000 women and children—citizens of Iraq—killed as a result of our being part of the coalition in Iraq. In fact, the numbers he is talking about are getting close to the sorts of numbers that Saddam Hussein killed in Iraq—not the coalition forces. To get rid of that tyrant with such a small loss of life was,
I think, a wonderful effort and a tribute to all those who took part.

I can tell you, if you really want to find out what the people of Iraq are feeling. In August last year, Senator Lightfoot and I were honoured to host Mr Jalal Talabani of the Iraqi Governing Council at a dinner while he was here. Mr Talabani was at that time the head of the governing council. He explained to us his proximity to the terrorist activities in Iraq—those activities arranged by the fundamentalist Muslims—and how they were against the new democratic climate and environment growing in the wake of the collapse of Saddam Hussein’s dictatorship. Mr Jalal Talabani said:

We are in need to rebuild Iraq and to reshape it on a democratic principle. We are determined to have a democratic parliament, a federation, an independent Iraq with full sovereignty. And for that, of course, one day we want to see the coalition forces go back home.

He was asked then: but when? He responded:

We think that if they leave now there will be chaos and even civil war, and the possibility of our neighbours interfering. When the democratic Iraq has been established, when we have our government freely elected and our parliament, and when we rebuild our security forces then I think there will be the day that we ask the coalition forces to go home.

That is what the people of Iraq want to happen. Here we have the Leader of the Opposition, Mr Mark Latham, saying—in spite of all the requests we have had from the Iraqi people and in spite of the fact that we are part of a coalition of some 34 or 35 countries inside Iraq, along with a number of others who are contributing not necessarily inside Iraq but making a contribution nonetheless—‘Well, if we win government when we have a federal election, we will have our troops home by Christmas.’ It is very reminiscent of his mentor, Gough Whitlam, who said, ‘I’ll have the troops home by Christmas’. History tends to forget that most of the troops were already out of Vietnam when Whitlam said that: there were only 70 or 80 left. So of course he brought the last 70 or 80 home. In fact Sir William McMahon, when he was Prime Minister, had brought all the other troops back prior to that election taking place. It is one of those myths that seems to be able to be perpetrated by the ALP that the saviour who got the troops home from Vietnam was the new Prime Minister Whitlam when in fact it was not.

Senator Evans says that we seem to be having a hysterical debate. The only one who got hysterical today was Senator Evans. He was trying to defend the indefensible of having five different policies in one week—five different inferences on their policy. He says that we are part of a coalition of 34 or 35 countries. Why would we want to pull out and give that signal to the terrorists who are still operating within that country? Why would we pull out—a sign of weakness—when in fact we ought to be part of the large number of countries that are there helping to get Iraq back on its feet? Senator Evans also said that we have three priorities. One of those, he said, was the defence of Australia. He then went on to say what a small number of forces we have in Iraq. As you well know, Mr Acting Deputy President, with the number of troops we have committed in Iraq it is well within the ability of the Australian defence forces to do the job of being part of that coalition and also to defend Australia.

What does Senator Evans mean by the ‘defence of Australia’? Does that mean that you have to have all of your troops inside Australia looking out in case somebody comes to invade Australia’s shores? The defence of Australia in modern times, with modern communications and modern warfare, means that you do not necessarily defend Australia by having all of your troops at home. In fact sometimes the best thing you
can do to defend Australia is to have some of your troops helping other people elsewhere in the world to rid the world of terrorism and to make sure that we stop terrorist acts at their source rather than have them waiting back in Australia for people to come to our country to perpetrate acts of terrorism. I strongly support the amendment by Senator Hill, which at the end says:

That the Senate is of the opinion that no elements of this contingent of Australian Defence Force personnel should be withdrawn until their respective tasks have been completed and that no arbitrary times should be set for such withdrawal.

I would urge the opposition to support that motion because there should not be an arbitrary time.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.42 p.m.)—I must say that the government members’ contribution to this matter of urgency debate has been very disappointing. This is an attempt to have a serious debate about an important issue in the Senate as opposed to the political name-calling in the House of Representatives. I think most other senators did that despite their differing views. I do not know what Senator Murphy is saying when he talks about the Democrats position being inconsistent because our position has been completely consistent on this issue. That is the reason why we will not support Senator Brown’s amendment. The Democrats and the Greens had a shared view that our troops should not have been involved in Iraq, but we do have a difference of opinion on this—our view is that our troops should not be withdrawn immediately.

We do have an obligation under international law, specifically the fourth Geneva convention, as a party to the conflict. An occupying power cannot refuse to govern. It has obligations to maintain the basic social infrastructure, to guarantee food and medical supplies, and to permit and facilitate the provision of relief aid. Quite frankly, the Howard government has in many respects already cut and run in terms of that core obligation. The amount of support we are providing is token at best. I again refer people to the article by Brian Toohey in the weekend Financial Review. The fact is that, once the air traffic controllers have withdrawn—which Senator Hill has already said he is going to do—New Zealand will have more people in Iraq rebuilding the infrastructure than Australia. New Zealand have no obligations—they were not part of the invading force; they did not even support it—but they are still chipping in to help rebuild more than Australia is. New Zealand have 91 personnel in Afghanistan; Australia has one, because Mr Howard has already cut and run from there.

So let us stop this pathetic name-calling suggesting that just because you believe our troops should be withdrawn somehow you are withdrawing from the battle against terrorism. That is ridiculous. We are all equally committed to fighting terrorism and to simply use that sort of schoolyard name-calling is to not treat an important issue seriously. The Democrats support Senator Faulkner’s amendment. We think it is quite a good choice of words that we agree with almost completely. It puts the situation well. It is a simple fact that we did not support the troops going. Now that they are there, they have a job to do; but let us get them home as soon as possible.

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

The Senate divided. [4.49 p.m.]
(The President—Senator the Hon. Paul Calvert)

Ayes............ 34
Noes............ 32
Majority........ 2
AYES
Allison, L.F.  Bartlett, A.J.J.
Bishop, T.M.  Bolkus, N.
Brown, B.J.  Buckland, G.
Campbell, G.  Carr, K.J.
Cherry, J.C.  Cook, P.F.S.
Crossin, P.M. *  Denman, K.J.
Evans, C.V.  Faulkner, J.P.
Forshaw, M.G.  Greig, B.
Hogg, J.J.  Hutchins, S.P.
Kirk, L.  Lees, M.H.
Ludwig, J.W.  Lundy, K.A.
Mackay, S.M.  Marshall, G.
McLucas, J.E.  Moore, C.
Murray, A.J.M.  Nettle, K.
Ridgeway, A.D.  Sherry, N.J.
Stephens, U.  Wong, P.

NOES
Abetz, E.  Barnett, G.
Boswell, R.L.D.  Brandis, G.H.
Calvert, P.H.  Campbell, I.G.
Chapman, H.G.P.  Colbeck, R.
Coogan, H.L.  Ferguson, A.B.
Ellison, C.M.  Harradine, B.
Ferris, J.M.  Hill, R.M.
Humphries, G.  Kemp, C.R.
Knowles, S.C.  Lightfoot, P.R.
Mason, B.J.  McGauran, J.J.J. *
Minchin, N.H.  Patterson, K.C.
Payne, M.A.  Santoro, S.
Scullion, N.G.  Tchen, T.
Tierney, J.W.  Troeth, J.M.
Vanstone, A.E.  Watson, J.O.W.

PAIRS
Collins, J.M.A.  Johnston, D.
Conroy, S.M.  Macdonald, J.A.L.
Stott Despoja, N.  Macdonald, I.

* denotes teller

Question agreed to.

Senator Webber did not vote, to compensate for the vacancy caused by the resignation of Senator Alston.

Senator HILL (South Australia—Minister for Defence) (4.51 p.m.)—by leave—I move the amendment that I foreshadowed:

Omit all words after “urgency”, substitute:

(a) the need for the Senate to express its continued support for and confidence in the 850 Australian Defence Force personnel currently deployed in or around Iraq and to record its deep appreciation for the outstanding professionalism they have displayed in carrying out their duties; and

(b) the need for the Senate to express its opinion that no elements of this contingent of Australian Defence Force personnel should be withdrawn until their respective tasks have been completed and that no arbitrary times should be set for such withdrawal.

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

The Senate divided. [4.56 p.m.]
(The President—Senator the Hon. Paul Calvert)

Ayes............ 33
Noes............ 34
Majority........ 1

AYES
Abetz, E.  Barnett, G.
Boswell, R.L.D.  Brandis, G.H.
Calvert, P.H.  Campbell, I.G.
Chapman, H.G.P.  Colbeck, R.
Coogan, H.L.  Ferguson, A.B.
Ellison, C.M.  Harradine, B.
Ferris, J.M.  Hill, R.M.
Humphries, G.  Kemp, C.R.
Knowles, S.C.  Lightfoot, P.R.
Mason, B.J.  McGauran, J.J.J. *
Minchin, N.H.  Patterson, K.C.
Payne, M.A.  Santoro, S.
Scullion, N.G.  Tchen, T.
Tierney, J.W.  Troeth, J.M.
Vanstone, A.E.  Watson, J.O.W.

NOES
Allison, L.F.  Bartlett, A.J.J.
Bishop, T.M.  Bolkus, N.
Senator Webber did not vote, to compensate for the vacancy caused by the resignation of Senator Alston.

Senator BROWN (Tasmania) (4.59 p.m.)—by leave—I move:

Omit paragraph (c), substitute:

(c) the immediate withdrawal of the Australian Defence Forces from Iraq with the exception of any personnel required to protect Australian diplomatic representatives.

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

The Senate divided. [5.01 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes……………… 2
Noes……………… 60
Majority………… 58

AYES

Brown, B.J. Nettle, K. *

NOES

Abetz, E. Allison, L.F.
Barnett, G. Bartlett, A.J.
Bishop, T.M. Boswell, R.L.D.
Brandis, G.H. Calvert, P.H.
Campbell, G. Carr, K.J.
Chapman, H.G.P. Cherry, J.C.
Colbeck, R. Conroy, S.M.
Cook, P.F.S. Coonan, H.L.
Crossin, P.M. Denman, K.J.
Cook, J.P. Elliot, C.M.
Evans, C.V. Faulkner, J.P.
Ferguson, A.B. Ferris, J.M.
Forshaw, M.G. Greig, B.
Harris, L. Hill, R.M.
Hogg, J.J. Humphries, G.
Hutchins, S.P. Kemp, C.R.
Kirk, L. Knowles, S.C.
Lees, M.H. Lightfoot, P.R.
Ludwig, J.W. Lundy, K.A.
Mackay, S.M. Marshall, G.
McLucas, J.E. Mason, B.J.
Murray, A.J.M. McLucas, J.E.
O’Brien, K.W.K. Moore, C.
D. Ray, R.F.
Ridgeway, A.D. Scullion, N.G.
Stephens, U. Sherry, N.J.
Wong, P. Tierney, J.W.
Vanstone, A.E. Troeth, J.M.

* denotes teller

Question negatived.

The PRESIDENT—The question now is that the motion standing in the name of Senator Bartlett, as amended, be agreed to

Question agreed to.

DOCUMENTS

Auditor-General’s Reports
Report No. 37 of 2003-04

NATIONAL SECURITY: TERRORISM

Senator Faulkner—Mr President, I rise on a point of order. I seek your guidance on an order of the Senate for the production of documents to be returned by 4 p.m. this day. The debate on the Iraq urgency motion commenced before that time and this is the first break in proceedings after the conclusion of that debate. I am seeking your guidance as to whether we can expect a statement from the government on this matter.

The PRESIDENT—There is no point of order, but it is up to the government to respond and I think Senator McGauran wishes to make a statement.

Senator Faulkner—Thank you for that guidance, Mr President—because you were calling the other item of business, this was the first available opportunity to seek it.

Return to Order

Senator McGauran (Victoria) (5.08 p.m.)—by leave—I have been given this statement to read. The Senate ordered that ‘all drafts of the clarifying statement which was negotiated between the Australian Federal Police Commissioner, Mr Keelty, and the Secretary of the Department of the Prime Minister and Cabinet, Dr Shergold, and any other members or representatives of the Government and which was issued by the Commissioner on Tuesday, 16 March 2004’ be laid on the table. If any such draft existed it would be a communication between senior office holders of the public sector or between such office holders and members or representatives of the government. It is a long-established practice that such communications are confidential. The government would not table such documents.

LEADER OF THE GOVERNMENT IN THE SENATE

Suspension of Standing Orders

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (5.09 p.m.)—Pursuant to contingent notice of motion, I move:

That so much of the standing orders be suspended as would prevent Senator Faulkner moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion of censure of the Leader of the Government in the Senate (Senator Hill), relating to his failure to comply with the order of the Senate for the production of documents concerning the Australian Federal Police Commissioner.

Question agreed to.

Procedural Motion

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (5.10 p.m.)—I move:

That a motion to censure the Leader of the Government in the Senate (Senator Hill) may be moved immediately and have precedence over all other business today till determined.

Question agreed to.

Censure Motion

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (5.11 p.m.)—I move:

That the Senate censures the Leader of the Government in the Senate (Senator Hill) for his failure to comply with the order of the Senate of 24 March 2004, requiring him to lay on the table by no later than 4 p.m. today, copies of all drafts of the clarifying statement which was negotiated between the Australian Federal Police Commissioner, Mr Keelty, and the Secretary of the Department of the Prime Minister and Cabinet, Mr Shergold, and any other members or representatives of the Government and which was issued by the Commissioner on Tuesday, 16 March 2004.

What a contempt of the Senate when the National Party deputy assistant whip in this place is delegated to inform the Senate that the government will not comply with such an important order of the Senate. The most junior person in the Senate who could provide that information, Senator McGauran, was delegated—probably because he was the
only one who would be willing to do so, probably because he did not understand what he was doing—to come into this chamber and indicate that this important order of the Senate would not be complied with. How typical of the Howard government to thumb its nose at the Senate in this way. How typical of the Howard government to cover up and fail to comply.

Why are they doing it? In order to avoid embarrassment, in order to avoid exposure of their heavy-handed bullying of Police Commissioner Keelty and in order to keep the facts hidden. They have sent in poor old Senator McGauran to tell us that the government will not comply, that the government will not table these documents—poor old Senator McGauran, the patsy who has to reveal that the government is not going to provide these documents to the parliament and to the Australian people.

Of course, if those documents were provided, it would reveal the government’s role in this sordid affair. Last Wednesday, 24 March, the Senate passed a motion seeking the tabling of the various drafts of the clarifying statement that the government forced on Police Commissioner Mick Keelty two days after he made what could only be described as a commonsense observation that the war in Iraq would increase the terrorism threat for allies of the US involved in the war.

We know that the Prime Minister’s chief of staff, Mr Sinodinos, rang the AFP commissioner on Sunday, 14 March after he had had a conversation with the Prime Minister. We know that the Prime Minister was watching the Sunday program from the comfort, the splendiferous surroundings, of Kirribilli House. Apparently, we are told, the Prime Minister was ‘unimpressed’. He immediately called Mr Sinodinos and:

I interpolate here; it is Commissioner Keelty—

be alerted to the fact his view was out of sync with that of the Government.

That was from Dennis Atkins in the Courier-Mail. We know that on this occasion, through Laurie Oakes in last week’s Bulletin, Commissioner Keelty was, to use Mr Oakes’s words, ‘clearly shaken’ by the phone call from the Prime Minister’s chief of staff, Mr Sinodinos. Media reports suggest that Mr Sinodinos personally chastised the commissioner and that the conversation was terse. Was this when Mr Sinodinos put the hard word on the commissioner for the clarification or was it after the Channel 9 news that night? Mr Howard was extremely agitated about the news item, so much so he repeated the news grab twice during question time and in the debate on the censure motion in the House of Representatives last week. This is what Mr Howard said in the parliament:

I point out to the Leader of the Opposition that on the Sunday evening of the day of the commissioner’s interview, which was 14 March 2004, the Channel 9 news bulletin in Sydney—which is the most widely watched news bulletin anywhere in Australia—carried this comment by the newsreader Mark Burrows:

“Put another way, our top cop believes our involvement in the Iraq war has made us a possible al-Qaeda target.”

Our top cop did not say that on the Channel 9 program when he was being interviewed, and that is an illustration of why clarification was needed. That is what Mr Howard said. Was that when the clarification was demanded, after the most widely watched news bulletin aired a commonsense interpretation by Police Commissioner Keelty? We do not know. Oversensitive as he is, Mr Howard certainly thought this whole thing was a gigantic media problem for his government. The Prime Minister confirmed it in parliament last week. He said:
There were discussions last week between me, my chief of staff, the secretary of my department and the commissioner. Those discussions arose from the commissioner’s interview on Channel 9 on Sunday, 14 March 2004. There was nothing at all improper about those discussions. They respected fully the operational role and the independence of the Australian Federal Police. That is what the Prime Minister said in parliament. What did Senator Ellison say in this chamber? What did the Minister for Justice and Customs tell the Senate on 22 March? Senator Ellison said:

From my discussions with the police commissioner, this statement was his own statement and he issued the statement of his own accord. I certainly discussed the matter with the police commissioner, which you would expect, but that statement was made by Commissioner Keelty ...

As to how Commissioner Keelty arrived at the statement that he made, you had best ask him.

Senator Ellison admitted in this chamber on Tuesday of last week that he did not speak to Commissioner Keelty about the matter until two days later, which, of course, is extremely lax. It is just what you would expect from Senator Ellison as the minister in charge of the AFP. I am not particularly surprised, I have to say, that Senator Ellison was kept out of the loop. That is what you would expect in the case of Senator Ellison. But the commissioner’s clarification was issued on Tuesday afternoon, 23 March. We understood through media reports that the Secretary of the Department of the Prime Minister and Cabinet, Dr Peter Shergold, and perhaps the office of the Attorney-General, Mr Ruddock, or the Attorney-General’s Department were involved in its drafting or vetting. When asked last Wednesday in question time whether it was true that his staff had drafted the clarifying statement at his direction, the Prime Minister, unlike Senator Ellison, simply avoided the question. He did not answer the question. He just claimed:

... the commissioner is totally supportive of the statement, it was the commissioner’s statement.

If that is the case, this government should have nothing to hide. It should be prepared to table these important documents in the Senate.

The Prime Minister told parliament that the commissioner was not rebuked, that the commissioner was not treated improperly. That is not the picture that emerges from the leaks to the media and what we know about this incident as it has been reported. If the Prime Minister does believe that the commissioner was treated properly, why does he have a problem with releasing the drafts of the clarifying statement? There is no reasonable excuse for failing to release these drafts. It is not as if there have been a lot of drafts to round up. There might be Commissioner Keelty’s drafts; there might be Dr Shergold’s drafts; there might be whatever tinkering went on in the Attorney-General’s office or department; and there might be whatever tinkering went on with Mr Howard and Mr Sinodinos. But there is no good reason why the drafts of the statement could not be tabled in the Senate in accordance with an order of the Senate.

This government has had plenty of time to get these few documents in order and there can be no valid excuse for not complying with this order. Of course, while there is no valid excuse, there is a reason for not complying with the order. The reason is that, if these drafts were tabled, the parliament and public would become aware of the government’s bullying of one of the country’s most important independent statutory office holders. The government would actually be exposed. The drafts would expose this government’s modus operandi in dealing with senior officials who stray away from the government line. Of course, the problem is that these drafts would expose the truth. When
the truth is unpalatable, this government will go to any lengths to conceal it.

Although this is a very serious breach of an order of the Senate, on a matter about which there must be government accountability, it needs to be said that this is now standard operating procedure for the Howard government. I think it is worth identifying this government’s abysmal record of compliance with Senate orders for the production of documents. It is an absolutely abysmal record. There have been 72 such orders made by the Senate since the beginning of 2002. On 22 occasions out of 72, the government has refused to comply with the orders. No doubt someone from the government will stand up and say, ‘That’s how the Labor Party operated when it was in government.’ It is simply not true. This stands in stark contrast to the way the Labor government responded to these orders of the Senate. During the term of the Keating government, the Senate made 53 orders for the production of documents, only four of which were not complied with. On those four occasions there were very good reasons for noncompliance.

Although we have that pattern of failure to comply with Senate orders and the pattern of government cover-up, the particular case we are looking at is an open-and-shut case. The truth of the matter—when there is any truth from the government on any of this—is that Mr Howard crossed the line in this case. Instead of frank advice from our highest officials, Mr Howard demands unqualified, third-party endorsement. That is standard operating practice for the Howard government. That, in Mr Howard’s mind, in the government’s mind, is what high-profile government officials, public servants and officers are there for—to back Mr Howard’s line, to back up the government holus-bolus, without demur and without dissent.

If the return to order had been adhered to, as any reasonable person would expect from any government in these circumstances, we would have seen clearly what demands were made and what demands were met. Given that Commissioner Keelty did not retract from his original position in his clarification statement, I do not think that Mr Howard did get this issue, by any stretch, all his own way. One thing is for sure—the Howard government does not want anyone to know. We may never know, because the government will probably continue its policy of cover-up.

That is what needs to be clearly identified here. In failing to provide the documentation demanded by the Senate, Mr Howard is covering up a very dubious process. In an accountable system of democracy, such behaviour is utterly unacceptable. This should be unacceptable to the Senate and the Australian parliament. It ought to be unacceptable to the Australian people. It ought not to be acceptable to put the screws on the chief of police, our top cop, cover it up and then hide behind the pathetic statement that we have heard read out to this chamber.

I believe the appropriate course of action for the Senate is to roundly condemn interference where prime ministerial advisers ring senior, non-political figures and leave them shaken because their nuance about an issue is not the preferred nuance of the government, the government’s advisers or the Prime Minister. When an unremarkable comment, like the one that Commissioner Keelty made, becomes some sort of political bombshell, it is a pretty fair indication of how rattled the Prime Minister, Mr Howard, is, how rattled his government is and how corrupted the process of government has become.

I want to be very clear about this: I think that the treatment of Commissioner Keelty is a disgrace, but I also think that the failure to
adhere to such an order of the Senate is a disgrace. This chamber now needs to consider what action to take. One of the problems that we face in the Senate when a government engages in this sort of behaviour is the issue of what sanctions exist. What can the Senate do that is reasonable? There are suggestions that we should not deal with government legislation—effectively, if you like, that the Senate should go on strike—and that we should not ask certain ministers questions and so forth. All of these have an impact on the very important accountability mechanisms of this parliament, the best of which lie in this chamber. There is one course of action—one sensible course of action, one proper course of action—and that is to censure the government and the minister responsible. I do not believe that the Senate has any alternative but to take substantive action in this circumstance and censure Minister Hill. I commend this censure motion to the Senate.

Senator HILL (South Australia—Minister for Defence) (5.31 p.m.)—I turned on my radio this morning and I heard our Clerk expounding his views on what action the opposition might take if they did not achieve their objective of obtaining internal working documents of the government today. He said that there were a range of different things, from refusing to pass legislation right through to making a lot of noise. What we have heard from Senator Faulkner today is a lot of noise. We know that this is not a serious debate about a matter of consequence; this is an excuse for Senator Faulkner and the Labor Party to attempt to return to the issue of Commissioner Keelty. They got a good run in the press a week or so ago on that issue. Things have not been going so well since. We have had the experience of Mr Latham and his five policies in seven days on the issue of pulling our troops out of Iraq when the job is half done. The best action the Labor Party could take now—their best hope—is to get matters to return to where they were a week and a half ago. So we have heard Senator Faulkner make this 20-minute prepared speech—written text—in an effort to achieve that objective.

Why did he have a 20-minute prepared speech? Why did he assume that the government would refuse to meet the terms of this order? Because he knew that what he was seeking was highly irregular. He knew that what the Senate ordered was highly irregular. No government would produce its working documents even if they existed. Whether or not there are such drafts in this instance I do not know. The issue is that, if there were drafts, it would be inappropriate for a government to put them on the table, because they are internal working documents of government. Once they were made public, officials would no longer be able to work with ministers in confidence, and senior officials would not be able to work with each other. This motion refers to Dr Shergold, the head of the Prime Minister’s department, and Commissioner Keelty. They should be able to talk to each other, work with each other, write to each other and maybe even prepare drafts with each other without the threat that such work will appear on the public record.

Once that internal work can be subject to public scrutiny, people clam up. They can no longer communicate effectively. They do not reduce to writing things that ought to be reduced to writing. That does not lead to good government. It does not lead to good practice. In the past the Senate has recognised that and it has not passed orders of this type. It has respected the right of government to the privacy of its internal workings and then made judgments on the outcomes of those workings. That is what this process of the parliament is supposed to be all about: governments make decisions, those decisions are questioned in this forum and that leads to
public debate. The internal dialogue that might be behind such decisions is a matter for the government, and public servants and ministers have the right to expect privacy in that regard.

Senator Faulkner is correct when he says that there have been a significant number of these orders where the government has refused to table the documents. That part is correct. What he has not told the Senate is that there have been a record number of orders. He referred to 72 orders. This never happened in the past, because this was regarded as a last resort opportunity, to be used in the most serious of circumstances and in relation to appropriate documents. Since the Howard government has been in office, the Labor Party and the tame Democrats have joined together to pass, as Senator Faulkner has said, 72 of these orders in an effort to get to the inside workings of the government on every possible occasion. Where it is not proper that those documents be tabled, the government will not table them and the government will suffer the consequences of not doing so. That is a principle that we on this side of the chamber believe to be serious.

This is the second time that I have been censured. I know that I will be again because the Democrats will just go down the Labor path. For them it has been the path to total irrelevance, but that is their decision to take. The Labor Party is after short-term political gain. When I was environment minister I had a number of these orders against me. I do not think I have had any since I have been defence minister—not that I can immediately recall, anyway. But I recall quite a number as environment minister. I took them all seriously. When there were documents that it was proper to table, I tabled them. In one instance the Senate argued that there were some documents that I should have tabled but did not, and I was censured. I was quite upset about that because it was an arguable position, but I take the process of the Senate seriously. I respect the Senate and I respect the standing orders, but when they are abused by the Labor Party—as they have been in this instance—you have to stand up to that abuse.

This is not an instance of a genuine attempt to obtain documents that can be properly laid before the parliament—properly brought into the public arena in this form. That is why we have not agreed to this: it is an abuse. Senator Faulkner got up and argued that the failure to produce the documents was an abuse. It is the process that has been adopted by the Labor Party on 72 occasions—taking this short-term course of action in an effort to embarrass the government—that has become the abuse of process and has so devalued this opportunity that the Senate has—an opportunity of last resort—that it is now no longer taken seriously. So the censure is not taken seriously either. Nobody is taking this process seriously. It is Senator Faulkner’s excuse for a 20-minute argument on what was wrong with the Keelty exercise.

The process that we have adopted is quite proper. A response was given on my behalf by the whip, in which I said that I was unable to comply with this order because, if any such draft existed, it would be a communication between senior office holders in the public sector and between such office holders and members or representatives of the government. As I said, it is a long-established practice that such communications are confidential. In such a circumstance, the government would not be able to table such documents. It is the proper position to take. I suspect that, when Labor was in government, it would have been the position it would have taken if we had abused the standing orders in this way by seeking documents that were inappropriate to be tabled. This is not a debate about the forms of the Senate. It is not a
debate about the failure to produce these working documents, because the opposition never expected the working documents to be produced. It is really an attempt to get back onto the Keelty matter. If Mr Keelty wants to put in the public arena a qualifying statement, he is perfectly entitled to do that. I even had to do it myself last week on another matter.

It does occur on occasions that what you say is taken out of context and turned against you, and it is occasionally necessary to clarify what you have said—even for somebody such as me, and I exercise considerable care in what I say. When I am asked a question that relates to a different matter—for example, about the threat in Iraq relating to weapons of mass destruction—and my answer is interpreted as my view on what might remain of Saddam Hussein’s arsenal of weapons, clearly that is taken out of context, clearly that is a misrepresentation and clearly I am entitled to clarify the position. It is perfectly legitimate, and others might hold that view as well.

Our position in relation to Commissioner Keelty is well known. I said that last week when I was asked a question on the matter—apparently what I said was not newsworthy; it did not get reported—and I talked about what a great job the Federal Police have done in recent years and about the superb job that they did and are still doing in East Timor, particularly when the going was really tough. I remember motions of support in this chamber for the AFP for the work that they did in East Timor, and I sometimes think they did not quite get the full recognition that they deserved for that work. I think of what they did and what they are still doing in Indonesia after the Bali bombing. Their investigative support for the Indonesian government has been wonderful. The achievements have been good for the security of Australians and they have been good for Indonesia. In fact, the Indonesians have commended that support. I think of what the AFP are doing in the Solomon Islands now, another difficult mission. They went unarmed into a difficult environment. There were militia elements involved and nobody knew what the response would be. The AFP said that they preferred not to be armed—that was the way they wanted to operate—because otherwise it would just encourage a culture of weapons. So they went in with great courage, and they have done an outstanding job there as well.

The AFP have done this country proud in recent years, and I think their leadership has been superb. I give every credit to Commissioner Keelty for the part that he has played in that regard. I am sure the AFP will continue to play the very important role they play in safeguarding the interests of all Australians. I regret the politicisation of what Mr Keelty said. I regret that he was taken out of context. I regret that he needed to put down a clarifying statement. But, now that he has done that, why can’t we move on? We cannot move on because it is the only issue the Labor Party have got going. It is the one they want to return to, because they reckon they can squeeze just a little more out of the sponge on this issue. They have abused the Senate processes to have this debate. I think Senator Carr ought to turn his mobile phone off and listen to the debate as well.

Senator Knowles—No respect for the institution.

Senator HILL—It is another example. I do not think this debate is deserving of a longer contribution on my part. It is a nonsense. It is just a bit of politics. What I do regret is the way that the standing of the Senate has been drawn into an attempt to gain a few doubtful political points from this issue, but that is the way this Labor Party works. It has no respect for the institution.
Where it is improper to table documents, we will not table documents. We have said it is improper in this instance on the basis of all of the conventions, all of the longstanding practices. We are consistent with those longstanding practices. We do not apologise for that. If the Labor Party is going to abuse the Senate, why should we be a party to that abuse? I am sorry that the Senate is being used in this way but, if that is how the Labor Party wants to operate in this chamber, so be it.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (5.45 p.m.—I rise to speak to the motion moved by Senator Faulkner to censure Senator Hill for his failure to comply with the return to order of the Senate of, I think, last week. The Democrats have spoken a number of times on, and have a long history of, trying to ensure that the Senate operates in a way that maximises accountability and transparency.

Senator Hill—You’ll vote for it, won’t you?

Senator Faulkner—I hope so.

Senator Hill—Of course they will; they’re just puppets of the Labor Party.

Senator BARTLETT—I was not about to but, now you have said that, I am so offended that I will have to change my mind. As I said, the Democrats have a long record, a long history, of working to have the Senate function as effectively as possible as a chamber of accountability, ensuring transparency in government. I have spoken a number of times on the importance of the Senate being a house of review, of the Senate being able to ensure that the government’s activities are as transparent as is reasonably possible. I will not, therefore, go on at length about that now, but that does not in any way diminish the importance of that fact.

It is undeniable that the power of the executive government has increased dramatically over the century since Federation, particularly in the last 20 or 30 years. Consequent on that has been a shrinking in the power of the parliament and, in my view, of the courts. There has been a deliberate approach on the part of this government in particular but also previous governments to seek to avoid or circumvent the parliament and the courts wherever possible. That is an ongoing trend and a very dangerous one. It is no accident that our system of government has the separation of powers between the courts, the parliament and the executive. There is no doubt that the parliament and the executive do have some overlap, particularly in the House of Representatives, where the executive controls the chamber. That is why the Senate is so important. That is why returns to order are so important.

I think it is worth saying—I will give at least this much to Senator Hill’s argument—that there has been an increase in the number of returns to order. These are, as the name suggests, orders of the Senate for the production of documents. They are legal orders. The Senate has the legal power to order the production of documents and, technically, could seek to legally enforce those orders. In almost all cases that would be extremely unwise. Having the government and the parliament engaged in a battle in the courts over enforcing production of documents is something I would see as undesirable in almost all circumstances and certainly in this case.

There is no doubt that the number of returns to order has increased in recent times, but the amount of secrecy and the level of deception from this government have increased in recent times. It is almost a catch-22. The level of secrecy and deception increases, so the Senate is required to use more frequently its power under returns to order to try to uncover some of that secrecy and deception; whereupon the government complain that we are using the power too much
and say it has thereby been devalued and so they will not release the documents. That then leads us to say that this is another example of secrecy and pushes us further down the track of trying to get returns to order. If there were some way of breaking that vicious circle I would be keen to examine it, but one has not been put forward and the attitude that the Minister for Defence presented in his comments gave me no indication that there is a serious attempt to do so.

This practice on the part of the government is not confined to the Senate chamber. We have regularly seen this government getting more and more unwilling to provide full information to Senate committee inquiries. We have seen refusals by this government to allow certain public servants to appear before certain inquiries. We have a blanket refusal to allow ministerial staff to appear before Senate committee inquiries. So there is a growing trend of preventing the Senate from doing its job in getting access to information. The current inquiry of the Senate Select Committee on Ministerial Discretion in Migration Matters, which I am on and which I think is to report tomorrow, has covered some of the same areas as an inquiry of the Senate Legal and Constitutional References Committee I took part in four years ago looking at refugee issues, which produced a report called A sanctuary under review. Seeking the same information, four years ago we were able to get a much wider range of information from the department, through the minister, than we were able to this time around. I will not pre-empt the report, because someone might accuse me of contempt myself, but that has been a frustration for the committee.

I mention that because it demonstrates that the decline in cooperation has increased in recent years. Perhaps that is not a surprise. I think the longer any party are in government the more they want to get their own way, the more contemptuous they get of anybody getting in their way and the more they treat others with contempt, whether it is the Senate, the community or, as in the case that triggered this whole debate, Commissioner Keelty. That is a broader problem. Because it is a broader problem, if anything I would amend Senator Faulkner’s motion—I will not do so, because of the time it would take—to add to the reason for censure not just this failure to comply but also the large number of other failures over the term of this government in particular. Senator Faulkner mentioned some figures. I have some figures that are a bit different to his but do not reflect any better on the government. I have 76 orders being made, 27 of them not being complied with in any way and some others being complied with in a partial way.

Senator Faulkner—Pretty similar figures.

Senator BARTLETT—They are fairly similar and it is certainly a very poor strike rate in complying. I have no doubt that for a small number of those there was a good reason. Sometimes there is a reason and in such cases the Senate does not press the matter, but for a large number of them there was not a good reason. It is a growing trend.

Senator Hill might like to say that we are not treating the Senate seriously because we have moved or supported motions of censure. I reply that he and his government are not treating the Senate seriously by their serial refusal to comply with returns to order in a wide range of areas. It is not satisfactory; it is a sign of a growing degree of contempt—both in the general sense of the word and in a more literal and legal sense of the word. I think the Senate needs to examine ways to do more about this. Similarly, I think we need to look at more ways of ensuring that relevant people appear before Senate committees.
There has been work done and the Senate Standing Committee on Finance and Public Administration has put forward recommendations to establish a code of conduct or a set of understandings about getting ministerial advisers to appear before Senate committees. The government, not surprisingly, has not responded to that. The government has not even responded to the recommendations of the children overboard inquiry, which also detailed the need to get better standards of accountability in terms of scrutiny of ministerial staff. That inquiry clearly showed an amount of totally unacceptable interference with senior public officials, who are supposedly independent, by ministerial staff. The ministerial staff were prevented from appearing before the inquiry, as were one or two defence personnel. I will not go on about that further. As some senators may know, that inquiry has been turned into a play in Sydney. Once you become conscious of that you start wondering whether people will use your words in future productions and you may start self-parodying. So I will cease talking about that beyond saying that it highlights not just the growing problem of this government ignoring the proper role of the Senate in scrutinising activities of public interest but the problem that occurs when cooperation is not there. Those problems need further work—and not just through plays. I note as an aside that in that play Senator Faulkner and I are played by women—that gives a different twist to things—but they use our forceful observations nonetheless.

The issue in relation to the motion before us today comes back to one specific return to order, and that return to order relates to one specific action of clearly inappropriate behaviour by the government and ministerial staffers towards someone who is supposed to be an independent statutory officer, the commissioner of the Federal Police. The problem is broader than that; the problem is bigger than that. It goes far wider than whether or not the behaviour was appropriate in relation to the police commissioner because it sends a message to every single public servant—and every single senior officer—that you do not step out of line one little inch in relation to this government without the risk of severe consequences. That is the real problem. If this was just a one-off spat or a misunderstanding, or if the Prime Minister was just having a bad day on the relevant Sunday and being a bit grumpy, then it would still be inappropriate but not as big a deal. But it is a big deal because it affects the entire underpinning of our system of government, particularly that aspect of the system of government that deals with the executive. That area is one that is becoming increasingly more difficult for the Senate to scrutinise. That is why we need to stand up and express our concern and our opposition more and more clearly when situations like this happen, and when refusals to comply with legitimate returns to order occur. It is that reason, as well as the broader record of failures to comply and the flippancy of the minister’s response, that leads the Democrats to support this motion.

Senator LUDWIG (Queensland) (5.57 p.m.)—I rise to support the motion moved by Senator Faulkner. I know it is not an issue that Senator Faulkner has taken lightly. It is a serious issue that deserves consideration. The government may laugh about a censure motion but I underscore its seriousness by saying that last time a censure motion was taken it was in relation to the Prime Minister, who was censured over the Iraq war and the lack of evidence of the claimed weapons of mass destruction in Iraq. That was in October 2003. The censure motion before that related to a similar issue in February 2003 and the one before that was when the Parliamentary Secretary to Cabinet, Senator Heffernan, was censured for recklessly making unsubstanti-
ated allegations against a justice of the High Court in 2002. These motions were not moved without good cause. In relation to this matter there is good cause. This government—in particular over the last few years—has recklessly continued to not provide information reasonably requested by the opposition. It has chosen to obstruct and not to provide any information relating to orders for production of documents. This government has continued to ensure that there is a silence in relation to requests that have been made reasonably by the opposition. This government has continued to ensure that its dealings, its workings and its operation remain hidden from the public and the opposition.

There are orders for production of documents that stretch back to No. 13 on page 35 of the Notice Paper, ‘Mining—Christmas Island—Order for production of documents’, which related to 19 June 2002. There are resolutions on continuous pages up to page 48 which highlight orders for the production of documents that this government has chosen not to provide. This government has continued to ensure that there will not be open and accountable government which provides information to the public and the opposition about how it determines issues. It has also continued not to provide at estimates reviews or documents that could assist in exposing the government to scrutiny. This government continues to ensure that what it does will not be held open to public scrutiny.

This particular issue relates to ‘Australian Federal Police Commissioner—Statement—Order for production of documents’ on page 48 of the Notice Paper which asked:

That there be laid on the table, by the Leader of the Government in the Senate, no later than 4 pm on Tuesday, 30 March 2004, copies of all drafts of the clarifying statement which was negotiated between the Australian Federal Police Commissioner, Mr Keelty, and the Secretary of the Department of the Prime Minister and Cabinet, Dr Shergold and any other members or representatives of the Government and which was issued by the Commissioner on Tuesday, 16 March 2004.

That issue related to when the Prime Minister first acted to muzzle the Commissioner of the Australian Federal Police. This government has consistently failed to grasp that the Australian people do want their top police commissioner to give frank and fearless advice about security related matters. That is not a complex point but it is one that is beyond the ability of Howard government ministers and staff to understand. Australians do not want all the information they receive from public officials to pass through the Liberal Party spin machine. In particular, they do not want Australia’s most senior police commissioner, the Commissioner of the Australian Federal Police, to espouse political spin rather than frank and fearless advice about security related matters. They do not want political spin because they get enough of that from Howard government ministers themselves, ministers who have shown a devotion to toeing the party line no matter how far that line has diverged from the elusive point where comment reflects fact that will go down in Australian political history.

The Australian people do not want political spin because, when it comes to security related matters, they need and deserve the truth—the cold hard facts. They do not want the comments to be popular. They do not want them to be on message. They just want them to be direct and straightforward, frank and fearless. The Australian people want the advice they get from the Australian Federal Police Commissioner to be factual because it is this information that will in some way determine how they protect their own security, whether they travel, what they look out for, where they go and where they do not go. It is not about which party they think is best
suited to defend Australia’s national security; it is about the threats they face personally and the way they respond to those threats to protect their property, themselves and their families.

The simple idea that the Australian people want the facts from their top cop is at the heart of this whole issue and at the heart of this censure motion, which had its genesis in the order for the production of documents. The government’s refusal to honour this order proves that once again they have failed to grasp this basic idea that they have rejected the principle that the security information supplied by the nation’s most senior police officer to the Australian people should simply be the facts and not spun. Instead they have reaffirmed the position supported by the Prime Minister, the foreign minister and other Howard government ministers that all the security information delivered by the Australian Federal Police Commissioner should first pass through the Liberal Party headquarters spin machine to spruce it up, to get it on message and to politicise it.

The Howard government has not always been so proud of the need to put statements by our top cop through the Liberal Party spin machine. Two weeks after the Bali bombings, the Prime Minister appeared on the Sunday program to assure the Australian people that, although we had suffered terribly as a result of those horrendous acts of terrorism, we were still in control, we were responding to this terrible crime and we were doing the police work to make sure that those responsible for those cowardly acts would be brought to justice. Responding to a question about the progress of the investigation of the bombing, the Prime Minister responded:

I spoke this morning to Mick Keelty, the Commissioner of the Australian Federal Police, and I want the police to do the daily commentary on the operational matters and I don’t think it’s a good thing for a political leader to, sort of, pretend to be a policeman.

Hearing these comments now, they do not sound quite as genuine, as reasonable or as statesmanlike as they did then. At the time when the Prime Minister assured us that political leaders should not pretend to be policemen, unfortunately what he did not tell us was that he expected Australia’s most senior policeman—the man in charge of the Bali bombings investigation, Australia’s top cop—to be a politician: to tell the Australian people what the Liberal Party wanted him to say, not what he in fact believed; to tell the Australian people what the Liberal Party wanted them to hear, not what they needed to hear; and not to give the Australian people the information they most needed to know but to give them the information that the Liberal Party wanted them to know. This government must make the effort to understand this simple point: the Australian people want the facts from their top cop—the facts and nothing but the facts—about security matters.

Senator Hill, in response to the censure motion, tried to downplay the importance of the censure motion and tried to downplay the importance of this government’s ability to respond to orders for production of documents. He failed miserably. There is a huge onus on a government and the executive arm of that government to ensure that they are accountable to the Australian people, that they are accountable to the Senate and that they are accountable to the opposition. Without that openness and accountability, there is the suspicion and the concern that what the government will do is spin the message, hide the truth and obstruct knowledge being passed in this chamber which can then be provided to the Australian people. Senator Hill in his response tried to, I think, in part laugh off the censure motion. It is a serious motion and should be taken seriously.
Senator KNOWLES (Western Australia) (6.08 p.m.)—Today we are debating a censure motion against Senator Hill for not producing documents that the Labor Party want to snoop into. It is a fascinating little exercise because their memories are incredibly short.

Senator Eggleston—And selective as well.

Senator KNOWLES—And very selective, as Senator Eggleston says. When they were in government, they would thumb their nose at any opportunity they had to come out and disclose what their government was up to. I remember trying to find out the size of the deficit when we were in opposition. What happened? Senator Cook said, ‘There’s no deficit; we’re in surplus.’ That is how open this mob in opposition were when in government. We came into government and found overnight that, instead of Senator Cook’s surplus, in fact $96 billion had been racked up. That is hardly an open way in which to run government. But this is the way they operated: they operated a completely closed shop.

Senator Patterson—They wouldn’t give me the information on the Keating fellowships.

Senator KNOWLES—Exactly, Senator Patterson. We had committee meeting after committee meeting after committee meeting where Senator Patterson tried to get information on the Keating fellowships—another little gravy train. Did this opposition come forward and provide the information? No, they did not. So it is very interesting that, after all of this time during which senators Faulkner and Ray have continually bagged and slated the Commissioner for the AFP, Mr Keelty, and continually undermined his credibility, they now come in here as his best friend. It would not have mattered one iota what Commissioner Keelty said or did not say.

Senator Mackay—you are misrepresenting this stuff.

Senator KNOWLES—Isn’t that interesting? That is their argument when they are caught red-handed: that we are misrepresenting this stuff. Unfortunately, at short notice, I do not have a copy of the Hansard and I have not got the press releases of Senator Faulkner. This is not some mythical writing; it is Senator Faulkner’s own press release in which he bagged Commissioner Keelty. The same thing applies to Senator Ray. It is not some mythical press release in this case from the government or anybody else; it is Senator Ray’s own words in Hansard. Senator Mackay, using her typical bullyboy tactics, sits there and says, ‘Oh no, this is misrepresentation’. This is not misrepresentation at all. The fact of the matter is that this opposition ran a completely closed shop.

The opposition are on a quest to win government, whatever it takes. It does not matter about the efficacy of what they are doing in opposition, as far as the Labor Party are concerned. It does not matter as long as you comply with the Graham Richardson edict to ‘do whatever it takes’. There we have it, time and time and time again. Question time after question time we have had them trying to frighten the pensioners and we have had them trying to frighten the disadvantaged. Now we have them coming in here and trying to belittle the parliament. There is nothing about this institution that the Labor Party hold sacred. I watch Senator Faulkner as Leader of the Opposition in the Senate day after day at question time lounging back in his chair sledgerg for one hour solid with his mate Senator Carr and his other mate Senator Sherry. They sit there and they sledge non-stop. That shows the respect they have for this institution: it is nonexistent. They are a complete bunch of bullyboys. If they do not get the information they want then they will go around through the back door, they will
go around through the side door or they will just bully their way through. That is the way they operate in the Labor Party. That is their modus operandi.

Look at what Senator Bishop is trying to do in Western Australia at the moment. They have all hell breaking loose with the trade union movement there. All the bullyboys in the trade union movement are rigging votes left, right and centre. Now they think they can come in here and bully this government and come in here and bully the Commissioner of the Australian Federal Police. At no stage have they recognised the fine work that the Australian Federal Police are doing in places like the Solomons, East Timor and Iraq, and for the United Nations. They do not bother to recognise any of that; they just look at one phrase said by one person at one time and make a huge political mountain out of a molehill. They have absolutely no respect for this institution, they clearly have no respect for the AFP and they clearly have no respect for the ADF. It just goes on and on and on. No matter what it is, whatever it takes they will just carry on and abuse and accuse. It would be very interesting to see if this opposition—if ever returned to government—were forthcoming about what they got up to. For example, we had Ros Kelly, who decided that she would simply hand out taxpayers’ money to electorates that she saw were in danger of being lost. Did this opposition ever come clean on that until they were fully exposed?

**Opposition senators interjecting**

**Senator KNOWLES**—I beg your pardon, Senator? It is interesting that they go very quiet when issues like this are mentioned, because they got caught red-handed. They got caught with their hand in the till. The whiteboard exercise was the classic example. Yet when we were in opposition we made sure that we used return to orders very sparingly.

**Senator Robert Ray**—Oh, you’re joking! They quadrupled under you, and you know it.

**Senator KNOWLES**—That’s interesting. Senator Ray is someone for whom I have considerable respect. It is interesting that Senator Ray has made that accusation. Let us have a look at the facts, Senator Ray. Have a look at how many returns to order the opposition have put in since they have been in opposition, for eight years. Then let us have a look at how many they complied with during their term in government over 13 years. The exercise is absolutely and utterly a damning indictment because of the way they use these as some political playing. They do not have any respect for the way in which they should be used or the reason they were put into the standing orders in the first place. They could not care less because it is all about the ALP bullyboy tactics. That is the way Senator Faulkner operates. One only has to watch the way he operates day in and day out: ‘We’ll bully them into submission.’ I have really bad news for Senator Faulkner today: the government is not going to be bullied yet again by this opposition. The way the opposition are behaving in this exercise, and in so many other ways, is just to simply bully and bully. The government will not be bullied and that is as simple as it can be.

It is interesting also to note the different stance they take towards confidential communications between this government and the police commissioner compared to that taken towards a government of their own ilk in Western Australia. Dr Geoff Gallop has had this running war with the police commissioner in Western Australia, as has the police minister. It has gone on and on. Yet Dr Gallop has publicly said that he will not disclose to the parliament or to the public what
the discussions with Commissioner Matthews have been about. Isn’t it interesting? Why? Because they are confidential. Dr Gallop is one person—

Senator Mackay—What’s your problem?

Senator Robert Ray—We don’t have to listen to you. Don’t get shirty.

Senator KNOWLES—I am not getting shirty. I could not give a continental about what you say.

The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)—Order! Address your comments through the chair, please.

Opposition senators interjecting—

Senator KNOWLES—I could not give a continental about what you say. You are absolutely irrelevant; you are in opposition. You have made yourselves more irrelevant, along with the Democrats. The Democrats are making themselves more and more irrelevant. They deal themselves out of every single solitary thing. They are like the opposition: they simply oppose, oppose, oppose. The issue that I was talking about was their own Labor Premier in Western Australia, Dr Geoff Gallop, who would not disclose recent communications between his commissioner and himself on the basis of confidentiality. As a government they were entitled to confidentiality. We never, ever hear the Labor opposition refer to that. That is interesting. They accept what Dr Gallop says because he is of their ilk. But do they accept the same principle when it is the federal government’s position? No, they do not. They simply reject that because the government are not of their ilk. They oppose it because that is all they have ever done—they oppose everything.

It is a shame that, because the Democrats have now made themselves as irrelevant as the Labor Party in opposing and opposing, the only way anything gets done in this place is through the consideration of some of the Independents. The way this whole thing has been handled right from the word go is simply appalling. The way in which this opposition have tried to blow this out of all proportion, as Senator Hill said earlier today, is just laughable. They can carry on all they like in this place—they can demand, they can stamp their feet, they can yell and scream, and they cannot shout abuse across the chamber—but nothing has happened and nothing is going to change. They can carry on like two-bob watches for as long as they want but nothing is going to change. If they want to look back and reflect on their time in government then they can see why.

Senator ROBERT RAY (Victoria) (6.19 p.m.)—I was very entertained by Senator Knowles’s speech, although it touched on absolutely nothing of relevance to the motion here today. Nevertheless, Senator Knowles is always bowled in here when the case is hopeless and none of the other colleagues will come in. They make a phone call to Senator Knowles and say: ‘Come down. We want a mad rant for 10 minutes.’ That is what we got and we can dismiss it as such. However, there were two or three major flaws there that should not go uncorrected. First of all, Senator Knowles made reference to Senator Faulkner putting out press releases with regard to Commissioner Keelty.

Senator Faulkner—I don’t think I’ve ever done that.

Senator ROBERT RAY—No, I don’t think Senator Faulkner ever has. So Senator Knowles is invited to come down to the chamber to table those or to retract that rather idiotic statement, because in fact Senator Faulkner did not. Senator Knowles said that I have continually made bagging comments about Commissioner Keelty. In one paragraph in Hansard I was critical of him in response to a press release he put out criticis-
ing and attacking Senator Faulkner. I do not back away from it now; I did not back away from it last week and I will not back away from it. I do believe that on that occasion Commissioner Keelty was at fault. I said so publicly. I did not go behind closed doors to do it; I did not knife him in the back privately; I did not send someone around to slap him around; I did not leak against him—I did not do any of those things. I stood up here, as was my right, to respond to an attack he made on my leader in this place. That is not continually bagging. On every other occasion I have given him full and proper support and recognised what his office is about. So Senator Knowles can come in here and table the press releases she has referred to or retract.

Then she started having a big whinge and complaining about question time, as though it is a one-way street. Why do opposition senators interject occasionally? Because this government totally abuses question time. Every question now asks about alternative policy. This has just become a political circus. Question time is not about information anymore; it is about ministers getting up there, no matter what the question is. Senator Patterson is sitting here now. How many times has she mentioned Mr Swan this week, in two days? Thirty or 40 times, because he has got her totally rattled, and this is the only place she can respond.

**Senator Patterson**—What absolute rubbish!

**Senator ROBERT RAY**—He has got her totally rattled, totally manipulated. I do feel sorry for you, Senator Patterson. You are so shell-shocked by Mr Swan that you have to constantly mention him here in this particular chamber. The most outrageous challenge by Senator Knowles today is that the Labor Party stands for undermining the Australian Federal Police, and she added in the ADF. What an outrageous accusation. Totally false!

**Senator Knowles**—No, it is not.

**Senator ROBERT RAY**—Yes, you did. It is totally false. It is an absolutely false accusation.

**Senator Knowles**—It is 100 per cent accurate.

**Senator ROBERT RAY**—We have given total support over the years to the ADF and their commitments around Australia. This is about monopolising patriotism: only the Liberal-National Party coalition can be patriotic. Everyone else is a traitor in this country, according to these people opposite—not all of them, but most of them. It does not matter whether it is Mr Slipper doing an idiotic doorstop or Mr Ross Cameron, the member for Parramatta—they are sent out there to put that message in public. Sure, later on the PM says, ‘I do not quite agree with that—thanks, fellers, for doing that—but I do not quite agree with the extremism of your comments.’ That accusation was again implied in this chamber here today by Senator Knowles. We are and have been since our creation and since we have been involved in this federal parliament, since 1901, strong supporters of the defence forces of Australia and we will not have our reputation impugned by a Western Australian senator in this place. She could not back it up; there were no arguments in support—just the assertion. We are sick of those assertions and we have given good and proper support to Australian defence forces in this country.

Senator Hill came in and gave a 10- or 12-minute speech. He claimed that Labor had no respect for the institution of the Senate. This came from a person who delegated the task of responding on the return to order to Senator Julian McGauran. What a contemptible action towards the Senate! Senator McGauran even
forgot to read out the statement until he was prompted to do so by Senator Faulkner. Asleep at the wheel over there, he had the statement in front of him and did not remember to read it out. Senator Hill himself should have fronted up in this chamber and given a proper explanation and reasons for failing to comply with an order of the Senate and not delegated it to the most notorious oxygen thief that has ever inhabited this chamber. Senator Hill’s contemptuous dismissal of the Clerk’s possible remedies in that regard again shows the hubris of government—

Senator Mackay—Arrogance!

Senator ROBERT RAY—Arrogant insularity! He just dismissed it: ‘Oh, well, we can do what we like; we don’t care that there may be other remedies.’ Of course Senator Hill in his comments asserted that this was a stunt to divert attention from Mr Latham’s attitude to Iraq. Funny—I thought the return to order was moved well before that ever became a matter of controversy, on about Thursday last week. Of course the return to order was moved before then. It gave the government plenty of time to respond on this occasion, so Senator Hill’s assertion in that regard is absolute nonsense.

Then Senator Hill asked why Senator Faulkner had a well-prepared speech on this matter. Of course it was well prepared. You would not have to be an Einstein to know that this government, with its total commitment to cover-up, would not produce this return to order. So naturally Senator Faulkner was prepared, which is more than you can say for the frontbenchers sitting there, looking like stunned mullets the moment the censure motion was moved. They did not know what to do and had to be advised—properly advised—by Senator Ferguson as to what the proper course of action would be.

Senator Hill then went on to say that internal documents are critical to good government. I do not disagree with that. If those documents are based on decency, and therefore should be protected because of that, that is fair enough. But if they are documents that are not based on decency they deserve to be exposed. The Keelty matter is all about politics. It is about positioning. It is about political spin. This is not about policy making. If we were asking for the requisition of documents that go to policy making, Senator Hill at least could have made a credible case here. But, no, this is all to do with how to put the political fix in, and it deserves to be exposed and it deserves to be examined in public.

Senator Hill—and Senator Knowles later on—said returns to order are a last resort and are being overused. Between 1980 and 1990 I think returns to order may have been used once or twice. The real acceleration occurred under Senator Hill’s own leadership in the 1990s. They got to a point where they tried to move a return to order to seize all documents that went to Dr Carmen Lawrence’s defence—in other words, the case that she would have to put in court—so that the prosecution and anyone else would have access to those documents. That is how far this particular group went. They tried to develop punishments if a return to order was not responded to. Their great idea was to gag ministers—you could not speak in this particular place if you did not accept a return to order. We were all dying to have that one put on us and not to have to come to question time and do everything else—we could get on with our work. So this hypocrisy about returns to order being a last resort was all blown away under Senator Hill’s leadership. He may have a valid point that there are too many returns to order. That may be a valid point and we will listen to that and discuss that. But at times they are a very effective tool and a last resort to scrutiny.
Then, of course, we had Senator Hill dismissing the value of censure motions. He ought to know, given the number of censure motions he moved and allowed to be moved under his stewardship when he was Leader of the Opposition in the Senate. They were a dime a dozen. They got completely devalued and became a complete nonsense. I had the humiliation of having to attend my preselection panel and having to answer the question as to why I had not been censured by the Senate when most of my colleagues had been. No matter how provocative I got, I could never get one. What a tragedy!

**Senator Faulkner**—Even I haven’t been censured!

**Senator Robert Ray**—And neither has Senator Faulkner. The fact that the Senate did not censure us is affecting our livelihood, affecting our preselection! There have been far fewer censure motions in the last eight years than there were in the previous six years of Labor government. Then Senator Hill went on to say that the Democrats will ‘go down the Labor path’. How conveniently he forgets the times they have supported the government on issues. But, of course, gratitude has never been a long suit in the coalition. It is: ‘When did you vote for us last?’ not whether you voted for us one, two or three years ago. So people like the Colstons of the world are used up and disposed of and never considered again.

On the substantive issue, Senator Hill again said today that Commissioner Keelty was taken out of context. What a lovely resonance those words have, but what do they mean? There is no explanation as to how or where he was taken out of context. The assertion is made. The assertion here is good enough. All you have to say, a la *The West Wing* philosophy, is that you were taken out of context. Even if you were not, that is supposedly excuse enough. There is no explanation as to what ‘context’ means or where it was taken out of context, as long as you get those words out.

Senator Hill graciously referred to his own instance of being ‘taken out of context’ last week over WMD in Iraq. He pointed out that he had to issue a retraction—I am sorry; that is clarification—of his remarks. Of course, he was not rung by Arthur and bullied. He did not have the benefit of the advice of the secretary of the Department of the Prime Minister and Cabinet, Dr Shergold, for his clarification statement, so he probably does not have any drafts. It was probably a one-off effort. Senator Hill came out and he fronted up without there being any pressure on him. We are more interested in who put the pressure on the commissioner—when, where and how.

Finally, we get to what I call the classic Hillism—this plaintive little whine: ‘Can’t we move on.’ How many times have we heard that in this chamber? ‘We haven’t found any WMD. That doesn’t matter. Can’t we move on. There are no terrorist links between the Baathist regime’—notice that we got it right between you and me, Acting Deputy President Sandy Macdonald—and sponsoring terrorism. No, we didn’t find any. Can’t we move on.’ You do not learn from your mistakes. You do not go back and analyse to see where you can improve. This is all about political reaction. This is all about controlling the political agenda. That is why we do not have any rigorous examination of issues and past mistakes. Senator Hill just bleats away: ‘Please, can’t we move on.’ I am all for moving on if you learn the lessons of the past. One of the great lessons of politics is that you let your police force get on with their job and you do not biff them around and humiliate them in public.

The reason why we sought these documents essentially is not based on our own
research. I have to make that admission. There have been assertions in newspapers that have not been responded to at all by the government. If those assertions were wrong, you can guarantee a government will step in and straighten them out. The first assertion made in the Australian on that Tuesday morning, that in fact Mr Sinodinos had rung Commissioner Keelty immediately after his appearance on the Sunday program on Channel 9, only came out because the Australian released that information. I think that Steve Lewis has the best political story of the year so far, and he is to be congratulated on it. But that is the first we learnt about it. That was never denied, of course. Then the second leg that we learn about is that Dr Shergold was involved. I do not think he would have volunteered; he is too smart for that. But he was involved in the negotiations with an independent police commissioner. Then the third assertion in the Sydney Morning Herald on the following Wednesday was that Commissioner Keelty was given the statement and told that he could not amend it. Where is the independence in all this? Where is the truth in all this? These are the claims. I cannot assert that they are true, but they have been made. One way to get to the bottom of this matter is to have a look at the successive drafts. The government say that they are internal documents. Internal documents for political spin, yes, but not protected internal documents critical to the working of government; hence, they should have produced them here today.

When we are told by Senator Knowles and Senator Hill that we are contemptuous of the Senate process, an opportunist opposition would have set up an inquiry into this. We took the public hit and voted with the government to vote that proposal down because we did not think it would get to the truth. Factors such as the Prime Minister would not appear before it, quite properly, and staffers would not be allowed to appear before it—maybe in some circumstances and on other occasions not—were taken into account and we as a Labor opposition said, ‘No, we will not support an opportunistic inquiry.’ Yet the government comes here today and says, ‘You’re showing contempt of the Senate.’ We went a different route. We asked for some documents to be brought forward, as the responsible way of approaching these things. The government has refused, not surprisingly. It deserves some censure.

Of course, people say that there is no remedy for this. There is an ultimate remedy. Disobeying an order of the Senate is a breach of privilege. If you look at privileges resolution 6(8) you will see that it states that disobedience of an order of the Senate is a contempt of the Senate. No-one wants to take it to the Privileges Committee—of course not. No-one wants to drag ministers before that committee. But at least understand in principle that there is not only a remedy but a sanction involved here if one day it is necessary. The contempt for the Senate in refusing these orders was made worse today by the Minister for Defence not fronting up and putting valid reasons, and by giving it to one of the more junior woodchucks in the Senate to mumble and stumble his way through a statement that was totally inadequate.

I share one thing with Senator Hill, though: I do not put a high premium on censure motions in the Senate. I have said that many times before. I am not going to become a hypocrite today. I will not be rushing out with a press release claiming victory that we have censured Senator Hill, if this censure motion is successful. But it should at least remind him that the contempt for the Senate processes is on their side, not on ours. In terms of the philosophy we saw, not from Senator Hill but from Senator Knowles, that we are in some way undermining the Australian Federal Police or the Australian defence...
forces is just totally and absolutely wrong. It probably explains the fact that Senator Knowles has never progressed in this place after 20 years here. Maybe her colleagues share our view of her.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (6.37 p.m.)—In this debate we have seen Senator Hill skate over the substance of this censure motion. Senator Hill has admitted that he only sees a censure motion as a glancing blow. He told us in his contribution that governments have never provided such drafts as are required by this order of the Senate. He said governments do not provide those things. That is totally untrue. During the ‘children overboard’ inquiry, we received hundreds of drafts. We received email records from the Department of the Prime Minister and Cabinet between officers. Documents provided to the Senate select committee were jam-packed with drafts—drafts between senior officers and junior officers, between ministers and ministers’ offices and departments. We had drafts galore, and Senator Hill has the hide to come here and tell us in this debate that it is never a government’s practice to provide drafts. What absolute self-serving tripe from Senator Hill. He is just talking through his hat, as he so often does in the chamber.

The substance of this censure motion is that we know that Commissioner Keelty was stood over and asked to put a statement in context. You always have to be very wary of those words. Whenever Mr Howard, Senator Hill or the other senior ministers of the government talk about putting something in or out of context, the alarm bells should start ringing. The context they talk about may well not be—and often is not—a truthful context. That is, unfortunately, the way the Howard government work. The context they talk about is their confected context—the context that they make to justify their dud decisions. What we do in the Senate regularly is try and hunt down the truth. We try and hold the government accountable. We want to know what went on between the Prime Minister’s office and Commissioner Keelty. We want to know what involvement Mr Ruddock’s office and the department had. I do not think there is any doubt that Australians are deeply concerned about this cover-up. It is not a matter to be laughed off—a matter for levity, as Senator Hill seems to think—it is genuinely a matter of concern.

Senator Hill should have had the courage to front up to the Senate at four o’clock this afternoon and provide these documents and not have been so weak as to put Senator McGauran, the weakest link in the coalition chain in the Senate, in the gun to bungle a statement indicating that these documents were not going to be presented. How weak is that. How gutless is that from Senator Hill. The weakest link in the coalition chain—the biggest joke in the place—Senator McGauran, is asked to come in here and read a statement on this important matter. But, of course, this is what the government are like. They do not care about accountability. They do not have any scruples when it comes to these sorts of things. They have got no regard for due process. Senator Hill, unfortunately, as the Leader of the Government in the Senate, is the one who is responsible for this. Senator Hill thinks this issue of accountability is a real joke. Senator Hill has had a very bad week in the last week, I think it is fair to say. I do not forget the fact that he went for a ride in a hot-air balloon. I think that is emblematic. It is symbolic that he would go for a ride in a hot-air balloon but, before he hopped in the basket and they turned the burners on and shot him up into the stratosphere, Senator Hill broke his duck: he told the truth. Senator Hill actually said there were no weapons of mass destruction, and then he went on his balloon ride. He
went on his balloon ride, came down to earth with a thud, fell out of the balloon and within minutes had been contacted and told, ‘Whoops! You’ve told the truth, Senator Hill—you’d better go and correct the record.’ Then he bumbled and fumbled his way through a retraction: ‘I didn’t really mean that. What I wanted to say was this. I got it wrong,’—the usual approach from this government when something goes horribly wrong. But I commend Senator Hill, before his hot-air balloon ride, for telling the truth.

Even if the truth only lasted on the public record for three hours, that is three hours more than we have received from any other minister in this government on the very important issue of weapons of mass destruction in Iraq. So I commend Senator Hill for that—I really do. He ought to get up early in the morning and have a few more balloon rides. God knows what would happen. We might even learn about some of these other issues. We might learn more about Commissioner Keelty. Senator Hill ought to go and have a balloon ride every day and tell us about a few of these other issues.

Senator Hill laughs it all off. He thinks a censure motion is a joke. He thinks having to issue a retraction regarding weapons of mass destruction is a big joke too. I suppose you may as well laugh it off when you are having such a bad week as Senator Hill is having. But I want to say this, and I say it very seriously: I believe that the Senate remains the most important accountability mechanism we have in our system of government. The accountability mechanisms that the Senate provides are essential. They are important. They provide a range of procedures and processes by which a government can be held accountable for its actions, and that is important. They ought not to be treated with contempt by any government—and they are, of course, treated with contempt by the Howard government.

Our ability to do our job in holding the government to account, which is what the Senate ought to be about, depends on the continuing effectiveness of these procedures. One of the most important accountability mechanisms and one of the most important procedures is that of orders of the Senate, resolutions of the Senate requiring the government to table documents.

We all ought to be concerned—all senators and anyone who cares about accountability, who cares about transparency, who cares about scrutiny and who cares about the role of the Senate; anybody in those categories—that the Howard government is devaluing the important mechanism of returns to order. I have said before and will mention again that this is the 72nd order for the production of documents passed by the Senate since the beginning of 2002. This is the 22nd occasion on which the government has refused to comply with an order of the Senate. That is an abysmal record, and this government should stand condemned for it.

Of course, the remedies available to us in these cases of noncompliance are limited. Censure motions are one such remedy, and this has been proposed by the opposition today. We have been sparing in resorting to censure motions. We do not want to devalue the currency, as Senator Ray said. We do not move Senate censure motions at the drop of a hat like the Liberal Party did when they were in opposition. I have not moved one unsuccessful censure motion in this chamber since I have been Leader of the Opposition in the Senate. I have not moved many, because I have not done it as a matter of course. With every dopey decision the government makes I do not as a matter of course move a censure motion. That is not the way we work.

In the case of this refusal of the government to comply with a very simple return to
order about a matter of significant public importance and wide public interest—and I also think in the light of this government’s continuing arrogant disregard for such orders—we believe this censure motion is warranted. We believe this censure motion should be passed. We believe Senator Hill ought to be censured and condemned for his total contempt for proper process and his total contempt for parliamentary accountability. I commend this censure motion to the Senate.

Question put:

That the motion (Senator Faulkner’s) be agreed to.

The Senate divided. [6.52 p.m.] (The President—Senator the Hon. Paul Calvert)

Ayes………….. 32
Noes………….. 30
Majority………. 2

AYES


Question agreed to.

Senator Webber did not vote, to compensate for the vacancy caused by the resignation of Senator Alston.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! It being after 6.50 p.m., the Senate will proceed to the consideration of government documents.

Australia-United States Free Trade Agreement

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (6.56 p.m.)—I move:

That the Senate take note of the document.

This document—the national interest analysis and regulation impact statement relating to the Australia-United States of America free trade agreement, agreed at Washington DC on 8 February and due to be signed after 13 May 2004—together with the free trade agreement will be examined by the Joint Standing Committee on Treaties, of which I am a member, and the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America, on which Senator Ridgeway is the Democrats representative. I will not, therefore,
speak at length on those now. Suffice to say that the agreement was made on 8 February but it was not until today, 30 March, that the national interest analysis and regulation impact statement document were provided to the parliament. That is another example in the Democrats’ view of why we need to change our approach to key international treaties so that the government cannot simply negotiate the whole lot in secret and then whack them down and say to the Australian people and the Australian parliament: ‘Here they are—like it or lump it.’

We should have a system in place whereby the parliament must ratify or express support for treaties before they can enter into force. That is the approach of the United States and many other countries. The Democrats have long argued that it should be the approach here. The negotiation of this treaty, and the flow-on national interest analysis that was tabled today, is an example of why we should adopt that approach here, particularly given that such agreements are more and more significant, have more and more influence and are of more and more importance.

This agreement is part of what is often called globalisation. I prefer to use the term ‘internationalisation’, but it probably does not really matter. It is part of what is becoming the reality of more and more linkages with other countries not just on trade but on environmental issues, social and human rights issues, animal rights issues and many other issues. Due to our general principle of embracing other countries, the Democrats are not scared of that. We do not run away from that. We are not an isolationist party, but we do believe we need to consider carefully all engagements and agreements to ensure that they serve national and global interests with respect to not just economic matters—in the case of trade treaties—but also social, environmental and cultural matters. All are touched on by this free trade agreement.

Not surprisingly, I have not had time to read the national interest analysis, let alone the regulation impact statement, I am speaking to. Suffice to say they will both be referred to the Senate select committee and the Joint Standing Committee on Treaties, which will be starting hearings over the break from parliamentary sittings. We sometimes talk about a break from sittings as though we all go on leave because there is nothing else to do. These committee inquiries will be just one example of how that is not the case. Members of those committees will travel to hearings that will be held all around the country.

So I draw to the Senate’s attention and to the public’s attention that two extra documents are now out there with extra information on what is an important agreement, about which there is still a lot of public uncertainty, a lack of understanding and many questions to be answered. The Democrats will certainly ensure that the Senate does its job in assessing all those issues as fully and as dispassionately as possible and in looking at what is in our national interest and what is not and at what is in the global interest and what is not. There are a wide range of issues that are dealt with in these documents which need examination both in their totality and in relation to specific components. That needs to be done, and I am sure it will be done.

Question agreed to.

COMMITTEES
Privileges Committee
Report
Senator STEPHENS (New South Wales) (7.01 p.m.)—On behalf of Senator Ray, I present the 117th report of the Committee of Privileges, entitled Person Referred to in the Senate (Dr I.C.F. Spry, Q.C.).
Ordered that the report be printed.

Senator STEPHENS—I seek leave to move a motion relating to the report.

Leave granted.

Senator STEPHENS—I move:

That the report be adopted.

This report is the 44th in a series of reports recommending that a right of reply be accorded to persons who claim to have been adversely affected by being referred to, either by name or in such a way as to be readily identified, in the Senate.

On 23 March 2004, the President received a submission from Dr Ian Spry, QC, editor of the National Observer, relating to remarks made by Senator McGauran during debate in the Senate on 3 March 2004. The President referred the submission to the committee under Privilege Resolution 5. The committee considered the submission on 25 March 2004 and recommends that Dr Spry’s proposed response be incorporated in Hansard.

The committee reminds the Senate that in matters of this nature it does not judge the truth or otherwise of statements made by honourable senators or persons. Rather, it ensures that these persons’ submissions, and ultimately the responses it recommends, accord with the criteria set out in Privilege Resolution 5.

I commend the report to the Senate.

Question agreed to.

The response read as follows—

RESPONSE

This response relates to a speech made by Senator McGauran on 3 March 2004 in the Senate.

That speech was critical of an Editorial Comment made in National Observer, issue 59, Summer 2004, headed “Israel and Anti-Semitism”. The main thesis of the Editorial was that those discussing international affairs should be able to criticise Israel’s actions, where appropriate, without being attacked as “anti-semitic”. The Editorial Comment was also critical of Israel’s practice of creating settlements in adjoining Palestinian territory. National Observer agrees with those who believe that these settlements are clearly a major cause of increased unrest in the Middle East and contribute to Palestinian resentments leading to terrorist activity, and National Observer also agrees with the many who believe that these settlements should be withdrawn as soon as possible.

Senator McGauran was also critical of the statement in the Editorial Comment that Israel was created through Jewish terrorist activity which involved the murder of civilians and of British soldiers and the driving out of Arabs. However it is correct that this terrorist activity took place in fact, and led to the setting up de facto of a Jewish state. As is commonly the case, the de facto setting up of a country was in due course followed by de jure recognition.

Senator McGauran was also critical of the Editorial Comment for referring to the fact that, as well as Palestinian killings of Israeli citizens, including women and children, Israelis have killed many more Palestinians, including women and children. The question whether Israeli responses have been disproportionate is correctly regarded as an important matter for public discussion.

Senator McGauran referred critically to the Editorial Comment’s mention of a 2003 poll in Europe indicating criticism of Israel. However the fact is that there is very widespread criticism of Israel in Europe. Indeed, it appears that in many cases Israeli actions have led to the formation of anti-Jewish feeling more generally.

Senator McGauran’s speech created a distorted impression of National Observer’s Editorial Comment, and in order to correct that distorted impression the Editorial Comment is set out hereunder, as follows—

ISRAEL AND “ANTI-SEMITISM”

An indefensible slur is now encountered whereby any criticism of Israel is referred to by Jewish supporters as “anti-semitism.” This slur is inexcusable.

Israel is a state that was created by Jewish terrorist activity which involved the murder of civilians and British soldiers and the driving out of Arabs. It has acted to defend its unlawfully acquired
territory, but has also assumed the deliberate practice of creating settlements in adjoining Palestinian territory.

These deliberate and carefully planned appropriations of Palestinian lands are indefensible. Not only do they involve oppression of the unfortunate Palestinians, but they also demonstrate Israel’s bad faith.

Israeli propaganda attempts to persuade that the Palestinians are irrational and that their resort to terrorism is entirely unjustified. This propaganda recounts how Jewish citizens, including women and children, are being killed by Palestinian suicide bombers.

But this Israeli propaganda is silent in regard to Palestinian complaints that the Israelis have killed many more Palestinians, including women and children, than the Palestinians have killed Israelis. The dishonesty of the Israeli position is found in the inconsistency in Israeli complaints about Palestinian actions and the subtle but persistent continued appropriation of Palestinian territory. Although terrorist acts are per se undesirable, in the present case the Palestinians should not be blamed unless equal or greater blame is allotted to the Israelis.

The Jewish writer, Tanya Reinhart, a Professor of Linguistics and Cultural Studies at Tel Aviv University, has commented: 1

“Sharon, now Israel’s Prime Minister, describes its present war against the Palestinians as ‘the second half of 1948’ . . . By now there can be little doubt that what they mean by that analogy is that the work of ethnic cleansing was only half completed in 1948, leaving too much land to Palestinians. Although the majority of Israelis are tired of wars and of the occupation, Israel’s political and military leadership is still driven by the greed for land, water resources and power. From that perspective, the war of 1948 was just the first step in a more ambitious and more far-reaching strategy.”

It is for such reasons that in a recent European opinion poll Israel was regarded as a greater threat to peace than Iraq and other such countries. This perception is well based, in so far as intense resentment amongst Arabs of Israeli oppression has fuelled radical Islamic groups and continues to do so. The United States has been an obstacle in these regards. At the instance of the wealthy and powerful New York Jewish lobby successive American governments have vetoed United Nations’ resolutions censoring Israel and have provided money and support for oppressive Israel policies.

The response to these unpleasant facts by many Jewish supporters of accusing their critics of being “anti-semitic” represents an important attempt to blackmail and to preclude the proper discussion of Israeli actions.

1 Israel/Palestine, 2002, Allen & Unwin, pages 10-11. This important book, by a conscientious Jewish observer, merits careful reading. It contains a careful analysis of Israeli policy over the past decade, from which it is evident that Israeli governments have dissembled their intention to increase their occupation of Palestinian lands and that they have been working steadily towards this objective.

BUDGET 2003-04

Consideration by Legislation Committees

Additional Information

Senator EGGLESTON (Western Australia) (7.03 p.m.)—On behalf of the Chair of the Legal and Constitutional Legislation Committee, Senator Payne, I present additional information received by the committee relating to supplementary hearings on the budget estimates for 2003-04.

COMMITTEES

Public Accounts and Audit Committee

Report

Senator EGGLESTON (Western Australia) (7.03 p.m.)—On behalf of Senator Watson and the Joint Committee of Public Accounts and Audit, I present the 398th report of the committee entitled Review of Auditor-General’s reports 2002-2003: Fourth Quarter, and move:

That the Senate take note of the report.

CHAMBER
I seek leave to have my tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—

The committee reviewed thirty-four Auditor-General’s reports tabled during the fourth quarter of 2002–2003, and selected three for further examination at public hearings. These were:

- Audit Report No. 42, Managing Residential Aged Care Accreditation
- Audit Report No. 51, Defence Housing and Relocation Services; and

In essence, the committee probed the operational efficiency and the maintenance of the integrity of three nationally important management systems, aged care accreditation;

Australian Defence Force housing costs and availability; and

Goods and Services Tax fraud control.

Mr President, rather than discussing the committee’s findings in great detail, I would like to highlight the significant observations that emerged from each of the three reviews.

Aged care is increasingly important to an already sizable, and ever-growing, sector in the Australian community. Accreditation of aged care homes by the Aged Care Standards and Accreditation Agency seeks to underwrite the quality standards of those aged care facilities.

The aged care accreditation system experienced some early teething problems. Although accreditation of residential aged care facilities was established in 1997, the Aged Care Standards and Accreditation Agency could not commence audits until the gazettal of principles in September 1999. This left the Agency with a severe time constraint which contributed to inefficiencies, and to inconsistencies in judgements and decisions during the first round of accreditations. The committee notes, however, that many of the early problems associated with maintaining accreditation standards deriving from the peaking of the Agency’s workload around three-year accreditation cycles, are now being resolved.

The committee is satisfied that an acceptable level of consistency was achieved during the second cycle of accreditation which is now complete. Mr President, I remind Senators that this inquiry was not about the quality of aged care per se, but rather it was about monitoring systemic standards that would deliver quality improvements in aged care homes.

Although evidence showed that clinical quality improvements have ensued, the committee sought to discover whether residents’ quality-of-life had actually been enhanced since accreditation commenced. No witness could provide convincing evidence that it had. This not to say that quality-of-life hasn’t improved; it’s just that no supporting data were proffered.

Hence, the committee recommends that quality-of-life information be collected along with the clinical data for feeding into accreditation decisions. The committee is adamant, though, that there must be no additional costs incurred by aged care facilities in meeting these broader criteria. Nor should the accreditation process be more complicated.

I will now comment, Mr President, on the efficiency and cost-effectiveness of the agreement between the Department of Defence and the Defence Housing Authority (an independent commercial entity) established to manage the provision of housing and relocation services to Australian Defence Force personnel.

The committee notes that housing classification inflexibility has meant that Australian Defence Force housing demand is not always being matched cost-effectively by commercial market supply. Review of the classifications may be necessary to resolve this issue.

The Defence Housing Authority Act 1987, requires three Defence Force personnel to sit on the Defence Housing Authority. This poses some potential for conflict of interest.

I’ll explain my point this way. The Department of Defence negotiates with the Defence Housing Authority over housing contracts. It is conceivable, therefore, that Australian Defence Force members on the Defence Housing Authority may end up in the future having to negotiate with themselves.
The committee recommends that the requirement to have three Australian Defence Force personnel sit on the Defence Housing Authority be removed from the Defence Housing Authority Act 1987. To provide an alternative avenue for Australian Defence Force personnel to have a voice in strategic decisions affecting their housing, the committee recommends that the role of the existing Defence Domiciliary Group be expanded to include a formal consultation function with the Defence Housing Authority.

Mr President, I turn now to the third review which undoubtedly has potentially broader consequences—GST fraud control.

The committee recognises how fundamentally important it is to have the nation’s taxation system operate free of fraudulent behaviour. This point was reinforced by the Australian Taxation Office officials who acknowledged at the hearing that containing Goods and Services Tax fraud indeed poses a significant challenge for the Australian Taxation Office.

The committee is pleased to note that Australia’s Goods and Services Tax system compares favourably with systems of similar type used overseas. This is, in the main, due to thorough preparatory research by the Australian Taxation Office, of relevant international value added tax regimes. So the system is good.

The committee found, however, that GST fraud remains a major tax revenue loss area. The committee is seriously concerned with not only the revenue loss, but also the potentially destructive impact on taxpayers should any laxity by the authorities in pursuing tax dues, connote a wrong signal to all taxpayers.

GST fraud is prevalent in the cash economy but determining the magnitude of the cash economy has proved to be difficult. The committee endorses the efforts of the Australian Taxation Office to capture tax owing on cash transactions using a variety of tools. Australian Business Number registration and monitoring has been particularly successful.

To date major fraud has been heavily targeted for investigation and prosecution. The committee is pleased that minor fraud is now increasingly being captured cost-effectively using tools such as a tax evasion hot line. In addition digital systems are being employed to risk rate GST payers and by so doing, prevent fraud before it happens. The Australian Taxation Office has also up-graded its non-compliance capability and is in the process of installing a new case management system that will record and report on Goods and Services Tax fraud.

The committee is concerned, however, that instances of ‘borderline fraud’ appear to be escaping prosecution because the relevant statutory definitions of ‘fraud’ are too stringent. The Australian Taxation Office is instead forced to handle this range of fraud administratively. To give the Commonwealth Director of Public Prosecutions greater clout to prosecute ‘borderline fraud’ successfully, the committee strongly recommends that the proof of fraud be eased marginally through amendments to appropriate statutes.

In conclusion, Mr President, I would like to express the committee’s appreciation to those people from the several government agencies and private organisations who contributed to the reviews by preparing submissions and giving valuable evidence at public hearings.

On behalf of the Chairman of the committee, I also wish to thank the members of the committee, particularly its Vice-chair Ms Plibersek, for their time and dedication in the conduct of these inquiries. My thanks also extend to the committee Secretariat for its professionalism in carrying out its duties.

Mr President, I commend the report to the Senate.

Question agreed to.

OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) AMENDMENT (EMPLOYEE INVOLVEMENT AND COMPLIANCE) BILL 2002

First Reading

Bill received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.04 p.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 ELLISON (Western Australia—Minister for Justice and Customs) (7.04 p.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—

OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) AMENDMENT (EMPLOYEE INVOLVEMENT AND COMPLIANCE) BILL 2002

The amendments in this bill will provide enhanced protection for Commonwealth employees at work and reflect the Government’s commitment to achieving safer workplaces.
Safe and healthy workplaces are an important issue for all Australians. At the May 2002 meeting of the Workplace Relations Ministers’ Council, Ministers from the Commonwealth and all State and Territory jurisdictions endorsed a landmark new national occupational health and safety strategy which envisages workplaces free from work-related death, injury and disease. For the first time all Australian governments have set national targets to improve occupational health and safety. The Commonwealth government is fully committed to this initiative and the amendments in this bill will contribute to implementation of the national OH&S strategy.

This bill proposes to amend the Occupational Health and Safety (Commonwealth Employment) Act 1991 which is the legislative basis for the protection of the health and safety at work of Commonwealth employees in Departments, Statutory Authorities and Government Business Enterprises.

This bill is similar to a 2000 bill which lapsed when Parliament was prorogued last year. This bill includes some additional changes to provide further protections for employees. Some amendments are also included to strengthen the compliance provisions.

The amendments in this bill will shift the focus of occupational health and safety regulation in Commonwealth employment away from imposing solutions and towards enabling those in the workplace to work together to make informed decisions about workplace safety. While this will give employers and employees added flexibility in meeting their obligations, the new compliance provisions will ensure that such flexibility is subject to a strong and effective enforcement regime if obligations are not met.

The key amendments proposed in this bill relate to the employer’s duty of care, workplace arrangements and compliance.

This bill amends s.16 of the OH&S Act to replace current prescriptive elements requiring an employer to develop an occupational health and safety policy in consultation with unions. Instead, s.16 will be more outcomes focussed because of the new requirement for employers to develop, in consultation with their employees, safety management arrangements that will apply at the workplace.

This should ensure a more integrated and focused approach at the workplace level. Safety management arrangements will be tailor-made to the needs of particular enterprises. If employers do not develop adequate safety management arrangements to protect their employees, they will be in breach of their duty of care under the OH&S Act.

The term “safety management arrangements” describes a wide range of matters which could or should be addressed at the workplace level. To assist employers and employees understand the types of matters which could be included in safety management arrangements, this bill includes a new provision setting out a non-mandatory and non-exclusive list of matters which may be appropriate to be adopted in safety management arrangements, such as a health and safety policy, risk identification and assessment, training and agreements between employers, employees and their representatives.
To further assist the development of safety management arrangements, the Safety, Rehabilitation and Compensation Commission is gaining the power to advise on matters to be included, and employers are required to heed such advice in developing safety management arrangements.

This bill will enhance consultation between employers and employees by facilitating a more direct relationship between them. The current prerogative role of unions, which limits the ability of employees to fully participate in workplace health and safety arrangements, is being removed. Unions will, however, still be able to participate in the development of workplace safety management arrangements where employees request. Unions will also retain their current enforcement roles where employees request it. New amendments in this bill give employees a wider choice as to who may represent them, namely another employee, a registered organisation or an association of employees which has a principal purpose of protecting and promoting the employees' interests in matters concerning their employment.

A health and safety representative will be elected for each designated workgroup, as is currently the case. However, current restrictions on the ability of employees to become health and safety representatives are being removed. Currently, where there is an involved union, only employees nominated by the union can be candidates for election as a health and safety representative. This limits individual workers rights. So this bill provides that all employees can be candidates for election as a health and safety representative of employees in a designated workgroup. As in the 2000 bill, this bill requires employers to conduct elections for health and safety representatives at the employer's expense. This bill contains a further amendment to provide an alternative election option which will enable employees to request that the election be conducted in accordance with regulations if requested by a majority of the employees in the designated workgroup or 100 whichever is the less.

As in the 2000 bill, this bill also contains amendments in relation to health and safety committees. This bill includes the amendments to encourage compliance which were previously part of the 2000 bill. In particular, new remedies of enforceable undertakings, injunctions and remedial orders are included which will enable Comcare, the regulatory body under the Act, to work with employers and others to remove risks to the health and safety of employees before an injury occurs.

This bill also includes the amendments in the 2000 bill which will substantially increase the levels of penalties in the OH&S Act and will make provision for the imposition of civil as well as criminal penalties. A new feature in this bill is the extension of liability for the imposition of civil pecuniary penalties to Commonwealth employers.

Criminal penalties are being retained for contraventions of the OH&S Act which result in death or serious bodily harm (if the contravention is reckless or negligent) and for offences which are more appropriately dealt with in the criminal justice system. Criminal penalties will also apply where a breach of the employer’s duty of care has exposed an employee to a substantial risk of death or serious bodily harm and the employer was reckless or negligent about that.

The Victorian Government proposed new offences whereby a senior officer of a company can be convicted and gaolled where his or her company has committed an offence, such as industrial manslaughter, and the officer had some level of knowledge and responsibility.

This bill does not propose any such offences. This Government believes that the mix of preventative, remedial and punitive civil and criminal sanctions in this bill provides a better system to improve workplace safety. Just punishing individuals will not work.

Finally, this bill also contains the amendments in the 2000 bill to revise the annual reporting requirements under the OH&S Act and some minor or technical amendments to improve the current arrangements concerning investigations of alleged contraventions and notices issued by inspectors.

Ordered that further consideration of this bill be adjourned to the first day of the next period of sittings, in accordance with standing order 111.
FAMILY ASSISTANCE LEGISLATION AMENDMENT (EXTENSION OF TIME LIMITS) BILL 2003

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003, acquainting the Senate that the House has not made the amendments requested and pressed by the Senate.

Ordered that consideration of the message No. 547 be made an order of the day for the next day of sitting.

TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2004

Report of Senate Legal and Constitutional Legislation Committee

Senator EGGLESTON (Western Australia) (7.05 p.m.)—On behalf of the Chair of the Legal and Constitutional Legislation Committee, Senator Payne, I present the report of the committee on the provisions of the Telecommunications (Interception) Amendment Bill 2004, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

BUSINESS

Rearrangement

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (7.06 p.m.)—I move:

That intervening business be postponed till after consideration of government business order of the day no. 3 (Migration Legislation Amendment Bill (No. 1) 2002).

Question agreed to.

MIGRATION LEGISLATION AMENDMENT BILL (No. 1) 2002

Second Reading

Debate resumed from 23 March, on motion by Senator Ellison:

That this bill be now read a second time.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (7.06 p.m.)—The date at the end of the Migration Legislation Amendment Bill (No. 1) 2002 gives an indication of how long it has taken to come on for debate in the Senate. It was introduced, as the title suggests, in 2002 and it has basically languished on the Notice Paper since that time. It was examined by the Senate Legal and Constitutional Legislation Committee and a report was brought down which raised some concerns—not a wide number of concerns but some concerns. They have been addressed to a fair extent in the House of Representatives. The Democrats still have one concern, which I will touch on in a minute.

I have said before and I will say it again because it needs saying each time: this is a case again where the Senate committee process has worked well. It has drawn out some potential flaws—in this case I think inadvertent to some extent with some of them—has clarified potential misunderstandings, has highlighted a potential injustice and has therefore led to an improved piece of legislation. That needs to be said every time because this government continues from time to time to run the myth that the Senate is obstructionist and gets in the way of the government’s mandate or the government’s agenda or the government’s legislative program. This is just the sort of bill, quite frankly, that the government would point to and say, ‘See, this bill is two years old and we haven’t been able to get it through the Senate.’ The reason they have not been able to get it through the Senate is that they have
not brought it on for the Senate to debate. Now we do have that opportunity and I welcome it.

The migration area is a very important one that in some ways may seem as though it is often in the media but that, in my view, actually does not get the amount or the type of attention it deserves. It gets attention about a few narrow components of the issue but the broader, very wide-ranging number of issues that come under the migration umbrella are often not given the focus they deserve by the public, the media, the parliament and, indeed, by many parliamentarians. The opportunity to highlight a few of those issues is one that I welcome.

The bill itself is what is often called an omnibus bill: it deals with a whole lot of unrelated matters. It has six schedules which do not particularly relate to each other, and none in themselves are enormous matters; nonetheless, each matter can and does affect individuals, some of them significantly, even if the number is small, and therefore it should be examined properly. There are a number of amendments that have been circulated in the chamber for some time relating to other matters, given that this is an omnibus bill and it deals with six unrelated matters. We have a couple of amendments that deal with some extra matters that do not relate specifically to the individual schedules in the bill but certainly relate to the Migration Act. Those deal with temporary protection visas—something which the Democrats have spoken about many times. These were visas whose introduction the Democrats opposed but were nonetheless unsuccessful in preventing. I will speak on those when we get to the committee stage. There are also some amendments relating to detention of children—another area that has caused significant community debate, as it should, because it is very significant issue. There is a component of the bill that the Democrats do not support, and I will move an amendment that goes to that when we get to the committee stage as well.

I will speak to a few of the components in the legislation. As I said, it has six schedules. Schedule 1 is one of those classic areas that might perplex people and show some of the curiosities that can apply in migration law. The schedule amends the act to clarify the status of non-citizen children who are born in Australia. These children are taken to have entered Australia at their birth. It might sound fairly self-evident but, according to law in the migration area as it stands at the moment, that is not necessarily the case. This schedule seeks to clarify beyond doubt that, when a child is born here, even if they are not a citizen—particularly if they not a citizen—they are nonetheless deemed to have entered Australia and be in Australia, and that can affect the visas that they are entitled to. So it is important to clarify what might seem a fairly self-evident situation.

There is a broader debate about citizenship, citizenship status, resident noncitizens and, indeed, non-resident noncitizens and the potential for that to be another grouping of people. That is a matter that is actually before the High Court at the moment. From memory, it is a case in the matter of Singh, where judgment is currently reserved, to deal with the ramifications of children who are born in Australia to non-Australians and whether those children acquire citizenship or some other status that is not citizenship but is not an unauthorised entrant. That is a broader matter before the High Court and obviously we will find out what the decision is on that in the near future. I have been assured by departmental officials that this schedule in no way impacts on that. It does not look to me like it should impact on it. But, again, in something that is occasionally as arcane as the Migration Act and the curiosities within it, it is worth specifically stating that it in no
way should affect or impact on that upcoming High Court decision which relates to non-citizen children who are born in Australia. This schedule simply relates to clarifying that they are taken to have entered Australia and therefore be in Australia at the time of their birth.

Schedule 2 is a minor one, which the Democrats support, relating to authorising the taking of security. Schedule 3 makes a couple of amendments relating to special purpose visas. It is an area that potentially had some concerns for the Democrats in relation to lack of natural justice. Once the circumstances under which this provision will operate—and the only circumstances under which it can operate—were clarified, those concerns were satisfied and we are willing to let that pass without further comment.

Schedule 4 is a minor schedule to create a deputy principal member position for the Migration Review Tribunal. It is something that we support. It gives me the opportunity to once again raise the issue of the significant delay in the matters before the Migration Review Tribunal. Whilst I recognise that there has been some improvement in the length of time it takes for matters to be determined before the tribunal, particularly in the last 12 months, there is still room for improvement. The Democrats will continue to highlight that issue and pressure the government and the tribunal to do more to get the decisions made as quickly as possible, in some migration decisions, anyway. When people are appealing a decision of the department, time is important and we need to have those decisions made as quickly as possible.

I also draw attention to concern about the high percentage of tribunal decisions that overturn the initial decision of the department. In one sense that is good, because it shows the tribunal is doing its job; in another sense it is bad, because it shows there is a high degree of error or at least incorrect judgment made at the initial stage. There is justification for some of those decisions, given the amount of information available at the primary stage. Perhaps more information is provided by the time a case gets to the tribunal stage. But that does not justify by any means all the cases that are overturned. The rate is still very high. It is well over 50 per cent in certain visa categories. That is not acceptable at all.

The Democrats do not support schedule 5. The minister’s statements have a very innocuous description. They simply say that certain offence provisions in the act operate as they did prior to the commencement of the Commonwealth Criminal Code. That was the sole explanation all along, back when the Senate committee was looking at this. In practice it means that, with certain offence provisions, strict liability is put in place. In effect, strict liability means a much tighter requirement for the person who is accused to prove their innocence. It is one of those areas where ignorance is no excuse. They have to clearly prove that there was no offence. It is virtually a reversal of the onus of proof, although perhaps not strictly in a legal sense. The Democrats do not believe that that is appropriate for the offences outlined in the bill, one of them relating to spouse visas and the setting up of fraudulent spousal relationships for the purpose of spouse visas. Any type of deliberate misleading is of course unacceptable and inappropriate but we do need, in the Democrats’ view, to ensure that in pursuing deliberate fraud we do not go for overkill and end up catching people who may be innocent or naive parties. The Democrats will seek to delete that schedule when we get to the committee stage.

The final schedule makes a range of different amendments. It is an area in which the wording is quite confusing. There have cer-
tainly been a range of different views about how the wording will be interpreted. I do not know whether there is any other way that could have made it clearer. Sometimes when the initial act is complex and confusing and interconnects a range of different sections, it is pretty hard to deal with loopholes in a way that removes all doubt without using amendments that in themselves are difficult to comprehend or that are subject to different interpretations.

I looked at it a couple of years ago when it went to the committee and I have refreshed my mind again in recent times. In fact, I have refreshed my mind a few times along the way because this bill has risen to the top of the Notice Paper a few times, almost come on, disappeared again off into nowhere land for months on end and then reappeared. Frankly, it is almost a shock to have it finally come on for debate. Having recently refreshed my perspective on it, I am satisfied that it seeks to achieve what it says it seeks to achieve, which is that if people are in Australia on a bridging visa and they pop across to New Zealand and come back then they are, for the purposes of their visa, deemed to have stayed in the country the whole time. That prevents people using a loophole to get around restrictions that may be on the bridging visa. That is the intent. It is an intent that I support, having convinced myself that the wording actually reflects the intent.

Overall, the Democrats support the bill apart from one schedule, which we will seek to delete. This particular bill has been a long time coming. Clearly, it is not the highest priority, given it has taken so long to make its way up through the other competing priorities on the Notice Paper. This is certainly another example, even on this less important matter, of the Senate doing its job appropriately. It highlights again—and I do want to reinforce the point—that the focus in the Senate on the balance of power role is occasionally on one or two big ticket or big publicity issues such as the sale of Telstra, for example, which we had earlier today. That was quite rightly thrown out. The balance of power and the role of the Senate in scrutinising legislation apply to all of the bills. I think we have dealt with 320 or so bills in the last couple of years, including the so-called minor ones like this. They will never have the public interest of the Telstra sale and there is no particular reason why they should. But they are still bills that affect people and people’s lives for better or worse and we have to make sure that even on the so-called unimportant bills we get it right. The Senate has done its job again in relation to that. Just how right we get it we will see once we get to the end of the committee stage—we might make the bill even better. It highlights again that the role of the Senate is absolutely vital and that the job of the Senate, with its balance of power, involves doing the work across the range of issues, on the not so important as well as the important bills, to make sure that the task which people put us here to do is done.

Senator TCHEN (Victoria) (7.22 p.m.)—I agree with Senator Bartlett that immigration and migrants are important to Australia. That is why the Migration Legislation Amendment Bill (No. 1) 2002 is important as part of the law that underlies our immigration program. Senator Bartlett has gone through the bill in some detail in his speech; I do not intend to do the same. Instead, I shall record the fact that in his second reading speech the then Minister for Immigration and Multicultural and Indigenous Affairs said that the purpose of this bill is to make a number of amendments to and enhance the integrity of the act.

This bill deals with a simple issue—the integrity of our immigration law. Specifically, it deals with the vexed question of how to manage the welfare of people who come
to Australia claiming—but not always proving—to be refugees. While their claims are being established, or more commonly when their claims have been disproved, we need to manage their welfare consistently with regard for human rights and at the same time maintain the integrity of our migration program and protect our national interest. But the Labor opposition and the Democrats have made the issue complex by proposing a number of amendments which would, in fact, put at risk the balance of Australia’s proven anti-people-smuggling measures and thus threaten the very integrity of our immigration program.

At the time of the 2001 census, there were 4.1 million Australians who were overseas born. More than half of them—2½ million of these first generation Australians, these Australians by choice—were not only migrants but migrants from a non-English-speaking background. Ninety-nine per cent—indeed, perhaps 99.9 per cent would be a more accurate figure—of these good people would have come to their adopted country, their home by choice, after meeting Australia’s strict but fair immigration selection criteria, whether they came as skilled migrants, through family reunions, as business migrants or as refugees through our exemplary humanitarian resettlement program, which has to date brought more than 620,000 refugees and displaced persons to settle in Australia.

Having met these criteria themselves and being beneficiaries of Australia’s fair and objective migration law, these Australians have a right to know that these same criteria are still applicable and that the integrity of our law remains intact. They have a right to know when, how and why these criteria are changed and, more importantly, they want to be assured that any changes will be for the good of Australia. There is a special context in which I rise to speak tonight—I do so on behalf of these 2½ million Australians, migrants from non-English-speaking backgrounds, to consider how and why it is proposed to change the migration legislation this time.

In particular, I wish to consider the changes proposed by the Australian Labor Party. I know that the Democrats have also proposed a number of amendments, but I shall pass over these since Senator Bartlett has already indicated general support for the bill and since the Democrats have no real prospect of taking government and cannot be expected to be responsible. The Labor Party, on the other hand, is a pretender for government and must be accountable for what it proposes. The Labor proposals, therefore, need to be considered for what they are worth.

Properly scrutinised, only one conclusion can be drawn about these Labor amendments. They are merely a smokescreen for Labor’s lack of ability to add value in the face of the strong measures the government has already introduced in response to the scourge of people-smuggling. These amendments fall into two sets. Those in the first set ostensibly seek to strengthen the already strong and effective anti-people-smuggling measures the government has in place.

However, by proposing penalties that are disproportional to accepted standards, these Labor amendments actually enable more lenient penalties in application. For example, section 229, 230 and 232 offences are strict or absolute liability offences. Proof of fault is not required for these offences. Given that, the new penalties proposed by the Labor amendments are draconian to the extreme and thus recognised will simply be ineffective. Vessels are currently forfeited under section 261A of the Migration Act if the master and/or owner knows that the vessel has been used to smuggle people to Austra-
lia. This is a discretionary power so that, if it becomes obvious that seizing such a vessel means that its passengers will have to be brought to Australia’s migration zone for their refugee claims to be processed, then other options may be exercised. The Labor amendments, on the other hand, will ensure that any passengers on such a vessel will have their refugee claims processed in Australia, giving them access, regardless of the merit of their claims, to the Australian legal system outside of the international refugee assessment process. Such an outcome clearly will be contrary to Australia’s national interest. It is certainly worth noting that the Labor Party has so far failed to own up to this dangerous implication of its policy.

The proposal of mandatory forfeiture regardless of prior knowledge will also lead to the ludicrous outcome of making a 747 aircraft carrying one unauthorised arrival subject to mandatory confiscation. This is a manifestly unworkable proposition. Labor penalties clearly depart from the established judicial benchmarks on many points. For example, under section 4B(2A) of the Crimes Act the maximum fine that can be imposed by a court for an offence that carries a term of life imprisonment is only 2,000 penalty units. In contrast, Labor’s amendment to section 233(2) equates 10 years imprisonment with 5,000 penalty units. Perhaps Labor is advocating that a life sentence is equal to 4 years imprisonment. Is this another Latham social initiative?

Labor should be well aware that drafting criminal offences and penalties requires careful consideration and that there has to be consistency across the Commonwealth so that the penalty appropriately fits the crime. Given the Labor Party’s involvement, when it was in government, in the development of the Criminal Code, this is a sheer mockery of our legal system and a shameful attempt to deceive the Australian people. I might point out that Labor is also proposing a tenfold increase in fines generally, from the order of $10,000 to the order of $100,000. Given that most of the offenders are noncitizens from Third World countries, $100,000 is simply not an understandable figure to be a deterrent. The question must be asked: does Labor really not understand how people in poverty think, or does Labor simply feel that this is good for the all-important three-second sound bite?

The proposed offence where a people smuggler causes the death of a noncitizen while bringing them to Australia—that is, proposed new section 233AA—is superfluous. If such an offence were currently committed within Australian territorial waters, state or territory offences of murder or manslaughter would apply and these carry the same penalty range. If such an offence is committed outside Australian waters, the Criminal Code already deals with causing death in the context of extraterritorial people-smuggling. The existing offence carries a maximum 20-year penalty. Again, where does Labor add value?

Similarly, the proposed offence of assisting a people smuggler to evade prosecution—that is, proposed new section 233AB—does not add anything to the range of offences that can be applied, since aiding escape and accessory after the fact are already well-defined offences. The proposed offence of financial support for people-smuggling operations—that is, Labor’s proposed new section 233AC—is actually less stringent than existing measures. Money laundering, for example, carries a maximum penalty of 25 years or 1,500 penalty points. Therefore, these Labor amendments are mere grandstanding. They are simply a disgraceful attempt to score political points.

Existing people-smuggling offences are proving effective. Since 22 July 1999, 459
prosecutions have been finalised, resulting in 437 convictions of crew members under these offences. In addition, there have been 10 convictions of people smugglers, and another 11 cases are pending. Labor should be supporting this bill, which will provide some necessary and sensible measures in the interests of protecting the integrity of our migration processes.

The second set of Labor amendments introduces a schedule 7 to the bill. In fact, Labor seems to be introducing two lots of schedule 7. Maybe this is simply another manifestation of the confusion Labor engenders whenever it has to take a policy position. One of these versions of schedule 7—that is, the one on sheet 2858—is subtitled ‘Immigration Detention—Special Arrangements for Children’. The other, on sheet 4195, is subtitled ‘Amendment of Migration Regulations 1994’ and purports to establish a two-year regime for temporary protection visas. I do not quite see the point of the second of these schedules, and I think the best I can do is ignore it. But the proposals contained in the first of these schedules are rather fun to analyse.

These are best characterised as smoke-and-mirror tricks which allow Labor to offer up a bowdlerised version of measures that are already in place but which are so hedged about as to seriously compromise the integrity and effectiveness of the system. For example, the proposed section 197D provides that ‘as soon as possible’ an unaccompanied child must be released into the care of a foster family or other guardian. This is already done. The amendment is absolutely not necessary. The minister for immigration has an ultimate and unambiguous duty of care to such a child under the Immigration (Guardianship of Children) Act. Does Labor intend to remove this responsibility from the minister? This amendment implies that. Who then should have that duty of care in law? This is no small matter, not even to the Labor Party.

In summary, the government has successfully met the challenge posed by international people smugglers. Last Tuesday Minister Vanstone announced a 50 per cent increase in Australia’s offshore refugee resettlement program—the program that assists those refugees whose status is absolutely clear and who are most in need of assisted resettlement. This is proof, if any proof is needed, that our anti-people-smuggling strategy is working. Labor should take note of that fact and act responsibly for once.

Senator LEES (South Australia) (7.35 p.m.)—As we on the crossbenches deal with the Migration Legislation Amendment Bill (No. 1) 2002, we have to firstly acknowledge that, with the Labor Party supporting the bill despite a number of concerns they raised in the House, our votes on the substantive content of the bill are not critical. Therefore, I will look at the bill only briefly. The bill tightens up the Migration Act. It closes some so-called loopholes, and it will make it more difficult for some people who seek refuge in Australia. It changes the status of children who are born in Australia to that of their parents. If, for example, the parents are non-citizens on special purpose visas, the children are non-citizens. Basically it means that no longer are you an Australian citizen just because you were born here. It also toughens the penalties for people-smuggling offences, which is very welcome. I do look with some caution at some elements of this change, because we may catch people whom it was never intended to penalise. But tightening Australia’s attitude toward people smugglers is very positive, so generally this bill does not create a lot of concerns.

I will now make some general comments about our mandatory detention policies. Firstly, yes, we must make sure that we do
not open the floodgates to terrorists and to people who are just looking for better paid jobs. But people facing terror and persecution in their country of origin are entitled under international law to travel, to escape, to seek refuge and to look elsewhere for a place for them and their families. We must support and help these men, women and children, and we must deal with them humanely and fairly. We should not refuse refuge to those fleeing from persecution.

We do have an obligation to assist those less fortunate than us, and this includes those who have arrived here unannounced—those who cannot find a queue to join and those who were duped by people smugglers. More and more Australians believe we should extend the hand of friendship and assistance to those who risk life and limb in leaky boats to get here. Those whom I have had contact with over the years are escaping murderous regimes or fleeing persecution or looking for a life where their children have some chance of a reasonable education and some opportunities to live a life without constant fear of trauma.

Many of the people we have incarcerated behind barbed wire are religious refugees. Many are members of minority religions like the followers of St John the Baptist who were locked up in Woomera when I was up there a couple of Christmases ago to deliver presents to children. These groups also include more moderate factions of the dominant religion of the particular country. The persecution of these peoples in their home countries is well documented.

As we look back we find that, in the past, people fleeing religious persecution were once accepted into Australia very readily, for example some of the Lutheran settlers who came to my home state in previous centuries. But today we have a government that has encouraged Australians to reject genuine refugees. It encourages us to support the barbed wire, the detention camps and the indefinite locking up of people, many of whom have no country to go back to.

I now return to the bill. With the ALP supporting the substantive issues in the bill, we are now focused very much on the amendments, particularly those moved by the ALP that will see children released. As I have said, I absolutely oppose the present detention system that keeps children locked up. I object to it as a whole but in particular I object to locking up children, who I believe will be scarred for life as a result of their experiences behind the barbed wire. I will support any amendments that give genuine refugees opportunities to re-establish their lives free of violence and the threat of persecution and, in particular, I will support any amendments that will get children out and keep families together. Hopefully we as a parliament will soon begin to undo the system we have in place and move to a more humane process for working through the identity checks, health checks and everything that is needed. Hopefully when the election is out of the road we can take some of the heat out of the issue and make some major progress on this. Of course, we must find out exactly who people are and whether their claims to be refugees are genuine, and then we must support those who are genuine. In this place I will support whatever legislation or whichever specific amendments undo the current inhumane system, particularly for children and families.

**Senator STEPHENS (New South Wales) (7.41 p.m.)—**I rise to add my comments to the discussion on the Migration Legislation Amendment Bill (No. 1) 2002. In particular I want to focus on the provisions for temporary protection visas. By dragging out the time and uncertainty for refugees on temporary protection visas rather than concentrating on harsher penalties for the people...
smugglers, the government is adopting a ‘blame the victim’ attitude and furthermore is ignoring the wishes of a large number of Australians in rural and regional areas. Members of this parliament may recall that last November we received a delegation from Rural Australians for Refugees, a grassroots group representing the concerns of more than 60 rural and regional communities across Australia. The delegation was made up of members of Rural Australians for Refugees and representatives from local councils. They came to Canberra to highlight the contribution refugees make to rural communities across the country. The delegation told parliamentarians that refugees living in country towns are fitting in and making a big contribution to the local economies. Spokeswoman Lara McKinley said these communities want the refugees on temporary protection visas to stay.

John Walker, the Mayor of Young Shire in my home state of New South Wales, was part of the delegation. In his community the local meat-processing plant, Burrangong Meat Processors, relies on refugees to provide labour. According to Mr Walker, the town could not get enough local employees to work at the abattoir and workers had to be sourced from elsewhere. The refugee workers in Young are Afghans from the Hazara community, an ethnic minority in their homeland. They are Shi’a Muslims from the central mountainous part of the country, and they are here on temporary protection visas. They fled—as have many on temporary protection visas, as Senator Lees suggested—from fear of racial discrimination and persecution by the Taliban regime, which threatened them with torture and execution. According to Mr Walker, they have proved to be excellent workers.

The group spokesman was Assad Mehri, a young single man who fled to Indonesia and arrived in Australia aboard a people smuggler’s fishing boat. His parents, brothers and sisters still face problems in Afghanistan. Mr Mehri said that the workers appreciate the freedom they have in Young. He said, ‘We can go anywhere we like and do things we like to do. We’d love to stay, but if the government tells us to go home we will go home. We will follow the laws.’ The company, BMP, decided to officially sponsor these men so they could stay in the country and become a permanent part of its work force. In the words of the proprietor, Grant Edmonds, ‘The men are all gentle and polite, who fit in well with our work force. They certainly aren’t taking away any jobs from locals. We couldn’t find enough people to work here.’

Then there is Ian Skiller, who has a farm in Tooleybuc in south-west New South Wales. He also wants the refugees employed at his farm to stay in Australia. He has employed up to 15 refugees at one time on the farm and says that since he started employing extra workers he has been able to expand his operation from six hectares to 20 hectares. He says:

I’ve had an Afghani picking crew on my farm for the past two years. They are great blokes. They really miss their families and the uncertainty of their situation takes its toll on all of us. It would be a great blow to my farm and to my region if they were sent back. They should be allowed to stay.

Mr Skiller has appealed to the federal government to review the process for granting temporary protection visas, as he would like his employees to have a more certain future. Not only has Mr Skiller benefited financially from having TPV holders working on his land; there is also a huge financial benefit to the country to be considered. Rural and regional Australia could lose millions of dollars and a regional labour shortage could be exacerbated if refugees are not given permanent status in Australia, according to Janet...
Carr, a spokesperson for Rural Australians for Refugees. She says:

If our government was serious about regional economic development they would grant permanent protection to refugees and give them a real chance to put down roots in our communities.

TPVs are granted to people who are recognised as refugees but have travelled to Australia without valid documentation. Of course it is necessary to have strict migration legislation, but sometimes the inflexible rules can cause inhumane suffering. I am thinking of the Sammaki family, for example. I am sure everyone here recalls the dreadful situation of little Sara and Sabda Sammaki, whose mother, Endang, was killed in the terrorist bombings in Bali, where she had gone to get legal advice regarding her husband’s detention in Baxter detention centre. Her husband, Ebrahim Sammaki, was in Australia on a TPV and under the terms of his visa was not permitted to leave this country and go to Bali where, as every right-minded person would agree, he needed to be at that time; and the children were not allowed to visit their father for fear they might remain in this country illegally. Fortunately, that particular knot of red tape has been dissolved and the children are now here with their father, where they should be, but their situation highlights the need for more compassionate and flexible migration legislation.

Offshore issued TPVs that do not allow an application for permanent protection at any time should be eliminated, and Labor will be moving an amendment to do that. This amendment is in keeping with Labor’s awareness of the suffering and uncertainty of TPV holders. Labor supports a one-off TPV period for all unauthorised arrivals and believes that a two-year period is ample time to do the necessary background checks to determine the status of new arrivals. Under this model we can reduce the amount of anxiety unnecessarily suffered by so many refugees.

In what could be called a win-win situation, we could be helping ourselves as well as the refugees. It is widely recognised that we have a demographic problem in rural Australia. Just a few weeks ago the Parliamentary Library hosted a vital issues seminar on this very topic, and I know that a number of members of this chamber attended that seminar because they recognise the urgency of encouraging migration to the regions. There is plenty of evidence that country and regional towns see a solution, or at least a partial solution, to their problem in asylum seekers and refugees.

Rural Australians who want to show refugees that they are welcome as our future citizens have begun signing and writing messages in welcome books. These books, inspired by the sorry books that were so successful in the reconciliation process, have proved a very popular idea. Each asylum seeker in the detention centres will eventually receive one, and the thousands of messages will also be presented to government. City people have also taken up the welcome books with enthusiasm. The concept of welcoming refugees into our communities rather than fearing them is nothing new. Another idea that reflects the way country people are thinking is the proposal for a welcome towns project put forward by Mr Ken Davidson, a vet from Moss Vale, on Radio National’s Bush Telegraph.

In these times of international suspicion and unrest, it is vital to have effective immigration controls and especially to come down really hard on people smugglers. But having a strict migration policy does not require us to cause unnecessary suffering by dragging out the time on TPVs of people who have already endured enough; nor does it cause us to disregard the contribution many of these people can make to our country or the wishes of all those rural Australians who would be happy to give them a home.
Senator SCULLION (Northern Territory) (7.49 p.m.)—I rise to speak to the Migration Legislation Amendment Bill (No. 1) 2002. Not a great many of the amendments that the government have put forward in this legislation are particularly notable. This is part of the normal path of ensuring that the fabric of our border protection, which is made up of the threads of regulation, continues to be inspected to ensure that there are no holes. The intent of the legislation is to ensure that the provisions operate as the Migration Act originally intended.

I would like to speak briefly on the Labor Party amendments that have been proposed in this place today. ‘Disappointing’ is a word we often use for the contributions of the Labor Party in this place, but it is particularly disappointing that this is clearly a smoke-screen. It must be very difficult for the Labor Party to come here and add value. It is very disappointing to see that this series of amendments that they have suggested does not do that. In fact in some cases, as has been said already today, these amendments step outside the standard Commonwealth criminal law policy. They are not an additional deterrent and do not act as a practical deterrent. In some cases, what Labor have recommended would in fact mean more lenient penalties.

This is an area that the government has scrutinised continuously, and it is tremendous to see that we have a history of ensuring that the penalties in place are those that will ensure a deterrent. We had some very tough penalties for people-smuggling offences in 1999. In 2001 we decided it would be an extra deterrent to include mandatory minimum sentencing. We sent a very clear message: ‘If you come to Australia to trade in human lives you will be detected, you will be caught and you will be punished in a way that will provide a sufficient disincentive to others.’ The whole idea of a punitive mechanism is that it provides a disincentive, and that is a very important part of the policy.

To those people who have said that it does not appear to have worked—and that argument has been put by those on the other side of this place—I say that since July 1999, 459 prosecutions have been finalised. Of those, 437 people have been convicted under this legislation. There have been 10 convictions of people smugglers and 11 are pending. That is testament to the success of this legislation and this government’s continued involvement in this very important process to build not only strong border protection but also strong disincentives to ensure that people do not put the lives of their families at risk.

Some of the amendments proposed by the Labor Party have provided for mandatory seizure as if it is something new. It is very disappointing. I can remember another life when we built 16 artificial reefs off Darwin out of the very vessels that were confiscated under the current arrangements. But this is a very sophisticated issue and it needs a sophisticated approach. In relation to these amendments I know that Senator Tchen has already mentioned in this place the 747s and those sorts of issues, where these amendments will catch people in innocent passage. The amendments have not been particularly well thought out. Under these amendments we would even have the situation where it would be mandatory to confiscate a cargo vessel which people had come over on. Nobody would know they were there but under these amendments that vessel would fall under a mandatory confiscation. That would be a ridiculous outcome. This whole process has been fraught with ridiculous policy suggestions from those on the other side. And this has to be hard to top.

I often wonder about the behaviour of Mark Latham. One day when he is speaking...
about the United States he behaves like a benzedrine puff adder and nothing it does is right, but the next day he is a sycophant. He has a quick look around: ‘I don’t know where I put my border control policy; we’ll borrow the United States policy. We’ll just take it holus bolus.’ The United States is a completely different environment and has completely different issues but the Labor Party will just borrow theirs: ‘We’ll all put on a special hat and put a red stripe on the side of the boat.’ That is an absolutely ridiculous approach, characterised by Mr McClelland. I remember reading an article in the Sydney Morning Herald of 10 March when he suggested we use 10 additional patrol boats. He has obviously forgotten that we already have 15 Fremantle class boats and eight Bay class boats. They are exactly the same size as the Labor Party are suggesting; it is just a duplication of what we have already. Mr McClelland also suggests we have snipers in helicopters. Talk about off-the-wall policy! Welcome to Australia! Can you imagine serving our obligations under the refugee convention by going in a helicopter and shooting— with high-powered rifles—at people in boats with the intention of stopping their passage to Australia? This would require a .50 calibre rifle, which would be the only type that could penetrate about 12 inches of timber and go through the roof of the decking to get to the inboard motor. What a welcome to Australia! What a ridiculous policy approach these people have to this matter. This is a very serious matter. I condemn the suggestions and proposed amendments of the Labor Party as laughable, unhelpful and misguided. I commend the bill to the Senate.

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (7.56 p.m.)—I would like to speak not as the minister closing the debate but as a private senator for Queensland with an interest in the Migration Legislation Amendment Bill (No. 1) 2002. The changes in the bill are, in the main, technical in nature and do not change the underlying policy settings of the act.

Senator Conroy—Keep talking.

Senator IAN MACDONALD—Thank you, I intend to. All in all, I think the legislation brought forward by the minister is good legislation and I urge the Senate to support it.

Senator CONROY (Victoria) (7.56 p.m.)—I would like to join the debate on the Migration Legislation Amendment Bill (No. 1) 2002 very briefly to respond to the second-last speaker from the government, Senator Scullion. When government senators want to stand up and talk about off-the-wall policies and how dangerous and lunatic some policies are, I think it is time they had a good look in the mirror. This government presides over a policy that directly led to the deaths of two refugees. When they tried to turn back a boat—they tried to tow a boat back out to sea and it began to sink—ultimately the Navy were not able to save everybody on that vessel. And two refugees attempting to come to this country, in flight from persecution, drowned. So when the government senator talks about policies that are off the wall or policies that sound a bit mad, I say that he should have a good look in the mirror, because the policy he put his hand up for—the policy that the government want to champion around this country—directly led to the deaths of two refugees. That is a shame on this country and it is a shame on government policy; no government policy should lead to that outcome. No matter how well intentioned the policy may be and no matter how well intentioned the government senators believe the policy to be, the hard facts are that two refugees died at sea because the Navy were doing their best to enforce the government’s policy and doing
their best to ensure that they turned the boats back. When that happens there has to be something wrong with government policy because they are no longer protecting—

Senator Vanstone—It is your policy to turn boats back, as well.

Senator CONROY—Not when it leads to people dying, Senator Vanstone. Our policy is to capture the boats and take them to Christmas Island. That is our policy. Our policy is not to turn them back.

Senator Vanstone—You do not know what your policy is.

Senator CONROY—I know exactly what our policy is, Senator Vanstone. Our policy is not to lead to people drowning at sea. That is not a policy I would ever be proud of, and you should not be, either. However well intentioned you believe that policy is, you have to have a look at it and say, ‘This is a consequence of the policy.’ It is just a fact; it is what happened. If you can live with it, that is fine. That is what happened; you cannot dispute the fact that it happened. That fact is sitting there. The Navy did their best. No-one is critical of the Navy for doing their best but what happened—

Senator Vanstone interjecting—

Senator CONROY—I am terribly sorry; I am prepared to point at you and say that when people end up dying it is not a good policy and it needs to be revised. That is what Labor has proposed—a revised policy—and some of the amendments are being debated today. I can only invite you to read what your second-last senator wanted to accuse the Labor Party of, so do not come in here not having heard all of the debate, Senator Vanstone.

Senator Vanstone—I will come in here when I like, sonny Jim.

Senator CONROY—Do not come in here not having heard all the debate and try and put on some mock outrage, okay. Do not come here with mock outrage when your senator has been here accusing the Labor Party of all sorts of off-the-wall policies. I think we are now ready to go into committee so I will happily end my contribution, but get all the facts on what your second-last speaker said before you want to join the debate, Senator Vanstone.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (8.01 p.m.)—The Democrats oppose schedule 5 in the following terms:

(1) Schedule 5, page 8 (line 2) to page 9 (line 23), TO BE OPPOSED.

I spoke to this briefly in the second reading stage. I sorry if I am a little bit late but the minister’s second reading contribution was a bit shorter than I anticipated. This schedule in the bill, as I said in my second reading contribution, deals with what the government said is Criminal Code harmonisation. That means introducing strict liability for a particular offence. The Democrats believe that strict liability in this case is too harsh. The issue relates to spouse visas in particular and a person being required to clearly demonstrate no guilt in relation to the offence. The issue for the Democrats is not that we think people should be able to get away with mis-representing the situation in relation to spousal relationships. Our issue is that we believe strict liability is too harsh and that the default element of recklessness is better than strict liability. We feel that it would put potentially innocent people or people who in most respects are naive or gullible in a situa-
tion of being in a lot more trouble than they should be.

It is an area where it is notoriously difficult to prove genuineness in relationships, not just in migration law but in other areas as well. It does present difficulties for enforcement officers but I think in this case it is basically just a matter of strict liability being too harsh. I expressed similar views about two years ago or whenever it was that the Senate committee looked into this matter and I believe that it is still the case. I think in parts—and I am just trying to make sure that I am addressing the right issue; it is certainly in relation to strict liability, which is a component anyway of this schedule—strict liability is something that we believe is too harsh across the board for the people that it may apply to. We think it is too low a threshold for the prosecutor or too high a threshold for the defendant, at least in the areas detailed in this schedule anyway. We do not believe that it is appropriate and therefore we are opposing schedule 5.

Senator SHERRY (Tasmania) (8.04 p.m.)—The Labor Party will not be supporting this amendment from the Australian Democrats. Labor’s view is that the Democrat amendment undermines the border protection of Australia. In this part of the bill the Liberal government is rectifying an anomaly of its own making which was created by the passing of the Migration Legislation Amendment (Application of Criminal Code) Bill 2001. Labor supports the clarification the bill before us makes in relation to the evidential requirements of people-smuggling offences. The application of the Criminal Code was not meant to change the nature of the offences. It is unfortunate that it has taken the Liberal government over two years to rectify this mistake of its own making. Labor has supported a change since the original problem arose back in 2002. As the Labor amendments that we will be coming to shortly show, we want to go further than the Liberal government with the introduction of harsher penalties for people smugglers.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (8.06 p.m.)—Mr Temporary Chairman, to Senator Bartlett I say that my advice is that the spouse matter was dealt with in the House of Representatives in accordance with what you wanted and therefore this amendment now does not relate to that. We do not support the amendment for the very reason that people smuggling is a serious problem globally, not just for Australia. We are and have been the recipient of large numbers of people through people smugglers. I understand your concern about strict liability offences and in many cases that concern is not misplaced. But I also understand that the burden of proof is becoming extremely hard as the world becomes more complicated and I think that if facts have been established that lead to a certain position then strict liability is appropriate in this case. For those reasons, Senator, we will not be supporting your amendment.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (8.07 p.m.)—I had the realisation dawn on me halfway through when I was speaking that the spousal matter had been dealt with—which is why I suddenly thought I would check what I was talking about, and obviously in that case I was incorrect. As I said at the start, I had just charged in here having had to get back slightly quicker than I expected and I still had the change in my head. So the minister is correct that that concern, which was raised by the Senate committee, was addressed in the House of Representatives, which we are pleased with. My broader concern about strict liability does still remain. I acknowledge that that is not shared
sufficiently strongly by others in the chamber. I think there are other issues which one should comment on in relation to people-smuggling, but I might save those comments until the next set of amendments from Senator Sherry.

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—The question is that Schedule 5 stand as printed.

Question agreed to.

Senator SHERRY (Tasmania) (8.08 p.m.)—by leave—I move opposition amendments (1) to (4) on sheet 4171:

(1) Schedule 5, page 8 (after line 7), after item 1, insert:

1A Subsection 229(2)

Omit “$10,000”, substitute “$100,000 and mandatory confiscation of a vessel connected with the offence”.

(2) Schedule 5, page 8 (after line 22), after item 3, insert:

3A Subsection 230(2A)

Omit “$10,000”, substitute “$100,000 and mandatory confiscation of a vessel connected with the offence”.

(3) Schedule 5, page 8 (after line 29), after item 4, insert:

4A Subsection 232(1)

Omit “100 penalty units”, substitute: “1,000 penalty units and mandatory confiscation of vessel or vessels connected with the offence”.

(4) Schedule 5, page 8 (after line 36), after item 5, insert:

4B Section 232A

Omit “by imprisonment for 20 years or 2,000 penalty units, or both.”, substitute “by:

(a) for a first offence, imprisonment for 20 years or 2,000 penalty units or both;

(b) for a subsequent offence, a mandatory minimum term of imprisonment of 10 years, with a 7 year non-parole period and with a maximum penalty of imprisonment for 20 years or 2,000 penalty units, or both.”

4C Section 233A

Omit “imprisonment for 20 years or a 2,000 penalty units, or both”, substitute “by:

(a) for a first offence, imprisonment for 20 years or 2,000 penalty units or both;

(b) for a subsequent offence, a mandatory minimum term of imprisonment of 10 years, with a 7 year non-parole period and with a maximum penalty of imprisonment for 20 years or 2,000 penalty units, or both.

233AA People smuggler causing death of non-citizen while unlawfully bringing non-citizen into Australia

(1) A people smuggler shall not cause the death of a non-citizen while unlawfully bringing or attempting to bring the non-citizen into Australia.

(2) A people smuggler is guilty of an offence if, while bringing or attempting to bring a non-citizen into Australia in contravention of section 233, the people smuggler causes the death of one or more persons.

(3) For the purposes of this Act, a people smuggler is a person who engages in the offence of people smuggling as defined in the Criminal Code.

Penalty:

(a) life imprisonment;

(b) where mitigating circumstances exist, a mandatory minimum term of imprisonment of 14 years with a 10 year non-parole period.

233AB Assisting a people smuggler to evade prosecution

A person shall not assist a people smuggler to remove himself or herself from the jurisdiction of Australia for the purpose of evading prosecution for an
offence under this Act or an equivalent law of a foreign jurisdiction.

Penalty: 10 years imprisonment or 5,000 penalty units, or both.

233AC Offence of financial support of people smuggling operation

A person shall not supply money, financial assistance or services in kind to assist a person engaged in people smuggling to unlawfully bring or attempt to bring a non-citizen into Australia.

Penalty: 5 years imprisonment or 5,000 penalty units, or both.

(4) Schedule 5, page 9 (after line 13), after item 6, insert:

6A Subsection 233(2)

Omit “10 years or 1,000 penalty units, or both.”, substitute “10 years imprisonment or 5,000 penalty units, or both.”.

The Liberal government has claimed constantly that it is tough on people smugglers, but all of the evidence points to a complacent government that thinks that if it tells the Australian people it is tough on border protection and people smugglers they will believe it. This bill was introduced in 2002. Since 2002 the Liberal government has sat on legislation that tightens people-smuggling offences. Seeing as the government claims it is tough on border protection, these amendments that Labor are proposing in respect of people-smuggling penalties are a challenge to the Liberal government. Labor challenge the Howard government to match our tough approach to people smugglers.

Labor’s amendments will introduce Labor’s policy of three new offences, including life imprisonment for smuggling unlawful noncitizens into Australia causing the death of one or more people. Labor also propose to increase a range of existing penalties to better deter potential people smugglers. These penalties include a minimum 10 years imprisonment for repeat offences of high-level people smuggling. Labor will also increase the fine for lower-level people-smuggling to $100,000—plus the mandatory confiscation of the vessel. If the vessels are mandatorily confiscated, that will make sure that we do not have a repeat offence. Labor will also confiscate any profits earned from this vile practice of people-smuggling.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (8.11 p.m.)—The Democrats do not support these Labor Party amendments. In isolation I understand the argument that Senator Sherry makes—I still would not support him, I might add, but I understand the argument he makes. This seems to be part of sending a signal not to people smugglers but to the electorate. They are two different signals. Some of the other amendments we will get to are about improving the situation for temporary protection visa holders and improving the situation for children in detention. That is sending a signal that Labor are addressing the concerns of that part of the community that is concerned about that. The Democrats are very much amongst that group. But Labor are also wanting to send the signal that: ‘We are tougher than the government. We are really tough. We are so tough that the government are a bunch of pansies when it comes to this area.’ That seems to me to be a very mixed message.

Nobody supports people smugglers. People smugglers, generally speaking, put lives at risk just for financial gain and occasionally have cost people their lives purely for financial gain. But let us not get into an auction about who can be the toughest. These amendments, I am astonished to see, actually contain mandatory sentencing, a principle that I thought the Labor Party quite rightly had spent a lot of energy opposing in completely different circumstances. That was a different offence, I appreciate, in relation to the Northern Territory. Under these amendments the punishment for a first offence of
people-smuggling will be imprisonment for 20 years, 2000 penalty units or both. Subsequent offences will have a mandatory minimum term of imprisonment of 10 years with a seven-year nonparole period. I think mandatory terms in themselves are undesirable and I think this sort of blanket approach is undesirable.

Whilst people smugglers, particularly those involved in recent times with asylum seekers attempting to come to Australia to seek protection, have been very disreputable characters, there are two qualifications to that. By and large, the people that we catch sailing the boats are not the ones making literally millions of dollars and putting lives at risk without a care; they are the vessels’ crew, who are usually extremely poor Indonesians who are having real trouble getting by and are putting their own lives at risk by getting on those incredibly unsafe boats. So, by and large, the people that you get will not be the Mr Bigs, but they will be the ones locked up. In many cases—and this is a fact; it does not excuse, necessarily, what they are doing—they are poor Indonesian fishing people struggling enormously. They get the opportunity for a one-off big packet of dough, take that chance, lose out and end up being locked up with their families left behind. That is a fact. That is what has happened.

There was an interesting little article in one of the papers a few weeks ago actually profiling one of these people who had been in jail in Australia for a few years and then had gone back home. That does not excuse it, and I am not saying they should not be punished. That is why you have discretion for courts; so that they can take into account all the circumstances. They might say: ‘This person actually wasn’t Mr Big, wasn’t the main operator. They had significant motivation that was not just pure greed so they could buy their fourth Mercedes; they were trying to feed their family.’ The second thing is that the general term ‘people smuggler’ is appropriate, but it can be used—and, under the law at the moment, it would be used—for a person who might not be doing it solely for greed and financial gain but who may be trying to help people get protection. Oscar Schindler, from Schindler’s List, could in some terminology be a people smuggler because he tried to, and did, get people out of the country. He did not necessarily take money for it—I do not know—but he did get people out of the country using false documents, through clandestine means. Some of the people who were assisted here in other circumstances in previous years, it is my understanding, did not necessarily do so through criminal gangs who were simply exploiting people for money. They were getting assistance, in part, through humanitarian concern.

Anybody being assisted in any way to seek protection with that blanket criminality would surely break the law here. I am not necessarily suggesting in this debate that the law should be changed to remove that criminality, but mandatory sentencing removes that discretion. I know it says for a second offence. I do not even think the principle of upping the penalties from the first offence is right. It really adds that whole idea that seeking protection is in and of itself a criminal activity when it quite frankly is not. It is not even an illegal activity. Whilst it might seem that targeting the people smugglers and not the asylum seekers is a sensible approach—and it is, to a degree—I do think some of the complexities, the shades of grey, need to be noted. You cannot completely target and entirely criminalise—endlessly, without any sort of qualification—the activity of assisting people to come to Australia to seek protection without reinforcing what in my view is a false perception and false rhetoric that the
people seeking protection are somehow or other breaking the law as well. They are not.

In saying that, I would also say that I agree with the Labor Party and the government that we do not want people to be coming here on boats, as much for their own safety as for anything else. It is very unsafe. People should not have to put their lives at risk to seek protection from persecution. People should not have to sell off everything they own and go into debt so that they can pay someone to escape, to get protection. But the fact is that they do in some circumstances. We need to work out other ways to give them viable opportunities to seek protection without having to do that. They are not there yet and we are a long way from that. So it is a reality that has to be dealt with in a way that does not attack or penalise the person who is genuinely seeking protection from persecution. I am in favour of attacking and penalising the people who profit extremely and hugely from those people's desperation in a way that puts their lives at risk, but I am also saying we need to keep a bit of perspective. I certainly do not believe we should be ramping up the penalties even further, particularly with mandatory sentencing, in the cases where the people we would be sentencing would be the small fry, if you like. The poorer person would not be the people smuggler per se.

The other caution I would give is really in terms of thinking forward and about all the circumstances where people might be providing assistance to others to seek protection in Australia. Certainly countries a bit further afield than those immediately surrounding us already produce refugees. We are in a region where in our near vicinity in the not too distant future we could potentially have a fair bit of instability and persecution. I do not want to see people who are basically just trying to assist others to seek safety in Australia face enormous penalties as a consequence. Sometimes it can be a genuine humanitarian act to help somebody escape persecution. I very much hope we are not going to pursue that with countries adjoining Australia, because people might even be rescuing their families.

From a report I read, my understanding—and I do not know enough about it to really draw the point too far—of the moderately recent circumstance of the boat that came from Vietnam is that the person who was charged with, and I think convicted of, people-smuggling was a family member of some of those that came here seeking asylum. I do not know any more than that. I simply use that by way of saying that that could have been a circumstance where a family member in Australia may have been trying to help others in their family to get here from an adjoining country where the circumstances were bad. I am not saying they should do that; I am saying that if that happens we do not want them to automatically face enormous penalties or long jail terms as a consequence. It is a matter of proportion. I think this is over the top, to put it simply. We do not support these amendments.

Senator SHERRY (Tasmania) (8.21 p.m.)—Just very briefly, the Labor Party are not taking a blanket approach to penalties, to mandatory jail terms. We have looked at the crime and we regard it as one of the most serious crimes. Senator Bartlett has outlined some particular circumstances he thinks are extenuating, but we take a very serious view of people-smuggling on the scale of crime. It is endangering lives and, in some cases, costing the lives of people who are tempted to be smuggled into this country. It is a very serious matter and we think that the much tougher penalties that we have outlined are appropriate in the circumstances.

As for the mandatory seizure of the boat, we see absolutely no possible justification
for allowing a person to retain the vessel when they have smuggled people into Australia and been caught. There is no excuse whatsoever in those circumstances. It would be highly likely that they would use the vessel and come back on another occasion if we did not get rid of their boat. The Labor Party have adopted the amendments that I am moving as policy and we will continue to pursue them if they fail to gain sufficient support in the Senate this evening.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (8.23 p.m.)—The government will not be supporting these amendments. Let me say at the outset that these amendments are designed to do one thing: get Labor a headline for a day or two—at the most I would think. Unfortunately, as a consequence of their failure to look at the detail of what they are suggesting, the headline might not be that which they expected.

I will just run through a couple of the suggestions that have been put as ills that would be remedied by these offences. There is a proposed offence where a people smuggler causes the death of a noncitizen while bringing him to Australia. Senator Bartlett and Senator Harradine, nobody wants that to ever happen. But if such an offence is committed within Australia, my advice is that the state and territory offences of murder or manslaughter would already apply. We already have laws to deal with this and I am further advised that if it happens outside Australian waters the Criminal Code already deals with causing death in the context of extraterritorial people-smuggling, with the existing offence carrying a maximum penalty of 20 years. So my simple point is: none of us want to see people—murder might be too strong a word—causing anyone’s death but my advice is that the law already caters for that. The law does not cater for Labor getting a headline on this issue tomorrow. Equally, the proposed offence of financial support for people-smuggling operations—the new section 233AC—is not consistent with the appropriate standard of the penalty that ought to apply.

The government introduced, as everyone knows, strong people-smuggling offences in 1999 with some of the toughest penalties. In 2001 we introduced mandatory minimum sentences, which I understand Senator Bartlett has a difficulty with. But it was all within Commonwealth criminal law policy, a policy that until the moving of these amendments had been supported by previous Labor governments. These penalties would in fact take us right outside the Commonwealth criminal law policy. Everything has to have perspective and relativity, and the Commonwealth criminal law policy provides that for us. We can keep in perspective one crime to another and not because we want a headline to say, ‘Bump up the penalty on this,’ and enter into some very unattractive auction on increasing penalties. We like to think that we think about these things and keep them in perspective. We believe that the penalties we have got are right and for that reason we are not prepared to support these amendments.

It would be the easiest thing in the world for us to support some of these increased penalties so that Labor could not say that they proposed something tougher. We think it would be wrong to propose penalties that are outside the Commonwealth standard, to lose perspective on this issue, and, in particular, it would be wrong to do so for some cheap political point. May I add it would also be wrong to do so in particular because it appears—and I do not think that we should take anything for granted—that the government’s policies with respect to people-smuggling have been, frankly, spectacularly effective. We know that there are people still
in Indonesia—perhaps more arriving—that would prefer to come to Australia, and they may well try to do so. But Labor cannot possibly use as an excuse for increasing the penalties outside the Commonwealth criminal law policy that the policies we have got now are not working. That clearly is not the case—they are working.

Let me turn to the most obvious indication that these offences were cobbled together to give Mr Latham a headline at the Labor conference and to get Labor a headline over the next couple of days. If you look at the changes and amendments in relation to sections 229, 230 and 232, where there is, as Senator Bartlett rightly pointed out, the mandatory confiscation of a vessel, that might not mean a lot. It certainly does not mean a lot in dollar terms if you are talking about the usual vessels that are used—small Indonesian fishing vessels. But as has been pointed out, these are pretty much strict liability offences—that is, it is the doing of the act not the intention that counts. So, as these amendments are drafted at the moment, the advice I have is that if there is a stowaway on the QEII you will immediately seize it because the operators of the QEII—whatever shipping line that is and I think it is Cunard—had not intended to, but they had without proper documentation, bring someone here, so you seize the QEII. I think the tourism industry might have something to say about that.

If that had not been thought of, you would think that people opposite proposing these sorts of amendments would have done some basic investigation and inquired about what is meant by the mandatory seizure of the vessel. You can see some genius in the Labor Party saying, ‘It means the boat,’ and they would all laugh because vessel means ‘boat’ or ‘ship’. But of course in statutory interpretation you go to the definitions section at the front—and vessel includes aircraft. So we are now in the position, if we were to adopt this ridiculous amendment, where we would be saying to airline carriers wanting to bring tourists and business people into Australia that if they have an accident and there is just one person on board that they have brought without proper documentation, we will seize the aircraft. I am not sure how many aircraft Qantas have got, but I do not think you can go doing that to Qantas every day of the week and do it for very long. In fact, since they have a reasonable fleet, but it is going regularly to and from Asia, it might be a very short period of time before you seize the whole fleet. Remember these are strict liabilities. It is not a question of intention but just arriving without documentation and you will seize the aircraft and you will seize the QEII. How did the would-be alternative government arrive at its position? They arrived at it out of desperation for a headline and out of a complete incapacity to read the definitions section of acts of parliament.

Senator SHERRY (Tasmania) (8.30 p.m.)—That is not my advice, Minister. You have been scratching around looking for a feeble excuse not to support Labor’s tougher amendments.

Senator Vanstone—Did you know?

Senator SHERRY—I do know, Minister. That is not our advice. You are just looking for an excuse not to support Labor’s much tougher penalties.

Senator VANSTONE (South Australia— Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (8.31 p.m.)—I invite the senator opposite to indicate why, when there is a mandatory seizure—there are no exceptions—and it is a strict liability offence, what I have said is incorrect. You do not need to ask advice on it.
Senator Sherry—It’s not our legal advice.

Senator VANSTONE—I am not asking about your legal advice; I am asking you to explain in plain English why you are proposing an offence that has mandatory seizure with no exceptions, a strict liability offence, and the only thing you can say is that you were advised it was right. I am asking you to explain. In my view, when you put those two things together it is impossible to come to any conclusion other than that you will seize the aircraft and you will seize the QEII. I think industry in Australia might be interested in your answer.

Senator SHERRY (Tasmania) (8.31 p.m.)—That is your view; it is not the Labor Party’s view. It is nothing more than you scratching around in a rather pathetic way to avoid supporting Labor’s amendments. Labor has its view about what will occur if these amendments are passed. The challenge to you is: support them.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (8.32 p.m.)—Am I to understand that what the shadow minister is saying is that Labor have given consideration to this and that in the cold light of day, having considered it, you have come to the view that there would not be mandatory seizure of an aircraft such as a Qantas 747 or 767—whatever the big ones are that go overseas—if it were to come in with one or more passengers without proper documentation and that the QEII would not be seized. Is that the proposition you are putting? You did say that that is not your advice. All I am asking is: did you consider it, did the relevant shadow minister consider it, did shadow cabinet consider it? Are you saying that, after proper consideration, you reject the proposition that mandatory seizure on a strict liability offence would result in the result that I have put forward? Is that what you are saying?

Senator SHERRY (Tasmania) (8.33 p.m.)—I have already outlined what I have said. The challenge for you is to support Labor’s tougher penalties. Go ahead and vote for them.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (8.33 p.m.)—Mr Temporary Chairman, I want to put on record that there have been a couple of occasions where the shadow minister has been given the opportunity to say something more than ‘That’s not our advice’ to indicate that this has been given consideration. He has declined to do so, and I think that in doing so he has given us the answer. Either answer is going to be dreadful. If the answer is: ‘No, we just relied on advice,’ it shows inadequate consideration; and if the answer is: ‘Yes, we gave it adequate consideration,’ it shows that consideration was neither informed, nor intelligent, nor capable.

Question negatived.

Senator SHERRY (Tasmania) (8.34 p.m.)—by leave—I move opposition amendments (1) and (2) on revised sheet 2858:

1. Clause 2, page 2 (after table item 7), add:
   8. Schedule 7 The day on which this Act receives the Royal Assent

2. Page 11 (after line 11), at the end of the bill, add:

   Schedule 7—Immigration detention—special arrangements for children

   Migration Act 1958

   1 At the end of subsection 196(1)
   Add:
   ; or (d) released in accordance with section 198.
After Division 7A of Part 2

Division 7B—Immigration detention—special arrangements for children

197C Interpretation

In this Division:

appropriately qualified child protection officer means a person engaged by the Commonwealth or a State or Territory government for the purpose of dealing with matters relating to the welfare of children, including foster care arrangements.

detained child means an unlawful non-citizen who is less than 18 years of age and who is detained under section 189.

unaccompanied detained child has the same meaning as non-citizen child in section 4AAA of the Immigration (Guardianship of Children) Act 1946.

197D Release of any unaccompanied detained child

(1) As soon as possible after the commencement of detention under section 189, an unaccompanied detained child must be released from such detention into the care of a foster family or other appropriate community-based care arrangement determined by an appropriately qualified child protection officer.

(2) Nothing in subsection (1) requires the taking of any action which would cause a health or security risk to Australia.

197E Detention conditions of any detained child

(1) As soon as possible after the commencement of detention under section 189, a detained child must be accommodated with his or her family members in immigration detention conditions which meet the same amenity and security standards as are required by the Port Augusta Residential Housing Project arrangements for women and children operated by the Department.

(2) Nothing in subsection (1) requires the taking of any action which would cause a health or security risk to Australia.

Labor introduced these amendments to the House when this bill was debated in December 2002. Labor’s position on children in detention has not changed since then. Labor wants to see children out of detention centres such as Port Hedland and Baxter, and this amendment would see unaccompanied children placed in appropriate foster or community care. Under Labor’s approach, other children in these facilities would be placed with their families in residential housing projects such as Port Augusta.

Labor believes and supports mandatory detention. But within a mandatory detention system there is a need for graduations of detention so that people can be treated with dignity and respect. Labor’s policy wants to ensure that families live in what we would describe as residential style hostels with discreet supervision and discreet security—on the model you can see at Port Hedland and, more particularly, at Port Augusta. That was Labor’s approach in 2002, and it remains our approach today.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (8.35 p.m.)—by leave—I move Democrat amendments (1) to (4) on sheet 2857:

(1) Subsection 179D(1), after “possible”, insert “and not later than 14 weeks”.

(2) Omit subsection 197D(2), substitute:

(2) A decision to detain in accordance with subsection (1) is reviewable by the AAT.

(3) Subsection 197E(1), after “possible”, insert “and not later than 14 weeks”.

(4) Omit subsection 197E(2), substitute:

(2) A decision to detain in accordance with subsection (1) is reviewable by the AAT.
These amendments and Labor’s amendments go to an important area, probably one of the areas of most concern to the community in relation to the whole area of treatment of asylum seekers in Australia—that is, the detention of children. Labor’s amendments are welcome as far they go. Let me preface all my remarks by saying that the Democrats’ view is that mandatory detention across the board is inappropriate. Initial detention in centres that are far less like jail than what we now have to assess people in terms of health and security is appropriate. Then, as soon as practicable, they should be allowed out into a community based arrangement. There are any number of variations and different options around the world that could be used as models but I will not go into them now. I have certainly spent a fair bit of time in a number of countries specifically looking at the matter of alternatives to the detention regime in Australia. The alternatives are there, and I think that is one of the first points that need to be made.

Part of the reason that some Australians believe that mandatory detention is necessary is that they do not believe there are any alternatives that work. There are other alternatives that work. Each approach has its own pluses and minuses, of course. The big minus in the Australian system is the impact of long-term detention on the people, particularly the children. Another impact is the cost, although that in itself should not be an excuse. If the human cost, though, is as bad as it is, then we need to have another approach. The Democrats have long advocated that.

In focusing on these amendments to do with children, I do not want it to be misinterpreted that we are only interested in children in detention. However, it is a movement forward in the Labor Party’s policy in the last few years. Whilst criticising both Labor and Liberal in relation to their policies on asylum seekers, I have tried to take an approach that welcomes positive moves. This is a positive move.

The Democrat amendments seek to tighten slightly the amendments moved by the Labor Party, which say that as soon as possible after the commencement of detention a detained, unaccompanied child should be released out into the community into a foster family or, if it is a child with a family, released with their family members into immigration detention conditions similar to the current arrangements at Port Augusta. I would like to know why you could not have nicer detention conditions for everybody, frankly. But the real issue, even in relation to the versions put forward by the Labor Party, is that while the Port Augusta alternative detention arrangements for women and children are nicer conditions—there is no doubt about that—it is still detention and Labor’s own amendments say that they are still immigration detention conditions. That point needs to be made. So while what Labor has put forward are far from the Democrats’ preferred options, we would still support them as being some step forward and some recognition of the need to get children into a better environment as soon as possible.

What our amendments do is define ‘as soon as possible’ a little bit more tightly and say ‘and not later than 14 weeks’, because ‘as soon as possible’ is a bit of rubbery. We would like to have a specific time frame—an absolute maximum of 14 weeks—for detention of children. That is still quite a long time, frankly. For many countries, including in Europe, even those that have detention for a small length of time have an even smaller time for children. To detain children for more than a couple of days in many countries is seen as not acceptable unless there are specific circumstances. What we have also put forward here, therefore, is that if a decision to detain for more than 14 weeks is still believed to be necessary, it can be appealable to
the tribunal. That is a basic principle and we would like to see that apply across the board.

The Democrats’ policy is that, unless there are strong reasons—health or security reasons—to the contrary, all people should be out of detention as soon as possible. It would be a lot cheaper. In our view it would not significantly undermine what has come to be known as border protection and it would be far less damaging to the people involved. But the department can still have a circumstance where they believe health and security risks—or the flight risks, perhaps—are such that people should stay in detention. That is okay, but let us have those decisions reviewable by the tribunal. Otherwise you do get the circumstance, such as we have now, where people can be in detention indefinitely, for years and years. As I pointed out in this place last week, we have a young Afghani man in his 20s in Port Hedland who clocked up the five-year mark last week. That is just not acceptable for anybody who is not convicted of or, indeed, charged with any offence.

These amendments go specifically to children. I think I can anticipate what the minister is going to say to them, but I will let her say it. They do not go far enough, but they go somewhere in the right direction and acknowledge what is one of the major public concerns about mandatory detention—the impact on children. I have not visited the arrangements at Port Augusta, I have to say—I am hoping to do so soon—but I did go to look at the alternative detention arrangements at Woomera. There is no doubt that they are nicer environment. They are basically a house with a garden like any other house except that you have a guard in there, that you cannot leave except with a guard at specific times and that you cannot have visitors. It is a bit like house arrest. So you do still have that major problem of not having control over your life and not having freedom. That is still the circumstance.

My understanding about the children who are in that situation at Port Augusta—and I am sure I will be corrected if I am wrong—is that some of these children have started to go to school in Port Augusta, which is great, but when their school friends want to visit them they cannot. If the kids want to go out, they cannot—at will, anyway. Indeed, if people want to visit, my understanding is that they actually have to go back to Baxter detention centre properly and do visits there.

It is a move forward of sorts. The way it operates at the moment, of course, is that the women and children have to choose between going out into this better environment and leaving the father and husband behind or staying in Baxter. My understanding is that many of those who have chosen not to go out into the community based alternative detention arrangements in Port Augusta have done so because they do not want to be separated from the spouse and father. That is very understandable. It is a bit of a dilemma that they are in, quite frankly, and shows the problem underlying detention in general. Having said all that—and I am sure that the minister will make this point—it is still some small step forward. As I said before, I acknowledge Labor’s positive steps forward and I acknowledge the government’s step forward. The government has acted to an extent to respond to community concerns about the impact on children in detention, and I have no doubt that the minister will say that it is more than the Labor Party did when they were in government in relation to children in detention. But there is a lot more that needs to be done.

The evidence of harm to children from ongoing detention is overwhelming. The number of medical studies now is sufficient to demonstrate beyond doubt that significant
major harm is caused to many children who are in detention. That is no surprise, of course. It is only as one would expect, but the extent perhaps is greater than one might think. The damage done to children—and especially to children reaching adolescence, even more so than younger ones—is very hard to reverse. A lot more needs to be done. I urge the government and the Labor Party to recognise that more needs to be done than what these amendments will do and than what the government is doing now.

There have been decisions by the department in recent times to allow some children out of detention altogether and to put them into community detention, for want of a better phrase, because of circumstances. In some cases those circumstances have been about the health situation. I guess it is good that the government acts; it is bad that the health situation is generated in the first place. It all comes back to the core problem, which is ongoing long-term detention. It is a bad thing for people. I do not believe it is necessary at all. But that goes further than what these amendments will do. Insofar as they go forward in a positive direction, we support them. I believe our amendments will strengthen them a little more to ensure that ‘as soon as possible’ at least has a time limit on it. I commend our amendments to the Senate and indicate our support for the Labor Party amendments. As a broader statement I indicate that there is still more that needs to be done.

In closing, let us not forget about the processing centre that has the largest number of children still in it today, and that is the one that we cannot touch at all through this legislation, the one on Nauru. They do not have alternative arrangements. They do not have much hope at all at the moment. Something needs to be done there, but that is a debate for another time.

Senator SHERRY (Tasmania) (8.47 p.m.)—I will respond to the Democrat amendment to the Labor amendment that I moved earlier. Labor will not be supporting the Democrat amendment. The effect of the Democrat amendment would make the time limitation of ‘not later than 14 weeks’ for the detention of a child inappropriate. The reason we do not support a 14-week time limit is that we do not want children in Port Hedland or Port Augusta at all. Labor do not support a 14-week limit because that would allow the minister to detain children in these facilities for the full 14 weeks. We do not believe the minister should have that authority. At the moment the minister has the authority to remove any child from detention at any time. The minister can release any child from detention right now if the minister wishes to do so. Labor will not risk any loss to the authority of the minister to release a child at any time, should the minister determine that is what she wishes to do.

Labor also do not support the Democrat amendment to incorporate the AAT in the process of children in detention. Labor do not consider it good governance to add yet another review agency into the issue of mandatory detention. We already have the RRT, the MRT and the courts. They have jurisdiction in migration matters. To add the AAT would add another layer of review and we do not believe that that is appropriate.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (8.49 p.m.)—I will respond to both Senator Bartlett and Senator Sherry. I will commence with Senator Bartlett. Senator, I thank you for acknowledging what has been done in relation to children and acknowledging—I think I heard you say this—that you understand that the situation was far worse under the previous Labor government. You have
acknowledged what we have done to try to make the situation better for children who are brought here largely by their parents or sent by their parents, some of them unaccompanied, which I find even more inexplicable, but that is another point. As a consequence of those moves—in other words, not as a consequence of their own initiative—such children find themselves in detention.

You rightly point out that we have the three residential housing projects: one in Port Hedland, one in Woomera and one in Port Augusta. You criticise the housing projects not in the sense that they are not nice houses or are not well equipped with new stereos, televisions, washing machines and everything that a good house ought to have but because they are for women and children. You point out that you think many of the people in Baxter in particular have declined to go to a housing project because they would need to leave their spouse behind. It is important to put on the record, Senator, that discussions were held with the local communities about the establishment of these centres. It was not just a case of drawing a policy on a whiteboard in Canberra. My advice is that the feeling was very strong in the Port Augusta region that the housing project should be for women and children.

In addition to that, the advice I have been given—and I think you can understand this, Senator Bartlett—is that if you were the mother of a 14- or 15-year-old girl you may well welcome a place where there cannot be young men. My advice is that if we were to change that there would be some women and children who would then choose to go back into detention. The mother sees it as a protective mechanism for her daughters or younger children not to be near men of a certain age or some particular men that may otherwise get in. To keep these housing projects running well it is important that there is harmony amongst the people who are in the housing projects and that they behave, in a sense, like a small community in themselves. So their views need to be taken into account as well.

I am thinking about this, Senator, to see whether there is a way that we can find some sort of middle path to accommodate this, but I do understand the views of local communities—they may not be the same everywhere. I do understand the views of some women who would rather have a place where women and children can be and where young adult men cannot be. I do understand equally that mothers around Australia do not regard 18-year-old boys as adults. If you speak to mothers of boys who are 18 or 19, they still worry about them as though they are five-year-olds but, in the context in which a mother worries about her young teenage daughters, they are men. I make that point to you to indicate that I understand the points that you are making. I think that everybody does. I am looking at it but I am not sure that it is possible to easily remedy it.

I also point out, Senator, that when you say there are ‘many’ people who have declined to go into a residential housing project there are now 13 children in detention on the mainland in Australia. There are a further 15 on Christmas Island, which is still Australia. I say 13, but at the beginning of February there were 15. It is important to understand that, of those 15 children, 10 could have gone to a residential housing project had their parents or guardians agreed that they could do so. When you say ‘many’ it implies that there are very large numbers whereas in fact the advice that I have is that there are 10 who could go into a housing project. It may be that they would need to leave a spouse behind or there may be other reasons but, in any event, I make that point. There are 10 and, since two have subsequently gone, that figure may go down to eight, although the two might have come off the remaining five.
who were not offered residential housing projects for either health or risk of flight reasons.

Of course, we have people in foster care. The states sometimes take these children into care, just as they do the children of Australian citizens when they think that is appropriate. Sometimes I think the Commonwealth is blamed for that, but if the children need to be in care, the state departments, FAYS, FACS or whatever you want to call them, have their responsibilities. By and large, in relation to the children of rejected asylum seekers, they are carrying out their duties diligently, according to the advice that I have at this point.

I would like to turn not so much to the remarks made by Senator Sherry, because I do not know that he made them, but to the very reason for highlighting that there are only 13 children in detention centres on the mainland now. As Senator Bartlett pointed out, there are others and they are technically in detention in a residential housing project. Senator Bartlett is right: they cannot just go in and out at whim but they can go in and out and they do go out to school, as do any that are still in detention, except for one, who does not because of refusal by the parents.

The situation is far better than some people might expect. Some of Senator Sherry’s colleagues were quite keen—despite the protestations for truth in politics that I hear from the other side, as though they are the repository of that—to make claims of 200 behind razor wire up until recently. That clearly is not the case and has not been for a long time. I can tell you when there were a lot more in detention and that was when Labor were in government. Labor after all introduced mandatory detention and we support that as they do. Let me be fair and say that Labor looked at one point at removing children from detention. The way that they looked at removing children from detention was by taking them away from both the mother and the father, with Senator Bolkus saying that under no circumstances would the parents be released. These are people who in other contexts talk about children being taken.

In this context we are happy to do that and take children away from their mothers. We do not think children should be separated from their parents unless there is a good reason that the state authorities have for protecting the children. We all accept that it has to happen sometimes. So we are not going to go down the path of letting children out and leaving their parents in. We have found a way with the residential housing projects, at least, to have the women and the children together. As I say, I am looking at the aspect in relation to men but I do understand the views of women in housing projects who have young teenage girls. It is important to note for the benefit of Senator Sherry’s colleagues that never again should Ms Lawrence and others seek to deceive the Australian people by alleging that there are hundreds of children behind razor wire in Australia when that is very far off the mark.

Senator HARRADINE (Tasmania) (8.57 p.m.)—I rise to support the amendments that Senator Sherry has moved to the Migration Legislation Amendment Bill (No. 1) 2002. I am very pleased to see this action being taken now. It is some years ago now that the Joint Committee on Foreign Affairs, Defence and Trade had an inquiry into detention centres. It was in the latter part of the last decade, from memory. We looked at the situation in a number of detention centres including Port Hedland, Woomera, Port Augusta and so on. I recall writing a qualifying comment to the report which urged that children be taken out of the detention centres as soon as possible. That was endorsed by the then senator Vicki Bourne. There were two of us
of that opinion although there were a number of others who, after seeing the situation, became convinced ultimately of the need to ensure that action was taken to protect the children. As I say, I am very pleased that Senator Sherry is moving these amendments and I fully support them. I hope that the chamber does as well.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (9.00 p.m.)—With regard to the Democrat amendments, perhaps I can use a phrase Senator Sherry used in relation to his interpretation of what he thought was wrong with them. That is not my advice as to what it means, and that is not how it reads either. The Labor amendment is that children should be released ‘as soon as possible’. All my amendments do is say ‘as soon as possible and not later than 14 weeks’. They put an upper time limit on the definition of ‘as soon as possible’.

They also put in place an ability to appeal to the AAT. I guess that does put an extra layer on top of what is there now, because what is there now is nothing—there is no scope to get any sort of review of detention in a general, day-to-day sense. The court cases that are happening now are for detention that is very prolonged. I am pleased to see a few of the decisions that have been made by the courts. There was a very interesting and appropriate debate about the whole underpinning of mandatory detention—and its legality, frankly. Let us not forget that detention is supposedly not a punishment but purely an administrative procedure. It is a bit hard to believe that, particularly when you visit the places and see how they are run and managed and particularly when you recognise how long people are detained in some cases. But, again, that is a broader debate than the one before the chamber now. It is also a matter that is before the courts to some extent.

I turn to the comments of the minister about the community at Port Augusta. I am aware to some extent of the local community’s concerns that she expressed. The minister is from South Australia, as is Senator Sherry. I would not dream of suggesting that I know the Port Augusta community better than they do. However, a couple of years ago I took the time to meet with the Mayor of Port Augusta, Joy Baluch, a rather forthright woman who certainly makes her views known strongly. They are views that I do not always agree with, but I certainly think you would have to say that she speaks out on what she believes are the interests of her local community absolutely without fear or favour.

On the weekend I saw a piece—in the Sunday Mail in Adelaide, I think it was/about some of the children who are going to school in Port Augusta. There was a lot of very vocal concern in Port Augusta when it was first floated that some of the children from detention centres would go to school. In that report in the paper a teacher from one of those schools was saying that a lot of that concern, if not all of it, had evaporated, as often happens, once the children were in amongst the school community. The students mix with the new kids and they see that they are—

Senator Harradine—Human beings.

Senator BARTLETT—human beings like all the rest of us, as Senator Harradine rightly says. Senator Vanstone met with a group of children who were ambassadors for ChilOut, the group that advocates getting children out of detention. The group included a young woman from Port Augusta whose name was Bonne—she had a colourful shirt on and I think she was about 14 or 15—and other young people from around Australia who have got to know children out of detention. In Bonne’s case they were children who
had gone to school in Port Augusta, so she knew some children who were still in detention. She was the one who talked about how she could not visit her friends.

There are community concerns. I understand their importance and I very much support the approach of the government and the department in working with and dealing with community concerns rather than just imposing on people. But I also think that, once the fear of the unknown is overcome, a lot of those concerns disappear. I do not think that they should be used as reasons for not progressing with some of these things, albeit at a pace that will not exacerbate those community concerns unnecessarily. But the broader problem still remains. I appreciate the minister’s comment that she is looking at it. It is a difficult one to wrestle with in the context of the constraints that she has to operate within—the policy guidelines and the record and history of the government—and any movement is welcome.

I just reiterate the strength of that plea and again point out that the evidence is very clear about the damage that is done. Some of the harm that has already happened is quite significant and that should not just be brushed aside. I am not suggesting that that is what the minister has done, but we certainly have to keep trying. Again, seeing that they were not mentioned in the statements about the declining numbers of those who are in detention, I note that there are still upwards of 70 people under the age of 18 on Nauru. I acknowledge that there is no razor wire there, but it is still detention. It is still not very good, and they have all been there for more than two years now.

Senator (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (9.06 p.m.)—The senator referred to the ChilOut ambassadors who came. That reminds me of an apology that I owe them. I can put it on record here, which will save me writing to them, actually.

Senator—They might be listening.

Senator—They might be, but I do not think that they will mind. I did see the ChilOut ambassadors. In fact, I made a point of coming in early—not that early, but early enough—to provide them with breakfast.

Senator—Chocolate croissants.

Senator—Yes, chocolate croissants. I genuinely thought that this was a great idea. These kids were coming from all around Australia. I wondered what they would like. I thought: ‘They won’t want a boring breakfast. I’ll get them chocolate croissants and orange juice.’ I understand that there was a complaint in another office that they had been invited to Senator Vanstone’s office for breakfast and all they got was a chocolate croissant. I am sorry. I admit that I mucked it up; I got it wrong. They did not like the chocolate croissants. I will never do it again. I will just have standard meetings without the breakfast.

Senator—Did you eat them?

Senator—No.

Senator—We didn’t!

Senator—They were not offered to you.

Senator—But you have been very kind in the past. Put that on the record.

Senator—Thank you very much. It is very kind of you to put that on the record. Let me also make it clear that this debate is in the context of illegal boat arrivals. When I have referred to numbers of children, I have of course been referring to children in detention as a consequence of boat arrivals. I think the text shows that, but I
will just take the opportunity to make that very clear.

The TEMPORARY CHAIRMAN (Senator Watson)—The question is that Democrat amendments (1) to (4) to the opposition amendments be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN—The question is that the opposition amendments be agreed to.

Question agreed to.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (9.08 p.m.)—I move:

(1) Page 11 (after line 12), at the end of the bill, add:

Schedule 8—Amendment of the Migration Regulations 1994

[1] Schedule 2, after paragraph 447.511(b)

insert

; and (c) to remain in Australia until:

(i) if the holder applies for a Protection (Class XA) visa after the temporary visa is granted and while the temporary visa is in effect—the day on which the application is finally determined or withdrawn; and

(ii) in any other case—the end of 36 months after the temporary visa is granted or the end of a shorter period specified by the Minister in relation to the visa holder.


substitute

451.511 Temporary visa permitting the holder:

(a) to travel to and enter Australia on 1 occasion, as specified by the Minister; and

(b) to remain in Australia until:

(i) if the holder applies for a Protection (Class XA) visa after the temporary visa is granted and while the temporary visa is in effect—the day on which the application is finally determined or withdrawn; and

(ii) in any other case—the end of 60 months after the temporary visa is granted, or the end of a shorter period specified by the Minister in relation to the visa holder.

[3] Schedule 2, paragraph 785.511(b)

substitute

(b) for the holder of a Subclass 785 (Temporary Protection) (Class XC) visa—the day on which the application mentioned in paragraph 2.08F (1) (d) is finally determined or withdrawn; or

(c) for holder of a Subclass 785 (Temporary Protection) (Class XA) visa:

(i) if the holder applies for a Protection (Class XA) visa after the temporary visa is in effect—the day on which the application is finally determined or withdrawn; and

(ii) in any other case—the end of 36 months after the temporary visa is granted or the end of a shorter period specified by the Minister in relation to the visa holder.

[4] Schedule 2, paragraph 866.214

omit

[5] Schedule 2, after clause 866.230

insert
(1) If subparagraphs 447.511 (c) (ii), 451.511 (b) (ii) and 785.511 (c) (ii), as in force when this subclause commences, are in force at the time of decision, subclause 866.215 (1) does not apply to an applicant who was granted a Subclass 785 (Temporary Protection) visa before 27 September 2001.

(2) If subparagraphs 447.511 (c) (ii), 451.511 (b) (ii) and 785.511 (c) (ii), as in force when this subclause commences, are in force at the time of decision, subclause 866.215 (1) does not apply to an applicant who holds a Subclass 785 (Temporary Protection) visa and who, since last entering Australia, held a Subclass 447 (Secondary Movement Offshore Entry Temporary) visa or a 451 (Secondary Movement Relocation (Temporary)) visa.

This amendment adds an extra schedule to the bill, schedule 7, and amends the Migration Regulations. It highlights again the complexity of the Migration Act and, in this case, the Migration Regulations. I have run the proposed changes past a number of advisers and lawyers to make sure that they do what they are intended to do. I will probably still be told that they do not, but they are a reintroduction of regulations that were put forward by the government last year. I will not re-run the entire debate, but amendments were put forward that, amongst other things, sought to remove what was generally conceded to be an unintended consequence of legislation that went through in 2001—where people who had arrived before that date who were on a temporary protection visa and had not yet put in their application for a flow-on protection visa were caught in the changes that were made in 2001 and would only be entitled to a further temporary visa.

The regulations the government brought in were for those people who were already on a visa before the relevant date of 27 September 2001 and would have had their situation restored to what it was prior to that legislation going through. If they were then found to still be entitled to a protection visa, upon reapplication they would get a permanent visa. Those regs were brought in last year and contained that component. There was also a component that empowered the minister to give families whose temporary protection visas were out of sync—there are some in the country whose visas expire at different times—to grant a visa not for the normal three or five years but for the period of time to keep them in sync. Those regulations were disallowed, not because of those components but because there was a third component which sought to introduce temporary protection visas for all onshore applications, including for people that arrived or lodged their application for protection and including people that arrived with visas, usually tourist visas or education visas. That was something the Democrats, the Labor Party and the Senate did not support. They moved the disallowance to get at that bit. The regulations were written specifically in a way that intertwined the three measures to make it impossible to remove one without removing all three. At the time, I complained rather loudly and with annoyance about that fact, but to no avail.

The intention of this amendment is simply to reintroduce those components of the regulations which the government introduced last year. In a sense, I suppose one could say that we are trying to assist the government by
bringing back measures that last year they saw fit to bring in themselves but that were knocked out by the Senate. It was a bit of collateral damage, I suppose you could say. It was frustrating to be put in that situation last year, and this is not an ideal mechanism for doing this, but it is basically the only mechanism that we have. I tried another mechanism before the regulations were disallowed, which was to move an amendment to legislation solely to address the problem of widening temporary protection visas for all onshore applicants. That was not supported by others in the Senate, much to my frustration, so we had to go with the disallowance. This is an attempt to undo part of that disallowance and to reinstate the components of the government’s intent last year. I hope that the Senate sees fit to support it.

**Senator SHERRY** (Tasmania) (9.13 p.m.)—We are dealing with the amendment moved by the Democrats on sheet 4172. As Labor’s proposed later amendment shows, we are committed to a change in the temporary protection visa policy. The fundamental element of the status of all TPV holders is that each person has been assessed as needing protection from persecution in accordance with the refugee convention. The refugee convention allows temporary protection. Labor believe that our one-off, two-year TPV is consistent with the convention. The government’s current TPV system is unfair on people that the government itself has accepted as refugees. Our own TPV amendment introduces a one-off, two-year TPV and therefore eliminates the Liberal government’s regime of rolling and indefinite TPVs that only ever allow temporary protection, with no right for an individual to apply for permanent protection, let alone to gain it.

Labor believe that stability and certainty are essential to the strength of the family unit. That is why we support the end alignment of TPVs held by individuals with the same time period as those of their immediate family. Some families have been forced to separate while fleeing their home country and may well have arrived in Australia at different times. While they may have been reunified in Australia, the current TPV system may lead to the families being separated again, either indefinitely or permanently. This will only add more instability to families in already difficult circumstances. We therefore support the introduction of ministerial authority to align the end periods of their TPVs so that a family unit can be considered together.

Labor also supports the notion that a TPV holder may, with ministerial approval, be able to leave Australia and return once during the duration of their temporary visa. This is consistent with the refugee convention and would be granted by the minister if it were determined that such a departure and re-entry were necessary or desirable. The amendment we are considering does not grant this entitlement across the board as a matter of course; it will be at the discretion of the minister to consider each request based on individual circumstances.

By the government’s own admission, the seven-day rule for TPV holders should be revoked for those who arrived prior to 27 September 2001 but had not applied for further protection when the rule was introduced. The government last year proposed a change to regulations that would have removed this retrospective effect. Labor have indicated our support for this approach by the government. We said that last year and we supported it again today. Labor’s one-off, two-year TPV regime would make the seven-day rule redundant, as all unauthorised arrivals would be subject to the one-off regime. We will be supporting the amendment moved by Senator Bartlett.
Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (9.16 p.m.)—We do not support the amendment. We feel very strongly that Australia has to live up to its obligations under the convention. We are confident that we do that. People who want to make an asylum claim can make one. They have no right under the convention to say who will hear that claim, where it will be heard or where the protection will be offered. We have a record in relation to our offshore processing arrangements of ensuring that people who do make an asylum claim have their claim heard.

The most recent case that comes to mind is that of the Minasa Bone, which went back to Indonesia. We were subjected to strong criticism from some senators opposite and perhaps even some Democrats. We were assured that we were a heartless government because everyone knew that a Kurdish person could not possibly exist safely in Turkey. The truth of the matter was that when these people got to Indonesia they were cared for by the International Organisation for Migration. A number of them—I think it was eight—went straight back to Turkey. So much for the suggestion made by everyone else that they needed protection. The remaining six—or perhaps it was eight, the other way round—had their claims heard by the UNHCR, were determined not to be refugees and are now back in Turkey.

Understandably there is an outpouring of compassion for people in real need. The concern arises when people forget that if you want to decide who is in real need you have got to decide who is not. If you want to decide who is a genuine refugee, because you want an international system of support for people in that position, then you will occasionally have to decide who is not a refugee and treat them accordingly.

I repeat that under the convention people are not entitled to choose where their claim will be heard, who will hear it and where the protection will be offered. The simple fact is that people come through a number of countries where they could make an asylum claim and get effective protection. That is a requirement of the seven-day rule—not just that you pass though other countries but that you pass through other countries where you could make a claim and get effective protection. If you have spent more than seven days in one of those countries then we say, ‘Frankly, what is more important to you is the immigration outcome—the place where the protection will be offered. You want to choose. You want a right the convention does not give you, and we will not facilitate that.’ That is why people who have spent more than seven days in a country where they could have made the claim and got effective protection will not be given the same opportunities. For that reason we do not support the amendment moved by Senator Bartlett.

Those people who really do believe that there should be an international system for handling these sorts of crises should understand that while you continue to allow people smugglers to sit on the side saying, ‘Psst—slip me a few bucks and I’ll get you the same outcome,’ you are allowing two systems to be developed, one of which will necessarily undermine the other. How can Australia possibly ask other countries to do as we do—one of 10 countries in the world, as we have consistently been under successive governments of all persuasions—and join the UNHCR and have a dedicated program with an agreement to take people most in need if we have to say to the countries we are asking to join this international effort, ‘By the way, you can’t do much in response to people-smuggling to shut it down, because people will say that you are mean.’
Some of the measures that we have had to adopt are difficult, but we have effectively put people smugglers aside for a considerable period of time. There is great merit in that because unless you continue to do that—while you keep turning a blind eye and saying, ‘Yes, we don’t agree with people-smuggling but we have to treat these people the same’—you are saying to the potential customers of these people smugglers, ‘If you slip them the money you will get here and you will get the same outcome.’ In other words, you are ensuring that the market for people smugglers is there. Nothing gives greater strength and courage to the spivs and crims who are in the drug world or in people-smuggling than governments ensuring that their market stays there. It is natural to the human condition that if you have the money to get a better life you will pay it. Let us not pretend that these people do not know what they are doing when they pay a people smuggler; they do.

We stand by our position. We will go with the UNHCR system. We will take the people most in need. We will take every step we can to deter people smugglers, and that includes steps that make it less attractive for people to use them. You can say, ‘The only thing we want to do to people smugglers is put them in jail.’ We want to do that as well, but we will take steps to make the use of people smugglers much less attractive. That is why the government will not support this amendment. I think history will show that the position this government is taking is the only position that governments around the world will be able to take if they want to have an international system that works, and you cannot ask people to join an international system that clearly does not.

As to the suggestion of temporary protection visas being granted within two years, I have made the government’s position on this very clear. That would be effectively saying to people who do not want to stay in a country of first asylum, ‘Don’t worry, come here; you’ll have a temporary visa for two years and then—bingo!—you’ll be in.’ In order to finalise that matter at the end of the two years you would have to start reconsidering it, pretty much, after 12 months. That is the point I am making: while you continue to say to the market of people smugglers, ‘Look, when you get here it’ll be okay; you’ll get what you want,’ then the people with money will continue to pay people smugglers to get in ahead of the people—in camps like Kakuma—who have not got the money to pay people smugglers. So let nobody be under any misunderstanding about what you are doing when you provide the market for people smugglers by giving them what they want.

In 20 or 30 years—and perhaps even sooner—people will look at what this government has done and agree that we have stood up for the international system where you agree to take a dedicated proportion of people. And they will look to those who were too weak to face up to the difficulty as being people who undermined the system. I hope that I am alive to remind them of it.

Question agreed to.

Senator SHERRY (Tasmania) (9.24 p.m.)—I move opposition amendment (1) on sheet 4195:

(1) Page 11 (after line 12), at the end of the bill, add:

Schedule 9—Amendment of the Migration Regulations 1994

[1] Schedule 2, at the end of the clause 785.211

insert

; and (c) has not previously been granted a Protection (Class XA) visa.

[applicants restricted to one TPV]
[2] **Schedule 2, clause 785.511**

*substitute*

785.511 Temporary visa permitting the holder:

(a) to travel to and enter Australia on 1 occasion, as specified by the Minister; and

(b) to remain in Australia until:

(i) if the holder applies for a Protection (Class XA) visa after the temporary visa is granted and while the temporary visa is in effect—the end of a period of not more than 24 months; and

(ii) in any other case—the end of 24 months after the temporary visa is granted.

The amendment that I am moving on behalf of the Labor opposition goes to the issue of a new temporary protection visa regime. In January 2003, Labor announced a new temporary protection visa regime. There are currently 8,000 to 9,000 TPV holders in the Australian community. They came as unauthorised arrivals on this government’s watch—on this Prime Minister’s watch. He said they were refugees and said they could live in the Australian community, which they are now doing. Some of them have been in the Australian community for up to three or four years.

Senator McGauran should know what I am talking about. He represents The Nationals and I will come to the issue of concern in rural and regional Australia shortly. The Prime Minister has also allowed these families to live and work in the Australian community without any certainty about where their future will be. Labor’s policy change to a one-off, two-year TPV will end the uncertainty. This amendment will introduce a single, one-off TPV period of two years for unauthorised arrivals subsequently determined to be refugees and in need of Australia’s protection under the refugee convention. After the two years is concluded it will be up to the Australian government to show that Australia’s temporary protection of the refugees concerned is no longer required. If on-going protection is still required a permanent protection visa will be offered to the refugees.

The government and the Prime Minister have refused to face up to a solution to the TPV problem. This will continue to be an issue that even Liberal-National party members raise on behalf of their own constituents in the electorates that they represent. The members for Riverina, Mallee, Barker and Kooyong have expressed publicly their support for a change in TPV policy. And I urge coalition senators—Senator McGauran, I urge you—to join their lower house colleagues by supporting this Labor amendment. It is a sensible, practical amendment and I am glad to see that there is at least an element of bipartisan approach through the views expressed by the members that I have referred to.

**Senator BARTLETT** (Queensland—Leader of the Australian Democrats) 9.27 p.m.—I want to speak to this amendment and the broader issue at some length. The minister made a number of comments in her most recent contribution and I believe they need some response. They go wider than the amendment before us, but the minister’s comments went wider than my amendment. In fact the minister did not really address my amendment very much but she did raise some issues. It is appropriate for her to raise them in the context of the debate we are having and it is very appropriate that a response be made.
Let me say first that the Labor amendment that Senator Sherry has moved seeks to modify the existing temporary protection visa regime. The amendment would introduce a two-year temporary visa for all categories of temporary visa. There are a variety of temporary visas now. Most of them are for three years and some of them are for five years. This would make all of them two-year visas and it would make all of them one-off visas. If people applied again and they were still assessed as requiring protection, they would then get a permanent visa. That does not represent the Democrats’ ideal position by a long shot but it is definitely a move forward and therefore we support these amendments.

As I have said a couple of times in this debate, I believe it is appropriate to acknowledge any move forward. I recognise this is a difficult issue in some respects for Labor and I like to be encouraging when there is a positive movement forward. It is a positive shift for Labor from their previous position on temporary protection visas. Despite what I have been saying about it being positive, in the area of temporary protection visas I do need to highlight why we are having this debate in the first place and I do need to be critical of Labor in relation to that. The reason we are having this debate is not because of the Tampa and the electoral situation that came up there, although that allowed legislation to go through that worsened the temporary protection visa regime. The reason we have temporary protection visas is that the Labor Party supported the government and did not support the Democrats and the motion that I moved back in November 1999 to disallow the introduction of temporary protection visas.

I mention that because I think it is necessary to point to the consequences of bad decisions particularly in the case of this one. It is an example that I actually point to in politics classes when I am talking to students about the problems with some of the arguments that each of us puts forward sometimes. I mention particularly a speech by Senator Schacht who, broadly speaking, had a good approach in the circumstances and was obviously trying to make the best of a bad situation. In the argument that he put forward on 24 November 1999 in relation to the introduction of temporary protection visas, he said:

The opposition make it quite clear that we do not believe that this policy will work and that it has many holes and flaws, but it is what the government want to do. Therefore, it is on the government’s head—and therefore they supported it. Later he said:

Let them have their regulation and introduce it, but do not come back and say to us, ‘This is not working. We want to do something further.’

Of course it did not work; it did not stop people coming to seek protection. The government did come back to say they wanted to do something further. They did that after the Tampa. They had already made that further inroad with temporary protection visas and they were able to get Labor to agree to do something further and to make it even worse. As Senator Schacht said in this case:

We will let them have their regulation—to introduce temporary protection visas—... be it on their heads ... Be it on their heads! He said:

The politics of the government on this are disgraceful, but the opposition have said, ‘So be it. If you want to run a disgraceful political campaign on this issue, we will let you. But we warn you that it will not work.

It sure as hell did work in lots of ways. As Senator Schacht said:

Unfortunately, however, Australia will suffer.
It did, but the refugees were the ones that suffered, and it is a recognition of that suffering that I think has led Labor now to shift their position. I welcome that, but temporary protection visas are unacceptable across the board. This is a positive move forward—I say that—but I also say that temporary visas for people who are determined to be refugees are, in our view, not acceptable particularly when they can apply to some refugees and not others and you have first-class refugees and second-class refugees. Whilst that ever applies, you are playing into the hands of the sort of rhetoric the minister used, that somehow there are deserving and undeserving or more deserving and less deserving classes of refugees.

There ain’t nothing like that in the refugee convention, and that is for a very good reason. It has got nothing to do with how much money you have got; it has got to do with whether or not you are fleeing persecution, and I said this last week when the minister announced that there was an increase in our intake of refugees. I welcomed that; we had been calling for it for a long time and we actually had not got support from Labor for that either. Perhaps the minister could add that to her list of things that the government has done: brought in more refugees and increased the program that Labor would not support, because I have moved motions to have that happen and they have not been supported here. But the same rhetoric was used that those that arrive here seeking protection are somehow somehow less deserving. The same argument was used that we, meaning Australia, target those most in need. Again, it is not a ranking. The refugee convention does not have a ranking to say who is most in need.

As for the system we have and where we take people from, sure we take some people who are more in need, if you want to use that term, but we do not have a gradient. We do not say, ‘Okay, this 6,000 will be the neediest 6,000 we can find.’ I am not even saying necessarily that we should, frankly, because there are other criteria: obviously things like whether there are other people in the community here from the same ethnic background. You would not have one person in all of Australia who is from Burkina Faso or somewhere, so there would be support for them here. But there are a lot more things that we take into account as a nation in accepting people through the refugee program—let alone the humanitarian program, the broader program of 12,000 and now to be 13,000; a positive move by the government—much more than just who has the most need or who has been waiting the longest. That is why it is not true to say there is a queue, because it is not a matter of us as a country going down a list and saying, ‘Okay, who’s been in the queue the longest? These people who are most in need are the ones we take.’ There are a whole lot of factors, and that is to some extent as it has to be, but do not say that we only take those most in need and do not say those that our own system determines are refugees somehow are less deserving because they might have been able to afford a people smuggler. Some of those people—not all—could not particularly afford it. There are plenty of cases of families selling up to get enormous amounts just so one member of the family can escape. It is very dangerous to stereotype and categorise everybody as having identical situations.

The minister quite rightly said we do not want to encourage people to use people smugglers. I do not want to either. As I said previously in this debate, people should not have to pay money to get protection. They certainly should not have to put their lives at risk. They should not have to separate their families. There are a whole lot of things they should not have to do and I am certain that, if there were an option for people whereby they
did not have to do it, they would not. Why would you sell up everything you own, give it to somebody you know is probably dodgy, run incredible risks, go through a lot of hardships over a long period of time, put your life at risk, separate your family—do all of those things—for an uncertain result if there were another way? Why the hell would you do that? Of course you would not!

So, sure, we need to encourage people not to use people smugglers. We do that by giving them the option of being able to flee persecution without having to go down that route. If we do that, they will all take it, gladly. I acknowledge that that is something that is impossible to guarantee, frankly, given the number of refugees in the world, but the better we can do the less demand there will be. People smugglers are there because of a demand. The demand is there—and this is really a case of market forces; I am sure the government can understand this—because there is no alternative for delivering the service. The service in this case is freedom and safety. It is not a matter of anybody able to afford it being able to get safety in Australia; it is only those who are refugees.

We need another approach. There is work being done in that regard, and some of the work the Australian government have done in that regard is good. I think it is a great shame that the area they have focused the most political energy on in Australia—stopping the boats, intercepting the boats and pushing the boats back—actually undermines the other system. It does not, as the minister suggests, help strengthen the international system. In our own region there are very few countries that are signatories to the convention. We are in a region of South-East Asia that does produce refugees. We are sending a signal to all of those countries that refugees are people who you push away—you do not let them come; you push them back to Indonesia. It is more complex than that in terms of all the different factors involved, but that is a very simple, straightforward message. It is pretty clear cut and it is given very strongly by this government: refugees try to come here but we push them away again.

We send them back to Indonesia where there is a system—although it is a bit of an ad hoc one, I might add—where the UNHCR can assess people. I think that is far better. People can be assessed in Indonesia by the United Nations. They do not need to risk their lives by jumping on a boat and paying that extra money if there is a reasonable prospect of getting a settlement outcome if they are found to be refugee. That is still the problem. We have had people in the past who have got onto boats and come to Australia even though they have been assessed by the UN and found to be a refugee in Indonesia because they have still had to wait indefinitely and have not been able to be confident of getting security. That is the problem, and that is the problem with temporary protection visas of any shape or form.

I have mentioned the comments that Senator Harradine—who was here until just now—made in 1999. He supported the Democrats move then to prevent the introduction of temporary protection visas. He pointed out Senator Schacht’s comments that:

... ‘It is a dreadful regulation in principle and it won’t work; nevertheless, we—that is, Labor—will vote for it anyhow.’

Senator Schacht interjected and said:

They are the government. It is their responsibility. I know that Senator Schacht was just trying to make the best of a bad situation, but that is the problem: we are the Senate, we are separate from the government and we should determine what is put into law and what is not.
It is not us who bear the consequences otherwise; it is the country and it is those whom it affects.

Senator Harradine read out some facts about the reality of being a refugee. He pointed out that psychologists have documented the negative impact of applying for refugee status on the applicant, an ordeal that he or she will now have to endure twice because of temporary protection visas and the need to reapply. To hold out the prospect that genuine refugees will be returned to the places where they have suffered severe mistreatment is not only callous but also deprives refugees of the opportunity to rebuild their shattered lives. As if this were not punishment enough, the refugee’s family is also kept in limbo, leaving the refugee to wonder about the wellbeing of his or her family. In addition, there is a substantial extra financial cost to taxpayers. There is no doubt that temporary visas maintain the stress on refugees even after we have given them protection. They are bad in principle.

The extra problem of the separation of family, which Senator Harradine pointed out back in 1999, is as real as ever. The amendment, which I support, to shorten that period to two years and to make it a one-off is welcome, but I will continue to keep the pressure on in relation to this. We need to abolish temporary protection visas altogether. There was a good story in the weekend Sydney Morning Herald—and it may have been in the Age as well—on one of those refugees on a temporary protection visa in Brisbane, my home city. His name was Ahmed and he was an Iraqi. His wife and young daughter were on Nauru. They were separated after he got here and got his visa. His wife followed him here, got taken to Nauru and was rejected by Australia twice. They were separated and for many months the only message that woman and her daughter got was that they had to go back to Iraq, to the very place where our own system had determined the husband had fled genuine persecution. (Time expired)

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (9.43 p.m.)—I move:

That this bill be now read a third time.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (9.43 p.m.)—I should point out that the bill now has been amended to add some significant components in relation to children in detention and to at least improve temporary protection visas, if not remove them altogether. That is a move forward. I do not hold out a lot of hope that the government will accept them in the House of Representatives, but I do ask them to at least give some consideration to that. I note that this is a positive move forward. In relation to the Labor Party and their policy, I say that there is still plenty of room for improvement. There are many people in the Australian community who, now that they have gotten to know refugees personally, realise that there is more to measuring the success of policy than just stopping boats arriving. You have to look at the impact on people. The negative impact on people is the reason that we need to keep making these changes.

Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural
and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (9.45 p.m.)—I move:

That government business order of the day no. 2 (Energy Grants (Cleaner Fuels) Scheme Bill 2003 and a related bill) be postponed till the next day of sitting.

Question agreed to.

**HIGHER EDUCATION LEGISLATION AMENDMENT BILL 2004**

**Second Reading**

Debate resumed from 24 March, on motion by Senator Troeth:

That this bill be now read a second time.

Senator CARR (Victoria) (9.45 p.m.)—I understand that there is agreement around the chamber that speeches for the second reading debate be incorporated. In view of the hour, I seek leave to incorporate my speech.

Leave granted.

The speech read as follows—

The Higher Education Legislation Amendment Bill 2004 is the first piece of legislation to be introduced to the Parliament to amend the flawed Higher Education Support Bill since it was passed last December.

Frankly I am not surprised to see amendments to this bill. It was, from the very beginning, a shoddy document, full of dangerous policy, hastily, and just plain badly, drafted.

It is claimed that this Bill is addresses minor technical and drafting issues, and transitional complications. But there are matters here that are not minor for Notre Dame University.

In the unseemly rush to allow Notre Dame access to HECS places, the 2003 act afforded the private Catholic University table A status until 2008.

The Minister himself conceded in the House that this had it unforeseen consequences” for the university.

That means there has been an almighty stuff up! If these changes are not made, Notre Dame would only be able to receive funding through Commonwealth grant scheme for programmes deemed national priorities – ie nursing and teaching. That would mean that Notre Dame places for indigenous and ICT students may not be funded.

Furthermore, section 36-35 of HESA requires providers to ensure that at least 65% of places in undergraduate courses must be Commonwealth supported places – ie not full fee places.

Likewise the changes to the National Protocols that is part of the Commonwealth’ agenda, regarding to the size and makeup of university governing bodies, are not possible without State legislation. Universities are not able to adhere to the Commonwealth new requirements, through no fault of their own.

This hasty fix also includes a distinct change of policy to increase the Minister’s discretion to allocate funding under the Commonwealth Grants Scheme.

This is the scheme that made $404 million in desperately needed university funding contingent on the Howard Government’s industrial relations and governance policies.

When we considered the substantive Bill last year the unprecedented Ministerial discretion, the Big Brother powers that Brendan Nelson was granting himself, came under strong criticism.

This Bill further extends that discretion.

Buried at the very end of the ‘Miscellaneous Amendments’ in Schedule 5 is a proposal to give the Minister discretion to approve Commonwealth Grants Scheme funding for 2005.

The Minister will be empowered to provide funding if he is satisfied that universities had attempted to meet his conditions, irrespective of whether the conditions had actually been met or not.

How will anyone know what attempts have been made and whether they amount to anything?

This is the same Minister who urged the Senate to pass his package, as a matter of the highest urgency. He told us repeatedly that:

If we do not undertake change now, this sector will be on a collision course with mediocrity.

(MPI, 24 June)
Last year, you would have thought the world turned on whether the governing bodies of universities had 21 members or 18 members and whether universities employed their staff on AWA's. Three months later, this bill makes them an optional extra at the discretion of the Minister.

Labor does not believe that Government should be interfering in internal university management, regarding AWA's, governing bodies, or any number of other areas that Dr Nelson’s legislation meddles with.

Labor believes in university autonomy, academic freedom, and student choice.

Thus we do not object to this amendment, which loosens what are already draconian provisions.

The Bill itself
The fact that this bill is in need of amendment, just three months after it was rammed through, goes to its nature.

Before they embarked on their vote-buying spree in the lead-up to the passage of the Higher Education Legislation last year, the bill was dangerous, shoddily drafted, and highly interventionist.

After the Government had bought its way through the Senate, it was even more of a mess.

It is now a deeply divisive and regressive piece of Legislation, that completely lacks policy integrity. It is a complete mess.

So what have we seen as the bill begins to make its grubby mark on our troubled university system.

1. Tens of thousands of students missing out on places that they are qualified to have;
2. Universities scrambling to impose the 25% fee increases because the Government has drained them of funds through woeful indexation of their grants, and
3. local undergraduates forced to take full fee paying places, the rise of the $100,000 degree and more.

And this is only the beginning.

Equity
Let's have a look at what this bill means for equity.

We know that 26,000 full-time students from low socio-economic backgrounds including 2,500 full-time indigenous students start university each year. The Government’s new laws are an insult to these students.

The paltry 2,500 scholarships offered up are no compensation for the creation of an increasingly divided system, which compounds disadvantage.

Shortage of publicly funded places and full fee places
The Prime Minister is fond of talking about the 32,000 “new” places. There are no 32,000 new places.

The Government is removing 32,000 so-called overenrolled places.

The Government is contracting places, not expanding them, at a time when it is imposing all sorts of other pressures to increase demand. The 32,000 places will go gradually, up to 2007. There are to be no growth places to 2007.

At least 20,000 students missed out on a place last year, this year’s numbers are not issued yet, but are likely to be the same or worse. The cumulative effect is a tragic waste of talent—a tragic waste of potential that is not in the national interest.

The Howard Government are happy to let some Australians continue falling behind.

Last year Brendan Nelson told Australian families that some children are simply not ‘biologically or socially equipped to finish school or go on to further study, later that there was a ‘natural limit’ on who is suited to go to university.

But he didn’t stop there, he went on to warn that if access were opened up to too many Australians: ‘you’d have people with IQs of around 90 going to university’ (SMH 31/1/04)

This is an impoverished view of the role of the university in society. Labor believes in the transforming role of the University. The ability of Universities to improve the way individuals live their lives, but also the state of the national as a whole, in terms of economics—jobs and productivity—as well as social cohesion and well-being.

Labor believes that universities are critical, forward-looking, progressive institutions that nourish a healthy society.
Looking for a moment to research, we know that funding levels are not sufficient to sustain world-class research. Our investment in research continues to fall behind our international competitors.

Australia’s Gross Expenditure on Research and Development as a proportion of GDP has been falling since 1996, at a time when our competitors are boosting their investment. The gap is getting wider and wider, we are falling further and further behind the rest of the world.

Falling behind is not just a matter of concern to the people whose jobs are on the block. Our researchers nourish the nation in social and economic terms. They are critical drivers of job growth and productivity. They are critical to Australia’s prosperity.

It is not difficult to see the stark contrast between Labor’s vision, and that of the Howard Government.

The Government “vision” is about producing a winners and losers system, with the already advantaged able to advance and those most in need of assistance left to languish. The Government’s package boosts social division, and entrenches disadvantage. It turns the gap between the winners and losers into a gulf!

It is a basic argument.

None of the great things universities and research do for the nation can happen if qualified and enthusiastic students cannot get a place, without a fat wallet.

This is why Labor will properly fund the 25,000 over-enrolled places, and create another 20,000 new places for Australians each year.

In the absence of enough HECS places the Howard Government is pushing more Australians into full fee places, costing $100,000 or more.

So the Government has created a system, drained of places, drained of funds through woeful rates of indexation for University operating grants, which allows universities to increase fees by up to 25 per cent.

What happens next is simple economics. Universities are, not surprisingly, involved in a mad scramble to increase their fees.

Ten universities to date have said they will increase their fees, and many more will follow. The Government has made much of the fact that some will decrease fees. But let us look at the two that have said they will drop fees.

It is not difficult to see here a concentration of power, privilege and wealth, in an already divided system. This is simply not sustainable.

Increased private investment is not the cure-all that Dr Nelson has made out.

It cannot compensate for inadequate Commonwealth funding, to compensate for the neglect of a Government that refuses to live up to its obligations.

Former head of the Higher Education Division of the Department of Education Science and Training said that even if every university increased their fees by the full 25%, it would at best compensate for inadequate indexation of operating revenues for 3½ years.

So once the HECS hike has been absorbed by growing fees, there’s nothing left.

So a measure that imposes enormous pain on students is essentially a stop gap. After 3½ years universities will be right back where they started.

Only Labor can stop this terrible trend.

Only Labor will abolish full fee degrees for Australians, and we will do it immediately we win Government.

Only Labor will reverse the 25 per cent fee hikes imposing crushing debt on students, again immediately we win office. Only Labor will acknowledge the Commonwealth’s responsibility to fund universities properly—stop the backward slide—and impose reasonable indexation of university funding.

During the Committee stage I will move substantive amendments to put these changes into action.

Senator MOORE (Queensland) (9.46 p.m.)—I seek leave to incorporate the speeches that have been put forward by Senators Stott Despoja and Crossin.

Leave granted.

Senator STOTT DESPOJA (South Australia) (9.46 p.m.)—The incorporated speech read as follows—

I don’t think any of us on this side of the house are surprised to see this bill, a Bill which contains a number of relatively minor amendments relating to technical and transitional issues. We aren’t surprised because we knew this legislation was flawed right from the start.

That was one of the reasons that the Democrats didn’t want this legislation rushed through the Senate last December. But the Minister who in his haste to pass the Bill last year was too busy making deals with the “Gang of 4” and the Vice-Chancellors that he didn’t have time to make sure his legislation was properly drafted.

You would think that after 2 reviews and a legislative review that Dr Nelson would have been able to get it right. Instead of accepting some of the criticisms of the legislation from the Senate committee’s report “Hacking Australia’s Future”, he ignored this report and now we have to fix parts of this flawed legislation with 89 amendments to an Act that is not even 4 months old!

Not only that, but the Government had to make over 100 amendments to their own bill last December.

Make no mistake though, despite all the Band-Aids on this legislation it still leaves the Higher Education sector’s wounds festering.

One of the band-Aids in this Bill will increase Ministerial discretion—already at extraordinary levels in this Act—to allocate $404 million worth of funding through the Commonwealth Grants Scheme.

The Minister’s bizarre attempt to improve university governance—and his pushing of the Government’s ideological workplace relations regime onto universities—by tying the $404 million of funding to these provisions were key arguments in his case for reform last year.

The Minister said “There are many things in these measures which are popular and there are some things that are not always well received by all people, but we are committed to doing what is right.”

The changes proposed in the Higher Education Workplace Relations Requirements (HEWRR) were not received well – in fact they were rejected by the entire sector—and yet the independents still allowed a compromised version of these requirements to remain in the legislation.

These so-called key reforms, that last December were so important for universities, now only have to be partially met under amendment 10 in Schedule 5 of this Bill.

This amendment also allows the Minister to allocate Commonwealth Grant Scheme funding in 2005, if he is satisfied with a universities effort to meet the criteria.

I wonder how many of the National Governance Protocols universities will have to meet to satisfy the Minister of their worthiness for funding? Will the Minister disclose to this Parliament which points of this program have been met by each university and the State Governments?

This amendment is important because if it isn’t clear what criteria are being met in 2004, how do we know which ones are being met in following years when the Minister still has discretion over this funding?

Rest assured that the Democrats will be watching how committed this Minister is to following through on what he thinks is right for universities.

The problem caused by inadequate indexation of universities grants for over a decade is still not solved in this legislation.

The AVCC is still arguing that base university funding should increase by $1,200 per place in 2004 prices – in recognition that higher funding levels are required to maintain the quality of education necessary for Australian students.

Since 1995 the indexation shortfall has been estimated at $600 - $700 million, a considerably larger amount than $404 million.

So, instead of tackling the big issue of indexation—which still appears to be the number one request from the AVCC – Dr Nelson ‘reformed’ the sector by limiting the number of members on University Councils and told universities that if they want more money they’ll have to get it out of students. And then 3 months later announces record levels of funding for private schools. What a slap in the face for the Vice-Chancellors that must be…
The hike in HECS fees, dubbed ‘flexible HECS’ was sold by Dr Nelson (with support from the Independents) telling us that “In some universities charges will go up and in some courses, as I have already been advised by Vice-chancellors, they may well go down…” and “For the very first time, universities will set a HECS charge between zero and a level which is no more than 25 per cent above current HECS levels”.

The Independent Senators assured the public that despite the potential for a scare campaign on fees, there was nothing to worry about. Senator Lees at the time said, “I have spoken to the Vice-Chancellors at USA, UWS and also Flinders and none of them have any intention of lobbying for an increase—indeed, they are going to lobby against increases with their governing bodies. We will not see that potential increase in HECS charges.”

On the fourth of March the Adelaide Advertiser reported that Flinders University’s Vice-Chancellor had presented a confidential report to the University Council proposing a 25 per cent increase in HECS fees, stating “it is my considered view that Flinders University should take the opportunity to increase HECS levels … the recommendation is that HECS be increased uniformly by 25 per cent”.

Dr Nelson and the Independents may as well have told universities to just set their HECS charges between current levels and 25 percent above that, because that is the reality we are now seeing. The proposed flexibility of HECS has just turned into a straight fee hike in most universities.

The Minister also told us that universities “…need the flexibility to determine the value of their courses and to set HECS charges”, arguing that deregulation of HECS went to the heart of quality and market differentiation.

But when Queensland University of Technology decided to increase its fees by 25% across the board, the Minister described the decision as “facile, ridiculous and nonsensical”. Perhaps the Minister doesn’t understand the complexities of deregulation?

Once you have argued adamantly that universities should be allowed to set their own HECS fees—within a range—it is extraordinary for the Minister to then complain about a university acting within his policy framework.

Dr Nelson has already indicated that he will use his Ministerial discretion to control funding to courses that he believes are not suitable and it appears that he would also like discretion over which universities can increase fees, despite having pushed for the deregulation himself.

Universities across Australia are increasing their HECS fees for 2005 by the full 25 per cent in what could only be described as an ‘inflexible’ approach to setting HECS fees.

The failure of ‘flexible’ HECS—apparently delivered in response to Vice-Chancellor’s requests—to provide a diverse cost structure that includes 2005 HECS fees below the current rates, and is somehow related to quality, is the first failure of Dr Nelson’s policy of ‘Backing Australia’s Future’.

This first policy failure of backing Australia’s Future has taken only a few months to become evident, however the flow-on effects of increased debt for students will be felt for many years.

So far nine universities have said they will increase their fees by the full 25 per cent in most courses, the University of Southern Queensland will increase HECS by 20% in most courses and only 5 universities have stated they will maintain their current HECS prices for 2005.

Last year, Sydney University declared that it would increase fees across the board by the full amount, before the legislation was even passed. This was a clear indication of how much universities thought they were being under funded. From this it should have been understood that other universities would follow Sydney’s lead and increase their fees across the board.

The Senators on this side of the Chamber knew that most universities would jump at the chance to increase fees. The Government was even warned during the Senate Committee hearings into this legislation about what would happen, by Professor Chapman – “The system with its current arrangements must inevitably mean that if there is no change to the indexation then this price instrument [increased HECS] will cause a radical change in the burden of financial resources. No institution will be able
to survive down the track without increasing the HECS charges. ...All the institutions down the track will ...have higher HECS arrangements.”

But would the Minister listen? No!

It is now perfectly clear that universities believe it is necessary to increase fees and the consequences of greater student debt appear to be a minor consideration in their deliberations.

The most recent university to increase fees by 25% and expand domestic undergraduate full-fee paying places was the University of Queensland. Their Senior Deputy Vice-Chancellor Professor Paul Greenfield gave the following reasons for increasing HECS from next year –

“Students have a legitimate complaint – but it is the funding model adopted by the Commonwealth Government which should be the object of their criticism, not universities.”

“Chronic and continued government under-funding has given UQ – like most other Australian universities—little option but to reluctantly increase fees.

“During a decade of under funding, UQ has consistently urged the Commonwealth Government to provide greater funding for universities.

“Instead, in legislation enacted last year, the Commonwealth decided that the urgently needed additional funding for universities should be provided partially through a user-pays system.”

Universities are increasing their HECS, but can Australian students afford the higher HECS fees? No.

Australian students already have the fourth highest fees in the world; with a 25% increase they may be paying the highest fees in the world to attend a public university. The total HECS liability for 2004 is estimated at $2.064 billion with the accumulated HECS debt set to surpass $10 billion this year (according to DEST and AVCC).

Professor Chapman – often referred to by the Government – told the Senate inquiry ‘Hacking Australia’s Future’ that, Government funding for higher education has fallen from 85% in 1987 to just over 45% in 2004.

The HECS increases outlined in these bills mean students will pay, on average, about 44-56% of the cost of their tuition and in some cases they may be paying more than the cost of their course.

In the face of this evidence the Prime Minister still has the hide to say last Friday, on radio in Melbourne, that the average contribution of a student to a university course will be about 28 per cent of the total cost of that course.

In his submission to the inquiry, Professor Chapman showed that the introduction of differential HECS in 1997 increased the disparity of participation rates between ‘rich’ and ‘poor’ students.

ACOSS and Professor James, in their submissions to the Senate inquiry, identified debt aversion as a real factor in students deciding whether they will undertake higher education and predicted a drop in the participation rates of students from low SES backgrounds and rural and isolated areas. Links have also been made between HECS debts and declining home ownership and fertility rates.

Recent research conducted by Professor James and the Centre for the Study of Higher Education (CSHE) at the University of Melbourne for DEST on equity groups participation, entitled Analysis of Equity Groups in Higher Education 1991-2002, shows students from low SES backgrounds are still majorly under-represented in higher education and are a key area of concern. Their retention rates are declining and they are still under-represented in many of the high-status courses such as law and medicine.

Another aspect to the shift of costs from the Government to students is the increase in the number of domestic undergraduate full-fee paying places. The Minister says these places will provide greater opportunity for Australian students and that the tens of thousands of students who miss out on a HECS place because of insufficient marks should take up this “fair deal”.

This deal may be fair to someone who can afford to pay $100,000 for a degree or is prepared to take out a FEE-HELP loan on which you have to repay 120 percent of what you borrow, but for the majority of Australians these options are out of reach.

The main barrier to entry into university remains the lack of Government funded HECS places, which is well recognised by the entire sector.
The Democrats won’t be opposing this Bill because we believe that this Government has been failing to provide adequate funding for universities since it took over from Labor, who also failed universities. The universities desperately need more funding from this Government and not from students.

Unfortunately the arguments around university finances and fee increases have increased recently. Just last week Ms Rhonda Galbally resigned from the Monash University Council declaring their decision to increase fees “morally and educationally reprehensible and against good governance”. But why should it come to this—Councillors arguing with Councillors, students and staff arguing with management?

It is clear that the Government now has a fight on its hands in the universities, to implement its so-called reforms, as we will see tomorrow in the National Day of Action. The Democrats’ will fight against these regressive reforms and for equitable and accessible higher education.

I think that this is only the beginning of the unrest that will be felt within institutions as a result of this Government’s fundamentally flawed higher education legislation that is inequitable, unsustainable and even after more than 200 Government amendments it is still hopelessly flawed.

We will be supporting the ALP’s amendments.

1 Nelson, 4 December 2003, Consideration of Senate message, HES Bill 2003.
2 Professor Bruce Chapman, Hansard, Canberra, 10 October 2003, p. 26
3 Professor Bruce Chapman, Hansard, Canberra, 10 October 2003, p. 29
4 Professor Bruce Chapman, Hansard, Canberra, 10 October 2003, p. 12
5 Submission No. 466 to Senate EWRE Committee, 2003, NTEU, p. 25

Senator CROSSIN (Northern Territory) (9.46 p.m.)—The incorporated speech read as follows—

The Higher Education Support Bill was passed on 5th December 2003. This current bill now before the Chamber is a combination of implementing last minute aspects of the deal done with the Independents, difficulties that would have arisen from trying to implement the bill in its original form, and minor drafting errors.

This bill brings about minor funding changes, an easing of conditions on the $404m funding under CGS and $1.5m for 2004 and 2005 for Indigenous education

Since the original Higher Education Support Bill passed, several universities (9 to date) have raised their fees but none have reduced them.

This is scarcely surprising when one considers how they have been grossly under funded since 1996 when the Howard Government came in to power.

But then—how hypocritical can you be? Having opened the door for universities to raise their fees, (and indeed forced them to do so by years of under funding) when QUT actually does so, the Minister has the gall to attack them and suggest they should be tougher on cost cutting rather than raising their fees! Of course, what he really meant was attack staff conditions, which too are already bad enough.

As is the norm for this highest ever taxing government, they still pass as much of the costs of anything on to users as they possibly can—the students and their families in this case.

They still try to justify their policy as equitable. They offer paltry scholarships to assist those less well off, but up to $4000 per annum will do little to alleviate the hardship and the final HECS debt burden round the graduates necks. A debt burden that government seem to see as almost insignificant but one which will force graduates to put off home buying and starting a family for years.

So we now have reports of student families remortgaging their homes to pay university fees; of students having to work at paid jobs, sometimes 2 or 3, where hours worked exceed hours of study.

In The Age of 22nd March, Shane Green (Education Editor) wrote “Poverty among university students appears to be worsening, with a growing demand for soup kitchen style free food services for cash strapped students”.

He went on to report that at least 2 student organisations in Victoria are providing such ser-
vices, while the Salvation Army are seeing many more students seeking food vouchers. The AVCC too is lobbying for a better deal for students at a time when government income support is just too low.

So congratulations Mr Howard—I hope you and your government feel proud of creating this dire situation and now making it even worse for our students by allowing fees to go up even more.

But I want to look at another aspect of the initial reform proposal which many universities acted on but is now removed from the legislation—that was the proposal for the government to severely interfere in the governance of universities in the size and make up of their governing boards.

This was always highly contentious, and as with much of the government proposals, such as linking funding to workplace reform, nobody could really see any academic justification for it. Just how limiting Councils to 18, banning certain categories of person from membership, insisting on certain qualifications or experience for others, limiting student and staff representation, would benefit universities was beyond most people.

It was though only a part of the proposed regulation over universities. As The Hacking Australia Report said (P117) this government has “the intention of diminishing the role and status of universities through heavy handed regulation. Universities are to be reduced to being ‘higher education providers’: selling a service to a purchase, the government, on terms dictated by the government and at the non-negotiable price the government is willing to pay.”

As was also said in the “Hacking Australia Report” (Ch3 P69) “...as the [government] funding is reduced the supervisory intrusion increases.”

Professor Le Grew (Uni of Tasmania) said in evidence to that committee “…What is a problem is the way the legislation is shaped. It gives potential for the over emphasis on control and for intrusion on the integrity and autonomy of the university…” (Hacking Australia Report P 70).

Professor Gavin Brown (Uni of Sydney) said “It is very strange that a Liberal Government prefers ‘bureaucratic central planning’ with its attendant rigidities over a flexible, more devolved mechanism which would be more responsive to market forces and student demand” (Committee hearings)

Professor Le Grew had also reminded the committee that we have 1000 years of history built on the charter of Bologna—guaranteeing universities a sense of autonomy (Report Pg 70). However it is hard to believe this government either knew or cared about such charters in their drive for control over higher education. Perhaps they knew what they were proposing would be unpopular and thought that by such control they could stifle comment and debate.

So while Vice Chancellors head institutions dedicated to the furtherance of knowledge, these are not always valued by those making public policy who like to try to ram square pegs into round holes and who see this as an accomplishment.

However, they came unstuck and again have had to do a back flip. The structure of university councils was something under the control of state and territory governments and not something that universities could easily influence—in realised that state or territory legislation was needed to enforce these proposals. Since one of the conditions being imposed was that state or territory parliamentarians would be barred from university council membership, few state governments might comply!

So this element of Federal control has been removed, although too late for my own NT electorate where CDU had felt sufficiently threatened to comply in setting up their new council as they changed from NTU to CDU.

So the bill under debate now removes this element of control over university council structure as a condition of funding which is a welcome and sane move.

It also offers other funding changes including some additional funding for indigenous higher education in the NT—$1.5m in each of 2004 and 2005 although there are strings attached before BITE or CDU might see this released. However, Bachelor Institute have commenced a review to develop a strategic plan which is part of the conditions attached to this funding.

Unfortunately what it does NOT do is alleviate the additional HECS fees being imposed on students, or make higher education access more eq-
suitable. It still leaves those wealthy enough to pay full fees at an advantage over less well off. It still leaves tens of thousands of young Australians unable to get a place in higher education.

That is why Labor are moving substantive amendments to this bill to reverse the 25% HECS increases, abolish full fees for Australian undergraduates and introduce proper indexation of university funding grants.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (9.46 p.m.)—Under normal circumstances, at the end of this debate on the Higher Education Legislation Amendment Bill 2004 the minister would thank everybody for their contributions and make some remarks about them. But, as the speeches were incorporated, I have not the slightest idea what you are saying. I have to say that in the middle of my 20th year in this place this is not a practice I personally endorse. I think it diminishes the standing of parliament. But I do realise it is the end of this period and we need to get on with it. People might have liked to expel some air from their lungs and they might be doing us a favour by incorporating. That may well be the case and I hope they accept my explanation for not being able to give either serious criticisms or compliments for what they may have said, since I am unaware of what they are saying.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator CARR (Victoria) (9.47 p.m.)—by leave—I move opposition amendments (1) and (2) and (4) to (7):

(1) Schedule 1, page 3 (after line 16), at the end of the Schedule, add:

5 After subsection 198-15(1)

Insert:

(1A) The indexation factor for 2005 is the index number for the relevant year.

(2) Schedule 1, page 3 (after line 16), at the end of the Schedule, add:

6 Section 198-20

Repeal the section, substitute:

198-20 Meaning of index number

(1) The index number, for a year that is 2005 or later, is the Higher Education Grants Index number for that year which is:

| Wage Cost Index (Education) for the reference date x 0.6 | Consumer Price Index (Australia) for the reference date |
| Wage Cost Index (Education) for the September immediately preceding the reference date | Consumer Price Index (Australia) for the September immediately preceding the reference date |

(2) The Minister will publish the index number at any time in the Gazette, including any time before the start of the year. The reference date is the September of the year immediately preceding the grant.

(4) Schedule 3, item 24, page 15 (lines 26 to 30), omit the item, substitute:

24 Section 93-10

Repeal the section, substitute:

93-10 Maximum student contribution amounts per place

The maximum student contribution amount per place for a unit of study is that referred to in the following table:

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Note 1: For the funding clusters in which particular units of study are included, see the Commonwealth Grant Scheme Guidelines made for the purposes of section 33-35.

Note 2: Maximum student contribution amounts per place are indexed under Part 5-6.

Senator CARR—The opposition opposes schedule 3 in the following terms:

(5) Schedule 3, item 25, page 15 (lines 31 to 33), TO BE OPPOSED.

(6) Schedule 3, item 26, page 15 (line 34 to page 16 (line 2), TO BE OPPOSED.

(7) Schedule 3, item 27, page 16 (lines 3 to 5), TO BE OPPOSED.

These amendments give effect to the opposition’s policy with regard to the higher education reform proposals that were announced last year by the government. Those proposals were rushed through this parliament in unseemly haste, which produced a result whereby a series of measures are now required to be taken—and that is what this bill seeks to do—to correct the errors that were made last year. This is a series of amendments which are required as a result of the hasty manner in which these things were dealt with last year. It was obviously a process whereby a rather shoddy political deal was put together in the back rooms in this building late at night, which produced a result which at the time we said would produce these types of errors. They have occurred. We are now seeking to change them in this bill. I have taken the opportunity to move the Labor Party’s amendments, which would provide a realistic indexation arrangement for universities to ensure quality and would reverse the 25 per cent HECS hike. Those factors were instrumental in the government’s package last year, which was put together as a result of that sordid arrangement. We are not seeking to divide on these questions. I understand we do not have the support of the chamber on these matters, but I wish to pursue them nonetheless.

Senator CHERRY (Queensland) (9.49 p.m.)—I advise the Democrats will be supporting amendments moved by the ALP.

Question negatived.

The CHAIRMAN—The question now is that schedule 3 stand as printed.

Question agreed to.

Progress reported.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! It being 9.50 p.m., I propose the question:

That the Senate do now adjourn.

National Youth Week

Senator PAYNE (New South Wales) (9.50 p.m.)—As the Senate would know, this
week is National Youth Week, which seeks to mark and celebrate the contribution of younger members of the Australian community. It has been running in this nation for four years. As a unique celebration of young Australians it has the support of all state and territory governments. This government launched National Youth Week in 2000 in recognition of the value of the contribution of young Australians to Australian society, and I am very pleased that the government continues its strong support of the event.

In 2004, due to, I suspect, the enthusiasm and natural inclination of the participants, there are more than a thousand events to be held across the country marking Youth Week, including one this evening where, I understand, the Hon. Larry Anthony, the Minister for Children and Youth Affairs, took part in an online forum at 8.30 tonight giving young people the chance to interact with him in an easy and accessible manner.

All of us who have the opportunity to visit schools on a regular basis know that it does not matter what questions are put to you in the chamber or what questions are put to you in the process of committee work or anything else, the most challenging usually come from the young people we meet in schools, from virtually primary age up. I can just imagine that an online forum would be equally challenging.

I also want to recognise the value of the National Youth Roundtable, a great opportunity for the participants but also for members and senators to meet participants from all around Australia to judge for themselves the extraordinary calibre of the intellectual contribution of these young people and the effort that they make in raising issues of extraordinary importance to them. I have always found my attendance at and opportunity to observe the activities of the National Youth Roundtable a very valuable experience.

I think one of the most important things that we can do as members and senators regarding the welfare, wellbeing and development of young Australians—and I think the government does this—is to take them seriously and respect the role that young people play in this nation. Whether it is programs aimed at developing the confidence of Indigenous youth to continue their further education and training or go into employment, or programs that allow young Australians to develop their own video or online game concepts, we have set out to comprehensively engage in a very positive way with the lives of young people. They are very real programs, they are on the ground and they help real young people achieve their goals and make their own contribution to society now and, one imagines with that accomplishment under their belt, most definitely into the future.

As a government we have invested very heavily in education and training as the basis for ensuring young people can get the best out of themselves so that they can develop their lives. In fact since 1996 we have invested in creating more than 580,000 New Apprenticeships positions, and over the next three years we will be directing in excess of $3 billion to the states and territories for them to pursue their responsibilities as well to provide an effective system of vocational education and training. That is not to mention the reforms in higher education recently adopted by the parliament which will see some $11 billion delivered to universities over the next decade—money aimed at giving the universities the flexibility and sustainability that they need to continue to deliver a good education system for young Australians to become world leaders into the future.

I think there is much more to the story, though, than simply throwing money to try to overcome problems and concerns. One of
the approaches that the government takes is to work constructively to develop partnerships with local government, businesses and non-profit organisations for working with and for young Australians. That partnership approach characterises much of the work of the government, and I have spoken about it before in other contexts. It is equally important here.

There is absolutely no denying that we live in a time of phenomenal change. It is a time when information moves at lightning speed, where email and text messages are everyday life. This generation of young Australians simply expect information to be available, and available quickly. It has also changed the way we do business as elected representatives. Our offices receive hundreds of emails a day—and I know that is the case in many other realms of business, of course. What it means is that we have a world of information available to all, but most importantly, in this case, to young Australians.

Technology has changed the way we think about business, about learning and even about recreation. It seems to me that the most adept users of technology are usually those who have grown up most recently immersed in it—not necessarily those who may have had to learn new skills with a set of preconceived notions. The opportunities that technology provides are usually stunning to many of us, but they are a part of everyday life for young Australians. They want access to information. They want answers, usually from us, and they want them in real time—the same way that they use the technology. The problems that that fundamental shift in interaction pose, and will continue to pose, are the problems that young people will have to deal with as the society they inherit even accelerates that change.

I want to look briefly tonight at two aspects of modern life that I find of great concern or great interest to many young Australians that I meet every day but most particularly across western Sydney, where I work. Young people are incredibly and acutely aware of the impact that we as a society and a community have on the environment, and they are in some cases its most passionate protectors. From using high SPF sunscreen as a normal part of life to seeing recycling as the norm not a new practice, environmental awareness is subconsciously a part of their daily routine in every way. Even the growth in the membership of environmental groups amongst young Australians points to that increasing awareness of environmental concerns. It is increasing, of course, because the world that we leave behind is the world that will be their reality. So it is only natural that they want to play a part in how we treat that world, and they tell us in no uncertain terms what they think about it.

There are a couple of achievements of the government which I think are worth noting in this area. Firstly, there is the enormous investment in environmental projects through the Natural Heritage Trust established in 1997. In 2000—the same year that the first National Youth Week was held—we directed an additional $1 billion to that trust. It reminds me of programs like Green Corps, which will offer over 1,700 more young Australians the opportunity to develop their skills and contribute to a range of environmental projects across the country over the next three years. Just a quick review of the web site for Green Corps is a very stimulating experience in and of itself. The opportunity it gives young people to participate in projects designed to preserve and restore Australia’s natural environment and heritage is a very stimulating story. If you have the time to look at the case studies from Green Corps, from one end of this country to the other—literally, Mr Acting Deputy President Watson, from your state of Tasmania to the
northern tip of Cape York—you will see that they are fantastic activities and they really engage young Australians in supporting and protecting the Australian environment.

The second issue that I want to talk about is in the area of health. You might think that is a very broad dichotomy but I think it provides a penetrating insight into how acutely aware young Australians are of the issues that really matter to them now and will in the future. As a government we provide significant funding for a whole range of projects that continue to make a difference in the lives of so many young people. I want particularly to draw attention tonight to the mental health of young Australians—and I have spoken about this before. Under the National Mental Health Strategy and the National Suicide Prevention Strategy we are developing and implementing a major mental health promotion, prevention and early intervention and suicide prevention agenda for children and young people. It is primarily aimed at schools but it targets a number of special needs groups in the community as well. It is called the MindMatters suite of initiatives. It is a comprehensive and complementary set of promotion, prevention and early intervention mental health and suicide prevention subinitiatives to fit a ‘whole school’ framework. It includes MindMatters, MindMatters Plus, MindMatters Plus GP, FamiliesMatters and ResponseAbility, and now also StaffMatters and MindMatters International. This gives a universal framework in secondary schools for mental health promotion and suicide prevention, and it provides a range of resources related to the three arenas of curriculum and learning, school ethos and environment, and partnerships and services.

In relation to these initiatives, there are other programs supported by the government, and I particularly want to comment on the ReachOut! initiatives with which I have had some contact over the years. A radiothon was run on radio 2JJJ some years ago to raise money to support ReachOut! and the then minister, Mr Warwick Smith, was a very strong advocate of the work of the organisation and the Inspire Foundation behind it. It troubles me that so many young Australians are considered to have such extraordinarily challenged lives in terms of their own mental health. We as legislators and members of this place need to be very aware when we are walking into their environment, into their world, that that is so often what they are confronting.

### Discovering Democracy Project

**Senator MOORE (Queensland) (10.00 p.m.)**—I rise in this National Youth Week to talk about another stimulating project—the Discovering Democracy project—which has been spoken about many times in this place. This particular project, described by Minister Nelson on another very strong web site, talks about civics and citizenship education as an important national priority. The Discovering Democracy program is an outstanding program which excites teachers, students and communities across Australia and gives them the opportunity to be informed about our democratic processes.

I have been very fortunate to meet with a number of schools over the last couple of months, and I have shared in their excitement and fun in learning about democracy. This program has had very strong federal and state government support over the last few years. In fact, $32 million has gone towards this program—indeed, it is money that is well spent. The program is given free of charge to all the schools that choose to take part. It is not a compulsory subject. A lot of responsibility is given to individual teachers who choose to take part, and the value is truly worth while.
As stated on the web site, the national goals for schooling in the 21st century agreed by all education ministers include a very awesome goal—goal 1.3—which states: ‘students are expected to ‘have the capacity to exercise judgement and responsibility in matters of morality, ethics and social justice, and ... to make sense of their world, to think about how things got to be the way they are, to make rational and informed decisions about their own lives, and to accept responsibility for their own action’.

Discovering Democracy assists those who take part to learn about Australia’s heritage and values, including the values of equality, liberty, fairness, trust, mutual respect and social cooperation. This program helps students learn about how the Australia system of government actually works, where it came from and where it is going in the future. We are a diverse society and Discovering Democracy helps all of us to understand and celebrate this diversity. It is a great program, and the kids have fun being part of it. It works in a variety of ways, from visiting Parliament House in Queensland, where I come from in Brisbane, to visiting Parliament House here. When you see and hear these students taking part in these programs, you know that they feel as though it is worth while—and that makes what we do worth while.

I would like to look at some of the things that have happened in Queensland recently in this program—some of the real experiences that have occurred and that can be maintained. I have talked to teachers in the schools, and the main benefits from their point of view include having a really strong, comprehensive set of resource materials created and distributed to their schools. The materials include information on many aspects of Australian democratic life and how these can be used by students, giving teachers creative ideas and assistance to develop programs at the local level. These programs then stimulate the students at school. One of the wonderful things that I did see happen was at the regular expos that are part of the Discovering Democracy program. The teachers and some of their students came along to share their experiences with others in the industry. They had wonderful displays incorporating all kinds of creative materials, costumes and photographs, and they are proud of what they have done.

Also what is happening is that the classes involved in these programs now are moving through the education process, and the excitement is being passed on through the schools. If a class in grade 5 does a program, all the other members of the school community can see how the program is operating and then, when they reach that age, they are actually saying to the teacher: ‘What are we going to do next year?’ So the program does not die. The enthusiasm, the knowledge, the whole culture of learning about our values and about our system is perpetuated at the school level. And it does not only end and begin within the school itself; it is shared throughout the whole community.

Mr Leon Steinhardt, the head of the social science department at Lowood High—Lowood is a country community that Senator Cherry knows quite well—just outside Brisbane, near the Lockyer Valley, is a great example of one of the teachers who has become an enthusiast for the program. When asked about what the Discovering Democracy program has done for his students, he talks about many things. He says the program has actually given him the opportunity to develop programs that encourage his students to identify and meet people and groups who influence the local community, the township of Lowood and all the surrounding communities. People talk with their local government representatives, their local councillors, the business people and the community services groups such as the fire service.
and the ambulance. They get to know them, they talk with them and they find out exactly how all those groups work together to form the community. It is particularly exciting when you have the children in the school working with the local community and finding out how it all works together. They discover how local people have built up their businesses—how the local newsagent got started—and what it means to be someone who has moved into a community and is now living there and taking an active part in the community, and including what it means to run for local office.

We recently had local government elections across all parts of Queensland. I was lucky enough to visit the Lowood School and I could see all the signs of the local councillors who were running for office. Young people in the class with whom I was speaking could talk about the fact that they had met these people. They had found out why they wanted to be local councillors and they had seen how the local council worked and how it was different to the state government and the federal government. Many people in the community do not understand that particular difference, but these children did because they knew the people who were working there.

When the kids get a chance to visit parliament, they remember. When I was talking with some of the students, I was asking about what they had seen at state parliament house. It was over nine months since they had made that visit. Their teacher was quite unaware how much their memories were enlivened by the stories that were told to them during the parliament house visit. Now they want to visit again. All those kids had their memories and they were not just static memories—they were alive and they were exciting.

This program does not run itself. It depends on the materials and the resources that come through the two levels of government that fund it—the federal and the state level. In Queensland there is a superb coordinator for the Discovering Democracy Program, Ms Rosalie Shawcross, who has nurtured this program at the Queensland level. She feels the value, she understands the excitement and she knows that this program must not be let die, because this knowledge is the future. It never ends. The funding must be maintained. But even without the funding, the experiences must be continuing.

I visited three local primary schools in the Lockyer Valley the other day—and I want to note on record the Ferndale Primary School, the Lowood Primary School and the Lockrose Primary School—all of which invited me to give their students their leadership badges and to talk about what being a senator is all about. They wanted to know more about the system, and I thank them for that great honour that they gave me. It is particularly confronting to stand in front of a whole class of primary school children and be asked quite demanding questions, ranging from exactly how much the salary is and whether you get driven around in a large white car—they were all very keen on the cars—to working out exactly why federal parliament has two houses and Queensland state parliament only has one, and why there needs to be a Senate. These questions are asked by grade 7 students.

Several months ago I went to a class around the time of the leadership discussions in our party, and two of the students who were at that stage in grade 7 at St Hilda’s School at the Gold Coast particularly wanted to know for whom I was going to vote in the leadership ballot and why. I think that their questions were extremely interesting, and they got it much more correct than the Courier Mail.
In terms of the project, on record tonight in Youth Week I wish to join with the teachers with whom I have met and the students with whom I have worked, and say we celebrate the Discovering Democracy Program. We must have it continue, because of the values and the excitement there. This is what makes democracy live. It must continue not just at Lockyer Valley and not just in Queensland but throughout the whole community.

Political Parties: Donations

Senator MURRAY (Western Australia)
(10.10 p.m.)—In the Joint Standing Committee on Electoral Matters report The 2001 federal election, the committee responded to Labor evidence on donations to political parties from overseas. Unlike a number of other countries, foreign donations are not banned in any Australian jurisdiction. In their submission Labor had said it may be a mechanism to hide the source of donations and that the law was difficult to enforce because of foreign domicile. The committee essentially fudged the issue, only asking the AEC to keep a watching brief. They did acknowledge, however:

... that it is important to distinguish between donations made from trusts and funds overseas, where the true source of the donation may not be readily apparent, and those made from overseas branches of Australian companies.

While the issue of foreign donations has been less contentious in Australia than in some other countries, there is real concern over the issue. In its 1996 election report, the AEC said that federal disclosure laws were:

... not adequate to ensure full disclosure of the true source of donations received from overseas.

In its submission to the abandoned Joint Standing Committee on Electoral Matters inquiry into electoral funding and disclosure some years ago, the AEC said:

Australian law generally has limited jurisdiction outside our shores and hence the trail of disclosure can be broken once it heads overseas. This provides an obvious and easily exploitable vehicle for hiding the identity of donors through arrangements that narrowly observe the letter of the Australian law with a view to avoiding the intention of full public disclosure.

If the overseas based person or organisation who makes a donation to the political party were not the original source of those funds, there would be no legally enforceable trail of disclosure back to the true donor, nor would any penalty provisions be able to be enforced against persons or organisations domiciled overseas.

The AEC recommended that:

... donations received from outside Australia either be prohibited, or forfeited to the Commonwealth where the true original source of that donation is not disclosed through the lodgement of disclosure returns by those foreign persons and/or organisations.

The AEC recognised their second option does nothing to resolve the problem of trying to track and prosecute donors who are overseas. The AEC also recommended that whatever action is taken it must be extended to donations received from overseas by third parties or associated entities that are then passed on to a political party or candidate or used to their benefit and that it should also apply to loans and debts owed by parties to overseas entities.

In the Democrats’ supplementary remarks to the Joint Standing Committee on Electoral Matters report into the 2001 election we said:

It is neither necessary nor desirable to prevent individual Australians living overseas from donating to Australian political parties or candidates.

There is no case, and it is fraught with danger, for offshore based foundations, trusts or clubs to be able to donate funds, because those who are behind those entities are hidden. Bodies with shareholders or members are more transparent.

However, none of these entities are capable of being audited by the AEC.
Donations from overseas entities must be banned outright. Donations from Australian individuals living offshore should be permitted.

One of the main reasons for banning foreign donations is the fact that donations to political parties and candidates by foreign individuals and organisations can be used as a means of avoiding disclosure requirements. While the recipients of such donations must still disclose details of the donor if the donation exceeds the disclosure threshold, the donor is not under such an obligation and there is no way to ensure that the donor was the real source of the money.

The Global Corruption Report 2004 provides an overview of political corruption around the world, with 34 country reports. It lists seven key recommendations. The very first one says that governments ‘must enhance legislation on political and funding disclosure’. In late 2003 the International Institute for Democracy and Electoral Assistance published the handbook Funding of Political Parties and Election Campaigns. In chapter 1 at page 15 they have this to say:

The most obvious danger comes from foreign funding. If a governing party depends heavily on financial resources provided by foreign governments or especially multinational corporations, their influence may undermine national sovereignty and the democratic principle of self determination.

Just look at a few countries. In the United States it is unlawful for foreign nationals to make donations. United States citizens living abroad can still make donations. In Canada, section 404(1) of the Elections Act says:

No person or entity other than an individual who is a citizen or permanent resident ... shall make a contribution to a registered party, a registered association, a candidate, a leadership contestant or a nomination contestant.

In the United Kingdom only permissible donors can donate. These are those on the electoral roll or registered corporations. The latter category is complicated by European Union membership. Germany stipulates that parties have to ‘publicly account for the sources and use of their funds and for their net assets’. Sweden does not accept any corporate donations and Canada requires the disclosure of donations in excess of $100 to all parties and candidates.

In Australia the problem is not yet large. We need to act before it grows larger and to set an example in order to help improve lax state donations laws. The AEC online disclosure returns show that in the four years to June 2003 Australian political parties received $607,178 from overseas sources: the Liberals, $255,275; Labor, $172,029; the Greens, $170,564; the Citizens Electoral Council, $7,110; and the Australian Democrats, $2,200. Of the $607,178, $86,413 appeared to come from individuals. Whether these persons living overseas were on the Australian electoral roll is not known. The donors to the Greens, the Heinrich Boll Foundation—$99,622—and the Swedish Green Forum Foundation—$58,304—are and were absolutely hidden, as were Shimao Holdings Ltd, who donated $100,000 to Labor.

Foreign donations seem to figure prominently at the state level. I do not have those figures. One of the most notorious foreign donations was in 1999, when Labor’s New South Wales branch took a $25,000 donation from Benito Salazar, a Manila lawyer charged with murder. Salazar reputedly was someone of note during Estrada’s corrupt regime. Salazar said that the money came from business clients whose names he refused to identify. The New South Wales ALP took another $25,000 donation just over seven years ago from bus importer Antonio Rodriguez, who left the country soon after, while under investigation for serious corporate offences. It is cases like these that provoke strong public interest in knowing who
the real donors are and what their motives are.

I delivered an adjournment speech earlier this month on political donations. I spoke at length about the need for political donations that come with strings attached to be banned. There is a view that some donors specifically tie large donations to the pursuit of specific outcomes they want achieved in their self-interest. This is corruption. It is essential that we have a comprehensive regulatory system that legally requires the publication of explicit details of the true sources of donations to political parties. It is only then that we will be able to properly prevent, or at least discourage, corrupt, illegal or improper conduct in the formulation or execution of public policy. Such mechanisms of accountability would see a revival of faith in the integrity of the political system amongst the wider public and the protection of politicians from the undue influence of donors.

One of the key screening devices for hiding the true source of donations is the use of trusts, clubs and foundations. The Democrats continue to recommend strong disclosure provisions for these. The Democrats have made a number of recommendations over many years, which we believe will clean up this political donations area, which is of high controversy and public interest. I refer all interested parties to our full intentions spelt out in our supplementary remarks to The 2001 federal election: report of the inquiry into the conduct of the 2001 federal election and matters related thereto.

Discovering Democracy Project
Foreign Affairs: Iraq

Senator SANTORO (Queensland) (10.20 p.m.)—As an initial aside I thank Senator Moore for her recognition of a very worthwhile Howard government policy. But tonight I want to talk about Iraq.

Any discussion about Australia’s role in Iraq must take account of the wide range of opinion among Australians about this new element in our national life. That is part of what democracy is all about. It is democracy and its defence that has drawn us to Iraq. But the task in Iraq is not to impose any particular form of government on the Iraqi people. That is something else all participants in our national debate on this issue also need to keep in mind. It is to give the Iraqi people the opportunity to choose how they wish to govern themselves. This is an option they have not had in the past. We need to be open, honest and up-front about that too.

Iraq is an ancient land. It has a proud history. Only in comparatively recent times has its national story been coloured by the sort of dangerous despotism that the world saw, and the Iraqi people suffered, from Saddam Hussein. It has not experienced the sort of democracy that Western nations have developed as the best or, to use Winston Churchill’s famous aphorism, the least worst form of government for free people. Iraq itself, though loosely based on the historical entity that was Mesopotamia, is an artificial construct, like many countries in the postcolonial world.

It was created in its modern form by the British and the French after World War I, when they were working together—not very well, as usual—to sort out the mess of the collapsing Ottoman Empire. Before the Ottomans, what is now Iraq had been a melting pot too. There were Bedouin Arabs, Levantine Arabs and Marsh Arabs from the lower portions of the Tigris and Euphrates rivers—we should not forget that Saddam Hussein virtually extinguished them as a community—and a host of non-Arab peoples.
It was and is a land of many faiths: Islam in all its sectarian varieties, diverse Christian communities and peoples of other religions. Its non-Arab communities include the Kurds—the people who gave the world Sallah-al-Din, Saladin, ruler of Egypt and conqueror of the Crusader states of the Middle Ages—Persians, Circassians, Chaldeans, Armenians, central Asian Turks of various provenance and Jews, who all made what is now Iraq a unique place in the Arab world.

It was the only Arab state to fall to the Mongol hordes which brought both destruction and the seeds of a cultural revolution to Iraq from the Ordos—hence our word ‘horde’—of Mongolia in the 13th century. In 1258 the descendants of Genghis Khan captured Baghdad and put the caliph to death, bringing to an end the Abbasid Caliphate. Today’s Iraq, post-Saddam, needs the world to take a real interest in it, not just a commercial or a geopolitical interest. It needs the world to lend a hand to help its people create a state which, under their own rules, they can rebuild to reflect their own vision.

That is a fairly extensive preamble to what I want to say, but I believe it is useful to put today’s events and circumstances into some form of historical perspective. It is a perspective that I commend, particularly to the leader of the Labor Party, Mark Latham. It is a perspective that, in the context of debate about Australia’s military role in Iraq as part of the American-led coalition, is particularly important for the opposition leader to understand and accept.

It needs to be understood in the context of the courage of the American people and their government in confronting terrorists and terrorist regimes. It needs to be understood in the context of our alliance with the United States. It needs to be understood in the context of our continuing defence relationship with Britain. These are indissoluble alliances, grounded in our deepest national interest, cemented by shared experience in the conflicts of the last century and underpinned by the values and heritage that, to our three nations, form a sacred trust.

It is given new point today by the deadly threat that confronts our values and the rule of law. Mr Latham understands that. The global war that terrorism is waging against the West is not a religious war. It is an assault on the very basis of the principles that guide Western democracy. It uses a modern variant of Lenin’s term ‘useful fools’ to help promote and implement its objectives. I respectfully suggest to senators in this place tonight that Mr Latham is in danger of becoming one of those fools.

I do not know one Australian who would not prefer our troops to be here at home. Every Australian I know would like the world to be free from threat. But it is asinine to argue that, while Saddam was a murderous despot who threatened his neighbours and the wider world and thumbed his nose at the UN for years, we and others should not have intervened to remove him. It was obvious the UN would not act decisively. There is no way that China, Russia or, for that matter, France would ever have voted to authorise the use of force.

Let there be no mistake: despots like Saddam Hussein are always a threat to the world. Terrorist organisations such as al-Qaeda and Jemaah Islamiyah in our own region must be defeated. Those who have the will to defend themselves must always be resolute. No-one who threatens our people, our community or our country should be allowed to think for an instant that they could persuade us to capitulate to their criminal designs.

Australia is a great country. We have built—and we are continuing to build—a great civilisation in this great country. We
did not get to where we are by giving up in the face of difficulty. We have not got here by running away or ducking for cover. It is not in the Australian nature to be cowed into submission. It is a mistake to blame the historic failure of other nations’ policies—for example, in the Middle East, over far too many years—for the sudden presence of a new and deadly threat that confronts Western civilisation on a global basis. That is why we must fight—in a way that is consistent with our capabilities, our national interests and the interests of the global community—to help make the world safe from mass murderers who crash planes into buildings, blow up trains and nightclubs, and profit and prosper from the immorality of regimes such as Saddam Hussein’s in Iraq.

That is why Mr Latham was so horribly wrong last week when, to score a partisan point, he said that he would bring the troops home by Christmas. He did not turn himself into a pillar of strength for our nation. He turned himself into an easy target and he risked turning Australia into an easy target too. The tactical victory the terrorists are seeking at this early stage of the global war against them is to be seen to have forced the Americans and the US-led coalition out of Iraq. Mr Latham was giving in to that demand. He took a crass political line—a cynical political line. He revealed this crassness by his assertion to his colleagues, post-pronouncement, that it was ‘a winner’. He meant that it was a winner in terms of votes for the Labor Party. I doubt that it is. Today’s published opinion polls, I think, indicate this in a forthright and conclusive manner.

Australians have a far better understanding of what is right, proper, decent and necessary than Mr Latham has demonstrated over Iraq and our troops. It certainly would not be a winner for the Iraqis, whose country has been ruined and who overwhelmingly, according to recent opinion sampling, want the US-led coalition to stay and make sure things work until the new national government is securely in place and in power.

We are told that the Madrid train bombings show us the danger of allying ourselves with the Americans in Iraq. People who honestly and sincerely hold this view have made that case to me in representations in favour of Australia withdrawing from Iraq. I respect their views, but I also disagree with them. The widely held view that Iraq is nothing to do with us is wrong. It is a view that suggests that our security problems would not exist—to the extent that they do—if we did not get involved.

But that is the thing about terrorists and terrorism. You do not have to be a player before they notice you. Australia was a target long before September 11 and the Bali bombings and long before our courage was demonstrated in our action to bring about an independent East Timor. In the view of those who believe Australia can continue to pretend it is not a target, Iraq is a small country far away that presents no reason to risk war. Chamberlain said that about Czechoslovakia in 1938. History has recorded in blood what Hitler did with that grant of freedom of action for his despotism.

There is another aspect to Australia’s engagement in Iraq that needs to be discussed in the context of Mr Latham’s electoral diversion into foreign policy. He wanted to make a grand political statement, but he over-egged the pudding. We have no combat forces in Iraq, not in terms of troops whose primary purpose is to combat the insurgency that still persists and which is reinforced by every sign of weakness from people such as the Leader of the Opposition in this country.

We have 85 troops in Baghdad, who are there to protect Australian diplomats and other officials. Theirs is a dangerous job.
That is recognised, and every Australian applauds the courage and fortitude of our volunteer soldiers engaged in that operation. We run Baghdad airport’s air traffic control system with RAAF controllers. We fly supply missions inside Iraq with RAAF C130 transports. Australians serve in the coalition forces’ headquarters. We are helping to train the new Iraqi army and will soon begin training the new Iraqi coastal defence force. We are helping with the task of constructing a feasible and workable administration for the future government of Iraq. In the Gulf, HMAS Melbourne serves with the international naval force in the region to enforce United Nations controls on illegal cargo and contraband, to maintain security and to watch for weapons’ shipments.

It is an international effort to help a free country recover from the decades of distress caused by its now deposed leader. Iraq is not under occupation. Its people are free. They no longer have to worry about whether they will be taken away in the night by Saddam Hussein’s security goons. They no longer have to fear that they will end up in one or other of the mass graves now being discovered. Continued international engagement in Iraq—as in Afghanistan, where Mr Latham’s policy of last week seemed to indicate we should actually be at the sharp end of the war—is essential. The people of Iraq deserve to have a peaceful and prosperous future without the despotic adventurism of any Saddam Husseins-in-waiting who, in the face of international weakness, would seek to build another terrorist regime. (Time expired)

Townsville-Thuringowa Indigenous Peoples Community Employment and Enterprise Development

Senator CHERRY (Queensland) (10.30 p.m.)—One of the great pleasures of being a parliamentarian is getting to meet people who are doing inspiring work in their communities and getting to glimpse the impact that they are having. Recently I was in Townsville and I met with such a team—a team doing great work to reduce the economic disadvantage faced by Townsville’s most economically disadvantaged citizens: its Indigenous people. I am talking of TTIPCEED, or the Townsville-Thuringowa Indigenous Peoples Community Employment and Enterprise Development corporation, to give it its full name.

The organisation is only three years old but it has already achieved a great deal to reduce the economic disadvantage faced by Indigenous people in Townsville. TTIPCEED runs four programs. It runs a Townsville CDEP program, funded by ATSIC. It runs a Townsville Indigenous employment centre, funded by DEWR. It is a registered training organisation. It is also starting a commercial labour hire service focusing on lawn maintenance, catering and secretarial services. The corporation is run on strictly commercial lines and hopes to be producing a surplus, to be invested into commercial employment related activities, in the very near future.

I spent some time with the corporation’s visionary executive officer, Richard Hoolihan, who discussed with me the longer-term plans to expand the training and education activities of TTIPCEED. Mr Hoolihan argued that, to carve out a future for themselves, Indigenous people have to start engaging more in the private sector, building up their skills, running their own businesses and creating their own jobs. That is what the ambitions of TTIPCEED turn to. Its objective, stated proudly on its web site, is:

To provide work for unemployed indigenous persons in community managed activities which assist the individual in acquiring skills which benefit the community, develop business enterprises and/or lead to unsubsidised employment.
TTIPCEED plays a major role in assisting Aboriginal and Torres Strait Islander people in the Townsville-Thuringowa community to address their employment, social development and learning needs. It seeks to achieve results through partnerships with other governments, businesses, and labour and community groups through direct delivery of programs and services to TTIPCEED clients. It is particularly active in employment, training and business development, giving particular attention to the needs of Aboriginal and Torres Strait Islander people. TTIPCEED assists Aboriginal and Torres Strait Islander participants in the Townsville-Thuringowa area to find work or become self-employed. It provides access to employment training and business opportunities. TTIPCEED pro-actively seeks out partnerships which promote employment training and business opportunities with other governments, businesses and labour and community based groups.

It is also developing social programs that will increasingly involve cooperation with all levels of government, business and private and community based groups in addressing the needs of Aboriginal and Torres Strait Islander people in the Townsville-Thuringowa region. It is identifying and defining a means to report the extent to which all of its clients have achieved an employment result and have reduced in the medium and longer term their dependency on government income support programs. It is developing measures that will reflect its social development and learning aspirations. Mr Hoolihan, his staff and the board of TTIPCEED, chaired by Wilma Kemp, can be very proud of what they have achieved in the short time since 2001 for their community and for their clients.

The integrated model for TTIPCEED is based on one of Australia’s most successful Indigenous employment corporations, the Bungala Aboriginal Corporation, based in Port Augusta in South Australia. Bungala has grown to become one of the largest employers in Port Augusta. It runs the local CDEP program for Indigenous people. It runs the local Indigenous employment centre. It is also a registered training provider, delivering accredited level II and III certificates in construction, general horticulture, business administration, workplace training and security and guarding services.

Bungala has held a builders licence since 1997 and has steadily built up one of the largest building portfolios in the region. Initially, this consisted of minor repairs and some painting. But, in line with its expanding skill base, this work has now grown to include general maintenance and repairs of a similar nature to those carried out by the ‘mainstream’ contractors, as well as the construction of new housing and commercial and industrial works. The skills base at Bungala, although initially lacking any accredited qualifications, was such that entry to the building trades at a base level was relatively easy, as most participants were well equipped with life skills. Exposure to accredited training has assisted these participants’ skills to lift at a rapid rate. As a result of an aggressive promotional program to establish the corporation on the same footing as a mainstream business, Bungala has successfully sought funding through DEWR to employ 20 Indigenous apprentice carpenters, who at the end of their apprenticeships will be nationally recognised tradesmen.

Bungala operates its own accredited childcare centre and has a partnership agreement with the Spencer Institute of TAFE to manage the centre on its behalf. It runs an arts and crafts business as well as an arts and crafts CDEP program. Among the highlights of this program, Bungala’s participants produced a backdrop for the Food and Fibre exhibition that was displayed at the Royal
Adelaide Show and contributed to the Croc Festival that was held in Port Augusta late last year. The arts and crafts program is established in 11 different sites in the region and produces a vast range of arts from different cultural groups, all of which are for sale. Its labour hire services cover building and construction, maintenance and repairs, painting and decoration, landscaping, paving, lawn maintenance and equipment hire of front-end loaders, bobcats and other earth-moving equipment. Other projects include the kitchen work team and the yard work teams.

By 2002, Bungala had a turnover of over $2 million and it has continued to grow. Bungala was offered the first Indigenous employment centre in South Australia in 2002, following a 12-month trial of job placement. Initially offered 25 places, Bungala met the target just 11 weeks into its 52-week contract. In that year it eventually placed 64 Indigenous people in permanent employment, with an 85 per cent retention rate after three months. It also delivered training to in excess of 60 participants in the same period, in partnership with the Spencer Institute of TAFE. In 2001, Bungala won three awards at the Adult Learners Week in South Australia, including outstanding tutor, outstanding program and outstanding adult learner.

The work being done by Bungala in Port Augusta and TTIPCEED in Townsville shows that, through education and learning, through community self-empowerment and through hard work and resourceful leadership, the economic disadvantages faced by Indigenous people can be bridged. These Indigenous corporations are just some of the many highly successful Indigenous organisations across Australia that are working hard to provide a future for the next generation of Indigenous Australians. What they need is support, not more bureaucratic interference from Canberra or political interference from politicians, black or white. We hear so much in Canberra about the failures in Indigenous policy so, when we see successes on the ground creating new jobs and opportunities for Indigenous people, I believe that this parliament should get behind them and celebrate—and, importantly, replicate—what they are doing.

According to the ABS, the unemployment rate for Indigenous people is 27.1 per cent, nearly four times higher than the non-Indigenous rate of 7.1 per cent. Only 16.8 per cent of Indigenous people have finished high school, compared with 39.5 per cent of non-Indigenous people. Just 12.7 per cent of 18- to 24-year-old Indigenous people are in further education at TAFE or university, compared with 34.5 per cent of non-Indigenous people. Indigenous incomes are a whopping 35 per cent lower on average than non-Indigenous incomes.

The gap of Indigenous disadvantage between Indigenous Australia and the rest of Australia is huge, but TTIPCEED and Bungala Aboriginal Corporation are showing that this gap can be reduced through community based, commercially orientated Indigenous initiatives. It is time for Labor and the coalition to stop playing politics with Indigenous affairs and back what works—back Indigenous people helping to economically empower other Indigenous people in their communities.

Howard Government: Environment

Senator EGGLESTON (Western Australia) (10.38 p.m.)—I would like to say a few words tonight about the Howard government’s outstanding environmental record. It is a record second to none. No government in Australia’s history has been more committed to or done more for the environment than the Howard government. This is shown by the fact that in 2003-04, for the first time ever,
environmental spending across all portfolios will exceed $2 billion. Indeed, spending on environmental initiatives in the agriculture and environment portfolios this financial year reached $957.6 million, more than double the amount spent in 1995-96.

A measure of the significance that the government places on the environment is that a sustainable environment has been nominated as one of the government’s nine strategic priorities. The Prime Minister chairs the sustainable environment committee of cabinet to ensure a whole-of-government approach to the environment. The four most outstanding achievements of the Howard government in the environmental arena are the establishment of the Natural Heritage Trust, the Environment Protection and Biodiversity Conservation Act 1999, the establishment of the Australian Greenhouse Office and measures to control salinity.

I would like to say a few words about the Natural Heritage Trust. This is the centre-piece of the government’s environmental commitment. Its establishment was opposed at the time by the opposition. This $2.7 billion program represents the largest ever environmental commitment in Australia’s history. Its objective is to conserve and rehabilitate Australia’s environment and natural resources. The trust provides funding for projects at the regional level, as well as at the state and national levels, through four programs: Landcare, Bushcare, Rivercare and Coastcare. The community component is delivered via the Australian government Envirofund.

The priorities of the Natural Heritage Trust include protection and restoration of the habitat of threatened species; rehabilitation and conservation of native vegetation, such as by reducing land clearing and via revegetation measures; the protection and restoration of water resources, such as rivers and wetlands; addressing land degradation; the protection and restoration of marine and coastal environments; the control and eradication of weeds and feral animals and other threats to biodiversity; and the provision to landholders and community groups of conservation and resource management skills.

The Environment Protection and Biodiversity Conservation Act is a major achievement of the Howard government. This act is groundbreaking legislation and represents a long overdue overhaul of the Commonwealth’s environmental laws, which dated back to the early 1970s. It represents a vast improvement on the legislation that it replaced. Natural resource management is a responsibility of the states, but the fact is that environmental issues do not stop at state boundaries. The act provides a national scheme to protect and conserve Australia’s environment and focuses on seven matters of national environmental significance. These are World Heritage properties, national heritage places, Ramsar wetlands of international significance, nationally listed threatened species and ecological communities, listed migratory species, Commonwealth marine areas and nuclear actions, including uranium mining. An action that is likely to have a significant impact on a matter of national significance is subject to an assessment and approval process. It has been said of the act:

There is no doubt that [it] has fundamentally changed Australia’s national environmental laws. Improved transparency and opportunities for public participation, enhanced enforcement mechanisms and increased powers for the Commonwealth environment minister are just some examples of improvements made by the EPBC Act.

Since the commencement of the act in 2000, the Department of the Environment and Heritage has received nearly 1,000 referrals.
In 2002-03, 17 additions were made to the lists of threatened species and ecological communities, and seven new wetlands were also added.

The rising tide of salinity creeping over Australia’s land and waterways like a cancer is one of the most pressing environmental issues facing our nation. Salinity costs this country about $3.5 billion each year through lost productivity and damage to infrastructure such as roads and buildings. My home state of Western Australia is the worst affected state, with 1.8 million hectares in the south-west agricultural region affected by salinity. That area is increasing at the rate of one football field per hour. It is an incredible statistic. Of course salinity does not only have an economic cost; it also takes a toll on native plant and animal species. Indeed, it is estimated that if the rising tide of salinity goes unchecked in the Western Australian wheat belt up to 450 species of native flora and 250 species of fauna are at risk of extinction.

In response the Commonwealth government, in conjunction with the states and territories, has developed the National Action Plan for Salinity and Water Quality. The Commonwealth has contributed some $700 million to this, matched dollar for dollar by the states and territories. Under the $1.4 billion plan the governments will work hand in hand with local communities to tackle salinity. In December last year, $2 million was allocated under the plan to identify the most effective engineering solutions to combat salinity in the Western Australian wheat belt. Projects addressing this objective will be evaluated. They include deep drainage projects, groundwater pumping projects and a surface water management scheme.

One of the most—if not the most—outstanding achievements of the Howard government in the environmental area has been the establishment of the Australian Greenhouse Office. This was a world first. No other country in the world has a greenhouse office. The agency takes a whole-of-government approach and is responsible for providing advice to the government, developing policy, liaising with stakeholders and administering programs designed to reduce our greenhouse emissions. The programs that it oversees include the Greenhouse Gas Abatement Program, the Greenhouse Challenge, and the Cities for Climate Protection program. The AGO is also responsible for assisting Australia’s negotiations and the development of positions in international forums, particularly the United Nations Framework Convention on Climate Change and the Kyoto protocol.

So this government has an outstanding record. The government is committed to fostering the development of renewable energy programs and has established the Renewable Energy Commercialisation Program, the Photovoltaic Rebate Program, the Renewable Energy Equity Fund and the Renewable Remote Power Generation Program. All of these mean that energy will be produced without the adverse effect of adding to the level of greenhouse gas emissions.

Unlike the Labor Party and the Greens, the government has declined to support the concept of Australia signing the Kyoto protocol. The government has done that because it believes that the Kyoto protocol is a fundamentally flawed treaty which could cause great economic hardship and loss to Australia. Australia is often criticised by the European Union for not signing on, but it is a fact that 12 of the 15 European Union countries are not meeting their targets and those that are are using nuclear energy to do so. This government has an outstanding
environmental record, and I trust that that will be recognised by the Australian people.

City of Greater Bendigo: Mayor

Senator TCHEN (Victoria) (10.48 p.m.)—I shall not take my allotted 10 minutes. I have learned one lesson tonight already. Earlier this evening I had the unusual experience for a government backbencher of speaking in a second reading debate. It was an unusual experience indeed because, when I was about 10 minutes into my very well-reasoned and well-crafted speech, the whip came over and slapped a large piece of paper in front of me that read in block letters: ‘Your time’s up.’ I looked up expecting to hear the trumpet but realised that what he meant was that I should stop. So after that experience, Mr President, I assure you I am not going to take my allotted 10 minutes.

In that speech in the second reading debate I had another unusual experience. After I had finished and after some other speakers, Senator Conroy got up and took great exception to Senator Scullion describing the Labor Party proposals as off the wall. From what I can gather, what Senator Conroy said was that the government’s policy had been draconian and had caused the deaths of two refugees by drowning. I have known Senator Conroy for some time and I know that he is a man who calls a spade a spade, even though he is often inclined to call it a great big mechanical shovel, and that he does not say things which are without any basis. On the other hand, I also know Senator Conroy as someone who never lets an opportunity go past to have not just one kick but several kicks at his political opponents, whether they are on his own side or on our side. So if the government’s policy of mandatory detention and our border protection policy against unlawful arrivals actually had caused the deaths by drowning of people who had been removed before they got to the Australian migration zone, I am surprised that Senator Conroy has not attacked the government all-out before. I am not quite sure how that outburst went, but I want to put it on record that I am waiting curiously for Senator Conroy to substantiate his charge.

However, I got up tonight to speak on something else. Tomorrow night—on 31 March—the City of Greater Bendigo Council will conduct a formal installation of the new mayor, Councillor Greg Williams. Councillor Greg Williams is a very young member of the council. He is in his second term and by all accounts he is a very capable and personable young man. Certainly he had the trust of all his colleagues; otherwise he would not have been elected at such a relatively young age to be a mayor of this marvellous City of Greater Bendigo.

The City of Greater Bendigo, I would like to inform the Senate, is, according to the latest ABS information, one of the fastest growing provincial cities in Australia. In fact, outside the Gold Coast I think it is the second fastest growing city in Australia and certainly the fastest growing city in Victoria. It has a much lower unemployment rate than the average. Since 1996 there has been quite a significant increase not only in its population and employment but in every economic index. It is an extremely good city with a very proud population. Greater Bendigo City Council is an exemplary local government.

I know, Mr President, that you have a background in local government. You know that one of the strengths of Australian society is our very strong local government system—the municipal system—through which many civic-minded people come forward to serve their communities voluntarily. Certainly, Greater Bendigo is one of the best examples of that. I have known the five mayors who served before Councillor Greg Williams became the new mayor, and every
one of them is an excellent example of what Australian communities can produce.

I would like to pay tribute to Councillor Williams and also to his predecessor, Councillor Ralph Fyffe. Even in a city which has been served by so many great civic figures, Councillor Ralph Fyffe stands out as a very good councillor and very good mayor for the city. However, compare these upstanding people with the Victorian state member for Bendigo West, Mr Bob Cameron. Councillor Williams is a known member of the Liberal Party; he stood for Liberal preselection for the forthcoming election. That gave Mr Bob Cameron the opportunity to make a sustained, disgraceful and cowardly attack not just on Councillor Williams but on the entire Bendigo City Council. That behaviour is totally uncalled for but is fairly typical of the Bracks government in Victoria. I think this type of behaviour is to be deplored and I wish Councillor Williams, Councillor Fyffe and their colleagues every success in their future careers. They should ignore people like Mr Cameron.

Yesterday my colleague Senator Santoro spoke about the newly elected Lord Mayor of Brisbane, Councillor Campbell Newman. One of the things Senator Santoro perhaps glossed over—he probably did not realise the significance of it—was that Councillor Newman’s father, the Hon. Kevin Newman, a member of the Fraser government, was elected in 1975 to the federal parliament. He won the seat of Bass in a by-election, thereby sounding the death knell of the Whitlam government. I am sure that what the late Hon. Kevin Newman did for the Whitlam government, Councillor Newman will do equally well for the Beattie government in Queensland. However, I think that he will probably have to wait longer than a year to do it because, whereas Mr Whitlam had a bombastic attitude to the truth, Mr Beattie has a record of flexibility. When one of his ministers sacked a member of staff for having lied to the police, Mr Beattie immediately employed the staff member in his own office. Someone with this sort flexibility in relation to the truth will be much harder to get rid of than someone with a bombastic attitude to the truth. However, I am sure that Councillor Newman will be able to do that job in due course.

Finally, this week is National Youth Week and I commend Senator Payne and Senator Moore for raising the issue of young Australians in this parliament. Tonight is a very unusual night because just about every senator got up to say something nice about the program of the Howard government. Senator Payne and Senator Moore spoke about the youth initiative, Senator Cherry spoke about the initiative in Indigenous education and self-help programs, and Senator Eggleston spoke on the environment. I think we should have more occasions like this, because the Howard government has enough successful programs to justify this type of analysis every night.

Senate adjourned at 10.59 p.m.

DOCUMENTS
Tabling

The following government documents were tabled:

Australia-United States Free Trade Agreement, agreed at Washington on 8 February 2004, due to be signed after 13 May 2004—

Guide to the agreement, March 2004 (Annex 3).

National interest analysis, regulation impact statement and annexes 1, 2 and 4 to 10.

Treaties—


**Multilateral**—Text, together with national interest analysis and annexures—World Health Organization Framework Convention on Tobacco Control, done at Geneva on 21 May 2003.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Defence: Starling, Able Seaman
(Question No. 2494)

Senator Brown asked the Minister for Defence, upon notice, on 9 January 2004:
With reference to the suicide of ABRO Mark Andrew Starling in March 2002:

(1) Will the Navy implement the recommendations of Cmdr Gary Barrow RAN, who conducted an inquiry into ‘Whether there was any failure to follow the applicable procedures or whether there were any factors that may have led to the delay in finding ABRO Starling’.

(2) Will the Navy institute an inquiry into the circumstances leading to ABRO Starling taking his own life in particular; (a) whether ABRO Starling was subjected to undue pressures within his naval career; (b) whether his naval superiors recognised, or should have recognised, that he was in such stress that he may take his own life; (c) whether adequate psychological support was available; (d) whether he was encouraged to use the available psychological support; (e) what changes should be instituted to protect other seamen who might experience similar severe psychological problems.

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

(1) Yes. The recommendations from Commander Barrow’s Report have been implemented. Commander Barrow was appointed by the Commanding Officer HMAS Stirling on 11 March 2002 to inquire into a range of matters relating to procedures dealing with absentees, not with the circumstances of the tragic death. That was a matter for the coroner.

(2) No. It is not Navy’s intention to institute any further inquiry into Able Seaman Starling taking his own life. As the incident was one that involved the Western Australian Coroner from the outset, all records were forwarded to that office for the sole purpose of establishing the cause of death. The coroner found that the cause of death was suicide.

(a) At the time of Able Seaman Starling’s tragic death, the Royal Australian Navy had no evidence to indicate that he had been subject to undue pressure during his naval career. In fact, he was well reported upon.

(b) The Royal Australian Navy had no evidence that Able Seaman Starling was under stress such as would, or should, have been apparent to his superiors that he may take his own life.

(c) At the time of Able Seaman Starling’s death, the Australian Defence Force (ADF) had in place a comprehensive mental health strategy that included access to psychological support for all personnel, and provided guidance on recognising signs of psychological distress.

(d) As previously noted, there was no obvious indication that Able Seaman Starling was suffering any psychological problems.

(e) However, there is no evidence that AB Stirling suffered severe or other psychological problems. The reasons for his tragic death are unknown. The ADF framework for providing the best possible mental health support continues to evolve. Key developments over the past two years include:

(i) The ADF Mental Health Strategy, developed in consultation with the Australian Centre for Post-traumatic Mental Health;

(ii) Enhancement of the ADF Critical Incident Mental Health Support program, a process of intervention with individuals who have been involved, either directly or indirectly, in a Critical Incident or Post Traumatic Event;
(iii) Establishment of the ADF Suicide Prevention Program as an overarching framework for a comprehensive approach to fatal and non-fatal suicide related behaviours amongst ADF members; and

(iv) Improved mental health support to operationally deployed forces.

**Centrelink: Payments**

(Question No. 2530)

**Senator Greig** asked the Minister for Family and Community Services, upon notice, on 5 February 2004:

1. Is the Minister aware of a letter to the editor of the *Sydney Morning Herald*, published on 30 October 2003, in which Mr Daryl Wood of Lewisham questions Centrelink’s advice to him about payments to same-sex partners.

2. Does Centrelink regard same-sex relationships as being de facto relationships for the purposes of determining eligibility for Newstart Allowance?

3. Are there any circumstances in which Centrelink gives regard to same-sex relationships when determining eligibility for payments, allowances or any other benefits provided by the agency?

4. Does Centrelink gather any information on same-sex relationships from its customers?

5. Does Centrelink take any action when information on same-sex relationships is discovered or volunteered by customers; if so, what action is taken?

6. Does Centrelink provide any advice to customers in same-sex relationships with regard to payments and living arrangements; if so, what advice is provided?

7. Does the Minister consider the advice provided by Centrelink to Mr Wood, which prevented him being eligible for Newstart Allowance on the basis of his same-sex relationship being considered a de facto relationship, to be correct.

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

1. The Minister was not aware of this letter to the editor prior to this question being asked.

2. No. Centrelink cannot regard same-sex relationships as being de facto relationships for the purposes of determining eligibility for Newstart Allowance as same-sex relationships are not recognised under social security law.

   Social security legislation prevents a person from being considered a member of a couple for the purposes of social security payments unless they are either legally married to, or in a relationship with a person of the opposite sex. The relevant legislation is contained in subsection 4(2) of the Social Security Act 1991.

3. No.

4. No.

5. No.

6. No.

7. I am advised that no information was provided to Mr Wood.

**Wildlife Films**

(Question No. 2540)

**Senator Brown** asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 12 February 2004:

With reference to foreign film makers who come to Australia to make wildlife films:

QUESTIONS ON NOTICE
(1) What are the visa requirements for these people.
(2) What government oversight or reporting is required.
(3) For each of the past 3 years, what percentage of wildlife films shown on Australian Broadcasting Commission, Special Broadcasting Service and commercial television stations were made by Australians.
(4) Is it legal for a visitor to Australia to make wildlife films in Australia without a permit or visa; if not, what permit or visa is required.

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

(1) There are two visa subclasses available for this group.
   The Media and Film Staff visa (subclass 423) is used where the film/documentary is exclusively for overseas use, often in a foreign language. Under the Migration Regulations, the decisionmaker must be satisfied that the work would not be contrary to the interests of Australia.
   The Entertainment visa (subclass 420) is used if the film/documentary is to be shown in Australia. It is a requirement that at least one resident of Australia must be employed in the production and there must also be a net employment benefit to the Australian entertainment industry. Before an Entertainment visa is granted to a person making a film/documentary, an approved Australian sponsor must have consulted with relevant Australian unions in relation to the employment or engagement of the person in Australia.
   All Entertainment visa holders must be sponsored by an approved person or body in Australia. Media and Film Staff visa holders only require sponsorship if the intended period of stay exceeds 3 months. Standard requirements with regard health and character also apply.

(2) These visas are monitored, including through regular reporting on application rates, processing times, overstay rates and rates of non-compliance, eg. visa holders working in breach of visa conditions. There are also regular meetings with key industry stakeholders to ensure issues are addressed quickly. Visa holders found in breach of their conditions are subject to compliance and removal action.

(3) This falls within the responsibility of the Minister for Communications, Information Technology and the Arts.

(4) The circumstances in which a visitor to Australia can work are very limited and do not include the making of commercial wildlife films. Visas required are as per part (1) above.
   Unconnected with visa requirements, separate permits may need to be obtained from some park authorities to allow filming.

Tourism: Contingency Fund
(Question No. 2578)

Senator O’Brien asked the Minister representing the Minister for Small Business and Tourism, upon notice, on 24 February 2004:

With reference to page 66 of the Tourism Green Paper, which refers to the ‘establishment of a contingency fund within existing resources … to finance international and domestic marketing activities in response to major shock’:

(1) When it is proposed to establish this fund
(2) For each of the following financial years: 2004-05, 2005-06, 2006-07 and 2007-08, what is the projected Commonwealth funding commitment for the fund.

Senator Abetz—The Minister for Small Business and Tourism has provided the following answer to the honourable senator’s question:
(1) The Tourism Green Paper - a draft strategy developed for public consultation - referred to the possible establishment of a contingency fund within existing resources to finance international and domestic marketing activities. The proposed contingency fund was one of many draft strategies contained in the Paper, which interested parties were asked to prioritise. The proposed contingency fund was not ranked as a high priority by respondents and accordingly was not included in the final strategy - Tourism White Paper: A Medium to Long Term Strategy for Tourism.

(2) There is accordingly no projected Australian Government funding commitment for a contingency fund for 2004-05, 2005-06, 2006-07 and 2007-08.