COMMONWEALTH OF AUSTRALIA
PARLIAMENTARY DEBATES

SENATE
Official Hansard
No. 5, 2004
WEDNESDAY, 31 MARCH 2004

FORTIETH PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

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Wednesday, 31 March 2004

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

BUSINESS

Consideration of Legislation

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (9.31 a.m.)—At the request of Senator Ian Campbell, I move:

(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 O’BRIEN (Tasmania) (9.31 a.m.)—Labor will not support the government’s attempt to bring on further consideration of the Customs Tariff Amendment Bill (No. 2) 2003 and the Excise Tariff Amendment Bill (No. 1) 2003. The bills impose a duty on ethanol imports and remove the excise exemption on fuel ethanol. The legislation forms the central plank of the government’s deeply flawed ethanol policy. As indicated during the debate on the legislation in this place on 12 August last year, Labor does not oppose the passage of these bills, but on that day we moved to defer their consideration until such time as the government complied with the Senate return to order for the production of documents related to the ethanol excise and production subsidy. In other words, we think the government should come clean on its dirty dealings with Manildra before the Senate signs up to the Manildra deal.

The pattern of deceit surrounding the government’s formulation of ethanol policy is now well known. The deception began in late 2002 when the Prime Minister held a secret meeting with Mr Dick Honan, the head of Manildra. Mr Honan is not just the chair of Manildra; he is one of Australia’s richest men and, not at all coincidentally, one of the coalition’s biggest political donors. Mr Howard denied his meeting with Mr Honan had taken place not once, not twice but three times in the House of Representatives. We only know the meeting took place because I obtained the meeting record through an application under the Freedom of Information Act. That meeting record exposed that Mr Howard and Mr Honan discussed the very substance of the government’s ethanol policy just weeks before the Prime Minister announced the Manildra-friendly ethanol package. So friendly was that package that Mr Honan’s companies got a whopping 96 per cent of all production subsidies in the scheme’s first year. Manildra has now received tens of millions of dollars under a scheme cooked up behind closed doors without any regard for the interests of the biofuels industry beyond Manildra. This week’s ethanol announcement, championed by poor old Senator Boswell among others—

Senator Boswell—I thought I did a pretty good job.

Senator O’BRIEN—I am sure you did do a very good job, Senator, and I respect your manful attempt to justify the policy framework. I completely understand the role you played. Senator Boswell’s announcement is, in fact, a concession that the original plan agreed to at the Prime Minister’s meeting with Mr Honan and announced in September 2002 failed everyone except Manildra. What a concession of policy failure.

When these bills were first considered in the other place, Labor had no objection to
them in isolation. At that time, we did not
know about the Prime Minister’s secret
Manildra deal. Once we found out about the
deal, the Senate supported a Labor initiated
return to order for the production of docu-
ments that exposed its inner workings. The
order was made on 16 October 2002 for
presentation on 21 October 2002. We fully
expected the government to comply with the
order, and with good reason. On 21 October
Senator Ian Campbell, the Manager of Gov-
ernment Business, told the Senate:
I can indicate that the government intends to
comply with the order as soon as possible and
fully expects to be in a position to do so shortly.
Those were Senator Ian Campbell’s words.
On 12 December 2002 Senator Ian Campbell
rose in the Senate and said, and I quote him
again:
While consideration of the documents is close to
conclusion, the government has not been able to
provide its final response by the close of business
for this, the final sitting day—which is something
that I had certainly hoped to achieve since I had
given an undertaking to the Senate.
It was a strong undertaking. He went on to
say:
I have spoken to the minister tonight about it, and
I have actually also spoken to Senator Kerry
O’Brien and have given him an undertaking on
behalf of the Minister for Industries, Tourism and
Resources, Mr Macfarlane, who is actually the
coordinating minister. There are six other portfo-
lios to deal with. The minister is happy for me to
commit to tabling those documents out of session
by next Tuesday—
that is, by Tuesday, 17 December 2002.
Senator Campbell concluded by saying, and I
will quote him yet again:
I am confident, dare I say—the Hansard might be
quoted back to me next year!—
as indeed it has been, and is again today—
that we will achieve that, and I have said that to
Senator O’Brien privately and now on the record.
On 5 February 2003, more than a year ago,
Senator Ian Campbell again rose in the Sen-
ate to address the ethanol return to order and
said:
Over the summer recess, the documents have
been thoroughly gone through in regard to the
normal protocols that apply to tabled documents
responding to a Senate return to order. The gov-
ernment has been unable to stand by the commit-
ment that I made on behalf of it back in mid-
December. The government is seeking to con-
clude its consideration of these documents and its
compliance—albeit very late—to the order of the
Senate. My latest advice is that the government
will respond as soon as possible.
That was on 5 February 2003—more than a
year ago. And what has happened since then?
Nothing, except resolutions of the Senate
noting the minister’s false commitments and
urging the production of the documents.
Each and every undertaking from the gov-
ernment on this matter has been false. Each
and every undertaking has been broken. De-
spite the passage of 17 months, not one
document has been tabled in this place in
response to the order of the Senate. It was
because of this failure, compounded by the
government’s broken commitments, that La-
bror moved to defer consideration of these
bills in August last year. We said then, and I
say now, that compliance with the return to
order will result in Labor giving proper and
likely favourable consideration to the pas-
sage of these bills.
I turn to the support the deferral motion
gained from the Senate. The deferral motion
was, incidentally, similar to one passed by
the Senate in 1995. It was moved by then
Democrat Senator Lees and supported by the
coalition
Senator Robert Ray—who?
Senator O’BRIEN—the coalition.
Senator Robert Ray—really?
Senator O’BRIEN—Including many members now sitting opposite.

Senator Robert Ray—Was Senator Boswell one of them?

Senator O’BRIEN—I suspect that he was a supporter.

Senator Robert Ray—Guilty!

Senator Boswell—I would have voted with the government.

Senator O’BRIEN—Senator Boswell said that he would have voted with the government. I am sure he can recall this matter vividly, and he will address that matter in the debate. On 12 August last year, Labor’s deferral motion was supported by the Democrats, the Greens and the Independents, with the exception of Senator Harris. I want to remind the Senate of what Senator Allison said on that occasion on behalf of the Democrats. She said:

With regard to Labor’s second reading amendment, I indicate that the Democrats will be supporting this amendment, and we will be supporting it for a range of reasons. I think it is time for the Senate to get tough with the government on returns to order in this place. We have seen total disdain—I think that is the best way to describe it—on the part of the government for providing documents that ought to be in this place.

Senator Allison also said:

I do not think I am disclosing anything I ought not in this place, but Senator Campbell—

I think that means Senator Ian Campbell—approached me earlier and suggested that we should not support this amendment because these documents had already been sourced by the ALP. If that is the reason that the government intends to pull this bill—as it is threatening to do—then I think it is pretty pathetic. What we are saying is that we agree that these documents should be tabled in the parliament.

Later in the quote Senator Allison said:

But I want to know that everyone in this place is entitled to see that document, not just the ALP because they have asked for it under FOI. If these are documents that are relevant to this debate, then let us have the debate when we have the documents. Let us treat this parliament as a part of the decision making in this country, which requires that all of the evidence necessary to engage in that debate and that decision making is available to us. If the government has something to hide in these documents, we ought to know that too.

Senator Allison went on to say:

There is no way that the Democrats will not support a demand for documents which are relevant to the piece of legislation which is being debated. I think we have had enough of the nonsense in this place from this government about reasons why documents will not be provided, and we will not stand for any more of it.

Those are fine words—one we expect will garner Democrat and other support for Labor’s opposition to the government’s motion today.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (9.41 a.m.)—We have had many debates in this place about the need to get tough with the government on returns to order, and the Democrats have spoken on that more than anybody. That is part of the reason, as I said, that we supported a motion to censure the Leader of the Government in the Senate yesterday. It is appropriate that we target the government about contempt for the Senate but we should not continue to damage the ethanol industry as a consequence of not supporting the further consideration of the Customs Tariff Amendment Bill (No. 2) 2003 and the Excise Tariff Amendment Bill (No. 1) 2003. I do not think it is overly helpful if we have an ongoing attack session today that simply leads to further undermining of the ethanol industry as a consequence, and that is what has happened. So I think at this stage it is appropriate that further damage is not done to the ethanol industry as a by-product of that sort of attack.
Debate (on motion by Senator Bartlett) adjourned.

INCORPORATION OF SPEECHES

Senator MACKAY (Tasmania) (9.43 a.m.)—by leave—On behalf of the opposition I wish to make a short statement about some remarks Senator Vanstone made in the chamber last night on the Higher Education Legislation Amendment Bill 2004. This statement relates to a chamber management issue, and I am speaking in my capacity as the Chief Opposition Whip. At the exhortation of the Manager of Government Business in the Senate, the Labor Party agreed, where possible, to incorporate their second reading contributions, given the time and the pressure on the program. We have been quite happy to do that.

In fact last night, again at the exhortation of the government, we agreed to incorporate a number of speeches on the Higher Education Legislation Amendment Bill. This was agreed by all parties in the chamber. Unfortunately, the minister on duty at the time, Senator Vanstone, was fairly deprecating, and she admonished the opposition for incorporating second reading contributions. I quote her from the Hansard:

I have to say that in the middle of my 20th year in this place this is not a practice I personally endorse.

She went on to say:

I think it diminishes the standing of parliament.

On behalf of the opposition, I want to make this point formally: we do not appreciate those comments of Senator Vanstone’s. Incorporation, with the agreement of all parties, was an attempt to facilitate the program. On behalf of the opposition I wish to make the statement that, unless we get an explanation or an apology from Senator Vanstone with respect to those comments, we will not incorporate anything for the remainder of the week. That is the formal position of the opposition.

ENERGY GRANTS (CLEANER FUELS) SCHEME BILL 2003

ENERGY GRANTS (CLEANER FUELS) SCHEME (CONSEQUENTIAL AMENDMENTS) BILL 2003

Second Reading

Debate resumed from 10 March, on motion by Senator Ian Campbell:

That these bills be now read a second time.

Senator BROWN (Tasmania) (9.45 a.m.)—I have given an earlier submission on the Energy Grants (Cleaner Fuels) Bill 2003, and I will summarise that again to the Senate. The purpose of the Energy Grants (Cleaner Fuels) Scheme Bill 2003 is to bring taxation of biodiesel fuels into line with the fuel taxation framework, which was announced by the government in last year’s budget. The government said that all the fuels used in internal combustion engines will be subject to excise from 2008, including petrol, diesel, ethanol and biodiesel. Originally the level of excise was to be based on the energy content of the fuel. Subsequently that was changed by the government to reduce the impact on gas and alternative fuels, which previously had not been taxed. Having moved from levying excise on fuel volume, litres of fuel, to energy content, joules of energy, it is only a small step for this parliament and this government to levy the excise on carbon content, effectively converting it to a carbon tax. That would favour gas over petrol and diesel. I quote from pages 83 and 84 of the government’s report, the Fuel taxation inquiry report, which came out in March 2002:

The above analysis shows fuel taxation to be an appropriate instrument for charging for the externalities of fuel use for which there is a strong correlation between the external cost and the type
or amount of fuel used. Climate change is an example of such a cost.

For ethanol and other biofuels, the relevant carbon content should be that of the energy used to manufacture the fuel. Biofuels, which includes those coming from sugar-cane, are manufactured with fossil fuels—because you need energy to convert the cane into ethanol—would be taxed at a higher rate than those manufactured from renewable energy such as solar or wind power and obviously at a higher rate than those factories and installations where energy efficiency is used. This could be extended to tax the energy used to produce the feedstock—for example, fertiliser, agricultural machinery and transport used to grow the crop—but research would be needed to measure the impacts. The Greens say that the problem here is that it is a very poor halfway house. We should be moving to a carbon tax. As the government recognises, there is a huge need to tackle global warming.

We are dealing here with fuels that are a very small component—in the order of one, two or three per cent—of the fossil fuel usage in Australia. The legislation does not tackle the big issue that is contributing to global warming, which is the burning of fossil fuels in this country. While you can see that this taxation proposal is an improvement at the margins, it is missing the big point, which is that this nation should follow the nations of Europe and impose a carbon tax. That is where the effort should be, and this is no substitute for that. I will ask the government in the committee stage about where we are insofar as assessing this nation moving to a carbon tax. I know the government has set its face against that, and Prime Minister Howard is opposed to it, so we are slipping further and further behind in modern taxation policy and environmental policy in the approach to global warming—which, I remind members, has recently been stated by consultants to the Pentagon as well as by senior meteorological experts around the world, including the former head of the Bureau of Meteorology in Britain, as a greater threat to the world than terrorism because of the enormous impact of social dislocation, economic breakdown and environmental devastation that global warming presents, not just at some time in some future century but in the century and in the lifetimes of people alive on the planet today.

In the committee stage, I will question the minister about a statement in the Canberra Times on Friday regarding Manildra, the major ethanol producer in the country. The Canberra Times reports Mr Howard, the Prime Minister, as having said that Manildra has made donations to all political parties. It is on the record that Manildra has given more than half a million dollars to the government in the last two years for which records are public. It is a classic example of the corrupting effect of donations on the political system in Australia and why the Greens so strongly espouse an end to the political donations system which gains and buys favour in this country and with this government.

The Prime Minister’s statement that Manildra had made donations to all political parties is wrong. The Greens have not taken any donations from Manildra, nor would we. I will be asking the minister during the committee stage what the Prime Minister based that statement upon and whether or not he has misled parliament—and certainly the public, depending on where he made that statement. It is a parliamentary statement so far as I can see and a very serious misrepresentation of the facts. There we have it. This is a marginal measure by a government which has lost the central plot in moving this country towards a reduction in the burning of fossil fuels, towards a cleaner future and towards undoing the current accumulating
damage from the policies of governments like the Howard government which worsen the spectre of global warming for the current generation of Australians and people around the world.

Senator BRANDIS (Queensland) (9.53 a.m.)—I want to say a few words in welcoming this legislation, the Energy Grants (Cleaner Fuels) Scheme Bill 2003 and the Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) Bill 2003, and, in particular, in welcoming the decision of the government that was announced on Monday to extend the excise free period from five years to eight years to enable the ethanol industry to get off the ground. I will refer briefly to the history of policy development in this area. In October 2001 the coalition published its paper ‘Biofuels for cleaner transport’ in which it set an objective for the production of fuel ethanol and biodiesel in Australia at 350 million litres by 2010. Part of the strategy to encourage the development of the industry was to enable it to operate in an excise free environment. However, in March 2002 the fuel tax inquiry which had been established by the government reported, and it recommended contrary to that position that all liquid fuels, irrespective of their derivation, should be excisable. The government in the 2003-04 budget adopted that recommendation in part by announcing a regime whereby the industry would be excise free for five years and then, in the subsequent five years, excise would be phased in so that after 10 years biodiesel and ethanol based fuels would be fully excisable.

The decision to adopt in part the recommendations of the fuel tax inquiry and to abate the commitment made in the document ‘Biofuels for cleaner transport’ in October 2001 caused understandable concern in the industry. The Australian Coalition for Ethanol—whose spokesman, Mr Elliott, I see and acknowledge in the gallery this morning—have been very active in bringing to the attention of government the concerns that they had about the shortness of the excise free period and the infeasibility, from the point of view of their industry, of making the significant capital investment decisions necessary to get the industry going in so short a period.

I want to acknowledge the extremely dedicated work that Mr Elliott has done on behalf of the ethanol industry. I want to acknowledge the contributions, among others, of my friends and colleagues Senator Ron Boswell and Senator Brett Mason in bringing this issue to the attention of government and seeking the concession which was announced by the Treasurer on Monday—to extend the excise free period to eight years before the five-year phasing in of excise begins. That decision seems to have made all the difference, and I see that Mr Elliott is quoted in this morning’s Courier-Mail as saying:

... the Government’s move would be the difference between his project—the project with which he is concerned—the establishment of a biorefinery in Dalby in Queensland—going ahead and not going ahead.

Mr Elliott is quoted as saying:

... he now hoped the plant would be producing ethanol based on sorghum by early 2006 ...

The Dalby biorefinery is the most developed proposal to build the ethanol industry in my state, Queensland. The promoters of the project have provided for a total investment of $80 million in the project. When it is operational, it will bring 34 direct permanent and 186 indirect permanent jobs to the town of Dalby and, in the construction phase, it will create 465 construction jobs. Dalby, which is an extremely attractive town on the Darling Downs in Queensland, is typical of the kinds of rural centres which will now be able to partake of this new industry and to find a
new use for their agricultural produce. We have become accustomed to thinking of ethanol as an issue that relates to the sugar industry, but ethanol can also be derived from grain; the Dalby plant proposes to derive ethanol from sorghum.

I welcome this announcement, as I have said publicly. I want to thank Mr Elliott, Senator Boswell, Senator Mason and others who have contributed to the government’s thinking in this regard. This decision once again demonstrates the commitment of the Howard government to regional and rural communities. The decision to enable this industry to develop—as Mr Elliott said, the decision that makes the difference between projects like the Dalby project going ahead and not going ahead—reflects an approach to decision making which I would describe as judicious pragmatism. This is not an ideologically driven government; it is a government which will make public policy decisions having regard to the interests of small regional and rural communities, as this decision exemplifies. It is wholeheartedly to be welcomed.

Senator CHERRY (Queensland) (10.00 a.m.)—The Australian Democrats strongly support the view that Australia should be supporting a reasonable ethanol plan. As my colleague Senator Allison has outlined in some detail in her speech during this second reading debate of the Energy Grants (Cleaner Fuels) Scheme Bill 2003 and the Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) Bill 2003, the Democrats strongly believe that there needs to be a reasonable excise free period for ethanol and other biofuels and cleaner fuels to be extended from the five-year window that the government had proposed in its legislation to an eight-year window with a four-year wind down beyond that. In our view these amendments are a significant improvement on what was put up in the original bill.

We have watched with great interest the continuing fight within the government and the bureaucracy over whether Australia should be supporting a viable renewable fuels industry or not. It was particularly interesting from our point of view to see the research paper produced by CSIRO, ABARE, and the Bureau of Transport and Regional Economics in February 2004. The report appeared to conclude that Australia should not go down the track of supporting an ethanol or a biofuels industry because it would be too costly to get the jobs in place and the environmental effects would be questionable. That report, like everything produced by ABARE on energy and particularly renewable energy, was fraught with dubious assumptions, breathtaking generalisations and generally an anti-environmental stance.

I will briefly outline for the Senate some of the concerns which come out of that report. The report massively understates, for example, the sugar industry’s potential role in biofuels growth. It assumes less than 29 per cent of the new biofuels’ capacity and that some $60 million of additional biofuels is sourced from sugar cane. That is compared with the research from the Sugar Research Institute which suggests that sugar could provide up to one billion litres of ethanol from B-grade and C-grade molasses. The CSIRO-ABARE-BTRE report assumes only six per cent of the sugar industry’s potential contribution to the biofuels market will flow through. This is very significant because the report goes on to acknowledge that biofuels sourced from sugar have much more signifi-
cant health effects in terms of reducing emissions than other biofuels. This changes significantly the assumptions and the forecasting in that report. It also changes the carbon emissions content. The production of ethanol from sugar is essentially emissions neutral because it is releasing carbon in the sugar cane which will be resequestrated in subsequent sugar cane. That changes the emissions content of the modelling.

The report also massively understates where the energy comes from to produce ethanol. In particular, the report assumes that 50 to 100 per cent of the energy used to create ethanol comes from coal fired power stations. Those are the emission and energy assumptions underpinning the report. As any person involved in the sugar industry will tell you, the energy to produce ethanol comes from the burning of bagasse and other biomass in the sugar mills through the cogeneration process. As a result, the actual energy used from fossil fuels is going to be a lot lower than that assumed in the report.

Something else that leapt out at me from that report which is worth noting for the record is that it assumes an oil price of $US21 a barrel for 2010 and a moderate rise to $US25 a barrel by 2050. Compare this with the current oil price which is well over $US30, with the New York benchmark price hitting a 13-year high of $US38.18 in March 2004. No long-term analysis of the oil price per barrel has been assuming an oil price of $US21 or $US25 a barrel pretty much since the early seventies. Yet this is the sort of very shoddy analysis that ABARE is putting up to justify what has always been ABARE’s position, which is the defence of fossil fuel industries in this country. The Democrats were very disappointed by the official agencies’ modelling and that they would put up a piece of modelling to government on official letterhead which has such dubious and questionable assumptions in it.

The Democrats are pleased to see that the other lobbies—the Business Council for Sustainable Energy and the various proponents of ethanol and biofuels plants—have managed on this occasion to overcome the shoddy work that was coming out of the government’s official agencies. I acknowledge that there has been a continuing debate within government about the future of biofuels and renewable energy generally. I notice again in this morning’s Financial Review that that debate continues over whether the government should improve its mandatory renewable energy targets or not. I hope that in that debate the government does not rely on the sort of shoddy modelling that comes out from some of its official agencies in terms of determining the future of renewable energy.

I would like to talk briefly about the impact biofuels and renewable energy could have on a key industry in my state, the sugar industry. The research coming out from AEC Economics suggests that the introduction of ethanol, in terms of the excise exemption we are talking about today and even mandating for a 10 per cent ethanol add to fuels, could actually increase the returns to sugar producers by around $230 million a year or about 20 per cent. It is a very significant potential value adding opportunity for the Queensland sugar industry. It is something which the industry has been extremely excited about, and I notice that the announcements by cabinet this week have been welcomed by cane growers and other sugar groups within Queensland.

Moving to a decent, mandated renewable energy target—taking it from the so-called two per cent target to a real two per cent target; better still taking it to a five per cent target or the 10 per cent target that the Democrats have been advocating—would increase the returns to sugarcane farmers by a whopping 40 per cent or $483 million. Some
significant value-adding opportunities would come out of the combination of getting renewable energies, through the burning of bagasse and some aspects of cane trash in the sugar mills, and turning molasses into ethanol. Then you would be talking about an increase in returns for sugarcane growers of around 60 per cent on the current price. That is when you would be starting to talk about a viable, long-term industry. Turning sugar into an energy crop, in addition to it being a sweetener crop, would provide real benefits to those areas.

Of course, we are not only talking about ethanol from sugar—and we should not obsess about that. The grains industry also has very significant opportunities to produce ethanol. As Senator Brandis pointed out, the eight-year window we are now talking about with these amendment bills will provide sufficient investment certainty to get the $80 million Dalby biofuels refinery off the ground, which is, of course, looking at turning sorghum into ethanol and other products. In addition, I would hope that the plants under discussion in Gunnedah and Swan Hill would be back on the drawing board as a result of this change.

What we need beyond the excise exemption we are talking about today are further measures to promote the ethanol industry in Australia. We need confidence-building measures. The damage that was done by the Labor Party’s and the motorist organisations’ deceptive campaign on ethanol labelling last year now needs to be undone. The lies and distortions of the truth that were told about the impact that ethanol would have on motor vehicle engines need to be undone. The labelling that I see all over petrol stations in my home town of Brisbane, proudly declaring ‘This petrol contains no ethanol’ needs to be undone. Unfortunately, the government has not been prepared to grasp that issue to the extent that is needed. We need a confidence-building program to follow on from this excise reduction today—one that looks at decent labelling and recognises the clean fuel content of fuel, one that does not scare people away from ethanol but rather recognises the benefits that it can provide. We need to ensure that that confidence building at some stage includes working towards an appropriate mandatory target in terms of adding ethanol to fuel. We need to ensure that that confidence building extends to other biofuels as well.

I have talked a bit about ethanol today but, in some respects, biodiesel is a much more exciting product than ethanol because it has more significant health and environmental benefits in reducing diesel particulate emissions and greenhouse emissions. It is something that particularly excites the Democrats. Certainly the economic case for biodiesel is even stronger than the economic case for ethanol. From a health, an environmental and an economic point of view, I would like to see a day where biodiesel is much more dominant than fossil fuel based diesel in our transport industries. That is something which the government should be working towards. I have spoken with several proponents of biodiesel plants and they believe that they can compete in that industry as long as they are given a reasonable start.

This legislation has been a shambles, from policy-making all the way through. When the Dalby biorefiners first put together their proposition, before the last federal election, they sought an assurance from government as to its intentions and its ethanol policy position. The government was quite clear that ethanol would remain excise free. They did the planning and sought finances on that basis. Then the government changed its mind and decided it would impose an excise on ethanol but provide a production subsidy. Overnight that plan significantly changed the effectiveness of their biofuels plant, render-
ing it no longer viable because they would not have enough time to bring a return on the capital investment.

Now, after many months of lobbying and toing-and-froing between the industry and government, we finally have an eight-year window, which still is not entirely satisfactory but at least will provide the certainty that is needed to get the current batch of plants off the ground. Once that eight-year window closes I wonder whether there will be sufficient investment certainty for new plants to develop. That is something we will worry about, I suppose, when we come to it.

This flip-flopping approach can be contrasted with the approach taken by the Canadian government, many European governments and the American government where they have been adamant in getting an ethanol or biofuels industry off the ground and moving it forward. It reflects, to some extent, the continuing influence that the fossil fuels industry has over both the coalition and the ALP in this place, which is very unfortunate.

It is worth noting that the Queensland Labor government has been adamant all the way through this debate that it wants to see a full excise exemption for ethanol to ensure that renewable energy becomes a crop for farmers in Queensland. Unfortunately, that message has not got through to its federal colleagues, something which is very disappointing and about which I have spoken at great length in this chamber on previous occasions. Even yesterday the Queensland primary industries minister Henry Palaszczuk said:

An eight year exemption is obviously better than five, but the Howard government promised the people of Australia the exemption would be retained. It has broken its promise, again.

It is a pity he did not also comment on the Labor opposition’s point of view. They have been happy throughout this debate to support no exemption at all—according to the comments from Bob McMullan. That is something that we certainly need to pin them on. It is worth noting that this is a significant contrast to the Labor Party’s policy when the Keating government was in power. In 1993, the Labor Party and the Democrats reached an agreement for an ethanol bounty of $30 million a year, which really helped to provide a kick-start to the ethanol industry in this country in the first place. Unfortunately, that bounty was removed in the first Costello budget in 1996.

The Democrats have a long history on renewable energy, biofuels and ethanol. We will continue to push hard to ensure this industry gets off the ground. We would like to see this legislation taken further, and these issues will be raised in the committee stage. We would like to see an exemption from excise for biodiesel produced in small quantities for personal use. For example, biodiesel can be produced from used fish-and-chip oil. It can be produced by thousands of people as a hobby to power farm equipment, tractors et cetera, and as a clean renewable energy source.

The government needs to do more to promote the industry. The label fiasco has been extremely damaging to the industry and urgently needs to be addressed. The development of renewable energy and biofuels as a viable, value-adding opportunity for regional Australia needs to be taken through with a decent mandatory renewable energy target, which I spoke about earlier. This is an enormous opportunity to get regional development going in Australia. Biofuels such as ethanol—renewable energy—are the best alternatives we have seen in many years to develop a new value-adding opportunity for regional Australia. This government has not quite grasped the significance of the potential of biofuels to create new jobs, new opportunities and new income sources in the
bush. I hope both the government and opposition will recognise that potential and take it forward. What we are doing today will not be the end of the ethanol and biofuels debate, but rather the beginning of a new chapter of developing opportunities for regional Australia, producing cleaner emissions and improving our health and the environment.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (10.15 a.m.)—I thank the participants in today’s debate on the Energy Grants (Cleaner Fuels) Scheme Bill 2003 and the Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) Bill 2003. The bills give effect to two measures announced in the 2003-04 budget. The first of these relates to fuel tax reform and the second relates to the cleaner fuels component of the government’s Measures for a Better Environment commitment to encourage conversion from the dirtiest fuels to the most appropriate and cleanest fuels.

The bills are integral to and assist in delivering the government’s policy to move to a fairer and more transparent fuel tax system over the longer term. Under the provisions of the Energy Grants (Cleaner Fuels) Scheme Bill 2003, an entity will be entitled to a cleaner fuel grant if they import or manufacture cleaner fuels. The Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) Bill 2003 brings the administration of the Energy Grants Cleaner Fuels Scheme under the administrative and compliance framework of the Product Grants and Benefits Administration Act 2000. This aligns the administration of the scheme with that of the other payment schemes administered by the Australian Taxation Office.

The amendments proposed by the government extend the excise-free period on currently untaxed fuels by a further three years and define the cleaner fuels for which grants would be payable as biodiesel, ethanol, compressed natural gas, liquefied natural gas, methanol and liquefied petroleum gas. Under the amendments, grants will be payable to fully offset excise and customs duty imposed on biodiesel from 18 September 2003 until 30 June 2011. Grants will be paid to partially offset any excise or customs duty imposed on biodiesel, ethanol, CNG, LNG, methanol and LPG for use in internal combustion engines for a period of four years from 1 July 2011 to 30 June 2015. The grants will reduce in five even instalments from 1 July 2011 to 1 July 2015, raising the effective rate on each fuel from zero before July 2011 to its final rate from 1 July 2015.

These arrangements will provide greater certainty for industry and a longer period for adjustment into an excise paying environment. The timing strikes a carefully considered balance between desirable fuel tax reform and the appropriate period of adjustment for affected industries. This extension of the excise-free period will give confidence to industry proponents who argued that the original five-year excise-free period was not sufficient time to properly establish new, alternative fuel plants, particularly biofuel plants. In particular, biofuel project proponents who have applied for grants under the government’s biofuels capital grants program will be contacted by Invest Australia regarding the effect of these changes on their applications and on the assessment process. In commending these bills to the Senate, I urge the Senate to look at them in the subsequent committee stage as integral to delivering the government’s policy to move to a fairer and more transparent fuel tax system over the longer term, which can only benefit the national interest.

During the contributions to the second reading debate, Senator Brown raised a point in relation to Manildra donations. If I have captured what Senator Brown said correctly,
he referred to a quote by the Prime Minister in the *Canberra Times* that Mr Honan had donated to all political parties. Senator Brown queried this. I obviously do not have the relevant article in front of me. However, I am aware that Mr Dick Honan is on the public record as having made donations to a number of political parties. I believe that would be the context in which the Prime Minister may have made these comments, or something to that effect. The Prime Minister would have made comments on what he understood to be the correct position. A number of other matters to be raised in the committee stage will require a considered response on behalf of the government but, for the purposes of summing up the debate, I again commend the bills to the Senate.

Question agreed to.

Bill read a second time.

**In Committee**

**ENERGY GRANTS (CLEANER FUELS) SCHEME BILL 2003**

Bill—by leave—taken as a whole.

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (10.22 a.m.)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to the *Energy Grants (Cleaner Fuels)* Scheme Bill 2003. The memorandum was circulated in the chamber on 30 March 2004.

**Senator ALLISON** (Victoria) (10.22 a.m.)—I indicate that the Democrats will support these government amendments. In fact, we warmly welcome them. I also indicate that the Democrats will not be moving the amendments we circulated some weeks ago. I presume we will deal just with the government’s amendments. As has been said already by my colleague Senator Cherry, our position on alternative fuels is that there should not be an excise at all—or at least not until we have some idea of the target we are looking to meet. The Prime Minister said that 350 million litres of ethanol was the target for 2010. I would argue that you should not impose an excise until you actually reach that target. However, we have been presented with a different approach and it is quite clear that the Labor Party supports that approach. An excise will be imposed but not in 2008, as was originally proposed, and not at the same energy content as the petrol and diesel excise—as that has been halved. The time frame for the excise to be imposed has been pushed back to 2011.

It is my understanding that the industry is relatively happy with this outcome. The backdown has been important for it. We will now see going ahead projects which otherwise would not have. There is still a problem in that in the longer term this will benefit those biodiesel and ethanol producers who have sufficient time to recoup the enormous cost layout for infrastructure for ethanol production. We are essentially saying, ‘We want a small industry.’ Beyond 2011 there probably will not be much by way of new development in this area, and I think that is a great pity. However, we will take one step at a time.

I want to mention a few people who have been instrumental in turning the government around on this. Bob Gordon, the Executive Director of the Australian Biofuels Association, has been very effective in demonstrating the benefits of an ethanol industry and of biofuels generally. He worked tirelessly to provide the information that informed the debates we had here. Matthew Kelley, the CEO of Primary Energy at Gunnedah—in Mr Anderson’s electorate—also spent a lot of time in Canberra in and around parliament talking about being a producer himself, his experience as a farmer and what this means to him and to his community. He is very committed to a cleaner, greener future. Bill
Elliott’s Dalby Bio-Refinery development in Toowoomba in Queensland, a $79 million plant that was about to start production when the decision was made to impose an excise, was cut off at the knees and is not likely to proceed. The decision to impose the excise broke a promise, as we all know. I hope that Bill’s Dalby plant gets up and running and is a great success. Also, the Mayor of the Gunnedah Shire Council, Gae Swain, and the Mayor of Forbes Shire Council, Alister Lockhart, put in a lot of time and energy on behalf of their communities to change the government’s view on this excise. Others who were instrumental were Adrian Lake of the Australian Biofuels Consultancy and John Eisner of Equinox Management Pty Ltd, a biodiesel plant in Victoria. There were numerous others who recognised that imposing the excise was not the way forward and argued coherently and persuasively to turn the decision around.

The benefits of ethanol have been talked about in this place at great length, but I want to repeat just a couple of points because I do not think the arguments have sunk in for many people, and we are still not hearing the ALP talk about the benefits of these fuels. The key is that blending biofuels with petrol and petrol diesel provides enormous health benefits. Biofuels are oxygenates and, when they are added to petro-fuels, there is a cleaner burn. It is a fairly simple concept, but we cannot say it often enough. It is so disappointing that the confidence in E10 or 10 per cent ethanol blends is now at an all-time low. I can understand it, because the debate has been railroaded by politicking and by the controversy that was generated by the ALP over political donations and the influence of Manildra.

The Democrats have been strong supporters of Manildra since day one. The plant produces ethanol in very large quantities from waste products, and Manildra should have been given every incentive to continue doing that. Instead, the Manildra plant has been highly controversial and the situation for the organisation has been up and down—as it has been since way back. This is not something that has cropped up in the last few years. We were strong supporters of Manildra when I first came into this place in 1996, but I know that Meg Lees was strongly supportive of Manildra well before then. Trying to get its product into the petrol bowser has been frustrating for Manildra, and there has been great resistance to that from oil companies. When we talk in this place about influence, I think we should talk about the influence that oil companies have over the decisions that are made here. I see the hand of the oil companies behind a lot of the barriers to the take-up of alternative fuels. Whether or not that is because of political donations, I do not know, but they are a very powerful force to be reckoned with.

The reason we are dealing with this today is that there are barriers to the take-up of alternative fuels. LPG has been around for 25 years, yet there has been very little take-up. One of the reasons is that most of the vehicles on the road—all of them, I think—at the present time have been converted; in other words, they do not roll off the production line so they are more expensive because you have the extra cost for the conversion. The auto companies are a bit reluctant to get behind this, largely because government has not stepped in and said, ‘Here are some incentives to do this. We want you to produce alternative fuel vehicles in this country.’

Sadly, Australia has been regarded for some time by the US auto manufacturers who own the businesses here, Holden and Ford, as a place with cheap fuel—indeed, we do have cheap petrol; it is the third lowest in the OECD by a long shot. That means we drive vehicles that are too big and that are inefficient. There really has not been any
leadership in this country from either the ALP or the government to reduce the size of vehicles or to make them more fuel efficient. As a result, there is a lot of reluctance and a lot of barriers to doing better.

LPG has been around for 25 years and it has a very small wedge of the market. It is my hope that, with the passage of this legislation, we will see much more positive leadership on alternative fuels and the Commonwealth and state governments pushing to get their own vehicles running on alternative fuels. We have a retailer now selling E10—that is, ethanol blended petrol—in Queanbeyan, just outside of Canberra. I strongly urge the government to see that that fuel is available to the Comcars, to the departmental people who have Commonwealth vehicles and, indeed, to the senators and members in this place who have vehicles here. We should all be fuelling up on E10 because it is very good for the environment and it is good for regional communities.

We often hear that hydrogen is the great saviour of fuels and that we should not worry about alternative fuels until hydrogen comes along, because it will solve all our problems. I have been hearing that for years. There is a need for us to go to alternative fuels in the meantime because hydrogen is not ready. It is not a polluting fuel, but you still have to make the hydrogen and there are still CO₂ outcomes from its production. So we should embrace LPG and compressed natural gas. Compressed natural gas still has very few retail outlets, as I discovered when I had a dual fuel CNG vehicle. It is very difficult for consumers to use this product, even though we have 500 years worth of reserves of natural gas. It should take a very prominent place in our transport fuel mix. There is ethanol, which we all know the benefits of. Liquefied natural gas has great prospects as well and is now making its way into very large vehicles—that is, the big on-road transport vehicles and also in shipping and rail, where big engines that can run on LNG are now being rolled off the production line. That is a very positive step forward.

So we do need to promote alternative fuels. We need to address the labelling, as my colleague Senator Cherry said. We need promotions, and we need to show motorists, truck drivers and so on that there is solid backing in this place for those alternative fuels. It is important that we get on and deal with this bill as soon as possible. It is a great step forward and, hopefully, will be a great success story for alternative fuels. It remains to be seen. We need to see those plants up and running before we can be certain that their bankers and investors are confident in this new regime. As Senator Cherry also said, there are some issues with regard to small-scale producers of biodiesel. There are lots of opportunities for reusing oils and we need to look at a number of the crops that can be used to produce biodiesel. It is a much cleaner product than diesel is, and we need to talk about how we can promote them instead of finding ways to stop the uptake of those fuels.

Senator WONG (South Australia) (10.34 a.m.)—The Labor Party will be supporting these amendments. I want to make a number of comments about some of the contributions made so far and about these amendments. The government’s backflip contained in the amendments is just another backflip in a long series of backflips by this government on the issue of cleaner fuels and on fuel energy policy generally. Senator Allison was critical of Labor for our criticism of this government in relation to Manildra. I can only say this, Senator Allison: if you examine the way in which the government went about making decisions regarding ethanol in the context of Manildra, you will see they were a range of hasty, overtly political decisions which patently had the effect of benefiting a particu-
larly close friend of the Prime Minister. I would have thought any senator in this place would have been concerned about that. Policy on the run for these sorts of political purposes is never good.

The amendments moved by the government—and I understand that the Democrats are now withdrawing all of their amendments—are the latest in a series of backflips on the issue of energy policy by this government. In 2002 the Treasurer refused to accept the findings of the fuel inquiry report but, magically, in 2003 he accepted them. Even in the context of this legislation we are seeing another backflip by the Treasurer, another party room revolt by the National Party, and the government now in the position of having to amend its own legislation so as to get support in its party room.

We will support this bill without prejudice to our future position on the broader cleaner fuels issue. We will support this bill because it does provide a degree of regulatory certainty to the cleaner fuels industry. It also provides certainty to the refiners and importers, who provide more than 90 per cent of the nation’s transport fuels. I want to make a comment about that. There has been much talk in this place about the environmental benefits of alternative fuels, which is true. But we also need to ensure that petrol and diesel are cleaned up. These fuels make up 90 per cent of transport fuel consumption in Australia. It is important that these fuels are also improved so as to decrease air pollution and the greenhouse impacts arising from the transport sector.

I want to comment on what has occurred in relation to the legislation this time around. Hopefully, we are finally to see debate on this bill come to fruition today. This bill should have been passed in September last year, but the government introduced it with only three sitting days before it was due to take effect. Meanwhile, refiners in this industry have had to wait for security prior to making large investment decisions and still have no certainty on the grant arrangements to apply to clean petrol and diesel. As the timetable for the new fuel standards approach is nearing—in 2006—time is running out for refiners. Earlier this week, in somewhat typical form, the Prime Minister was quite inaccurate in the other place when, in an explanation of the delay in the passage of the Energy Grants (Cleaner Fuels) Scheme Bill 2003, he said:

\[... the people who have, in the name of playing politics, delayed this belong in other parties than the Liberal and National parties.\]\n
That is patently untrue. The opposition pledged support for this bill last year and maintains its support. In fact, on the last occasion this bill was debated, the government sought to defer discussion of the legislation because it was quite clear, from what was occurring on the floor of the Senate, that National Party senators had a certain view about a number of Democrat amendments and wanted to get them argued out in the party room. That is up to National Party senators, but for the Prime Minister to say that the Labor Party have been delaying this is simply inaccurate. Not only have we seen delay in this session of parliament but the government has been stalling on the passage of this legislation since last December and has done so because of pressure from the National Party. The government party room certainly must have been an interesting place over the last couple of weeks. The final result is that the National Party has rolled the Treasurer yet again. On this issue alone, the Treasurer has been rolled at least twice since his budget announcement last year. What we see today from this out-of-touch government is another backflip in this policy area. The Treasurer has changed his mind yet again. The industry may well ask, ‘When will he
change it next? Is there any certainty for this industry under this Treasurer and under this government? We all know that such certainty will last probably only until after the election.

Labor will be supporting this bill without prejudice to our future position on cleaner fuels industry issues. The industry will know the opposition’s final position in this policy area prior to the next election but in the meantime it can be assured that Labor will not be rolling back arrangements that underpin significant clean fuels investment decisions and that we will deliver certainty for the industry.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (10.40 a.m.)—by leave—I move government amendments (1) to (11) on sheet PN218:

(1) Page 2 (after line 3), after clause 2, insert:

- **2A Object**
  The object of this Act is to establish a scheme for the provision of grants such as the following:
  
  (a) grants to fully offset any excise duty or customs duty payable in relation to the manufacture or importation of biodiesel for which a provisional entitlement arises during the period starting on 18 September 2003 and ending on 30 June 2011;
  
  (b) grants to partially offset any excise duty or customs duty payable in relation to the manufacture or importation of biodiesel, CNG, ethanol, LNG, LPG or methanol for which a provisional entitlement arises during a transition period starting on 1 July 2011 and ending on 30 June 2015;
  
  (c) grants to encourage the manufacture and importation of low sulphur fuels.

(2) Clause 4, page 2 (line 21), after “biodiesel”, insert “; CNG, ethanol, LNG, LPG or methanol”.

(3) Clause 4, page 2 (after line 24), after the definition of cleaner fuel, insert:

  **CNG** means compressed natural gas:
  
  (a) for use as fuel in an internal combustion engine; and
  
  (b) complying with the applicable fuel standard for such fuel.

(4) Clause 4, page 2 (after line 25), after the definition of consume or finally sell the fuel, insert:

  **end day** means:
  
  (a) for biodiesel, CNG, ethanol, LNG, LPG or methanol—30 June 2015; or
  
  (b) for each other cleaner fuel—the day prescribed by the regulations as the end day for that cleaner fuel.

(5) Clause 4, page 3 (after line 8), after the definition of enter the fuel, insert:

  **ethanol** means denatured ethanol:
  
  (a) for use as fuel in an internal combustion engine; and
  
  (b) complying with the applicable fuel standard for such fuel.

  **excise duty rate**, for a cleaner fuel, means the excise duty rate:
  
  (a) applicable to the cleaner fuel; and
  
  (b) set out in the Schedule to the Excise Tariff Act 1921.

(6) Clause 4, page 3 (after line 26), after the definition of licensed person, insert:

  **LNG** means liquefied natural gas:
  
  (a) for use as fuel in an internal combustion engine; and
  
  (b) complying with the applicable fuel standard for such fuel.

  **LPG** means liquefied petroleum gas:
  
  (a) for use as fuel in an internal combustion engine; and
(b) complying with the applicable fuel standard for such fuel.

(7) Clause 4, page 3 (after line 28), after the definition of manufacture, insert:

methanol means methanol:

(a) for use as fuel in an internal combustion engine; and

(b) complying with the applicable fuel standard for such fuel.

offset rate is defined in subsection 8(1).

(8) Clause 4, page 3 (after line 33), after paragraph (a) of the definition of start day, insert:

(aa) for CNG, ethanol, LNG, LPG or methanol—1 July 2011; or

(9) Clause 5, page 5 (lines 23 to 25), omit “day prescribed by the regulations as the last day that provisional entitlements can arise for the fuel”, substitute “fuel’s end day”.

(10) Clause 8, page 7 (lines 23 and 24), omit subclause (1), substitute:

(1) If you are entitled to a cleaner fuel grant for a quantity of biodiesel, CNG, ethanol, LNG, LPG or methanol, the amount of your grant is worked out in accordance with the regulations by reference to the rate (the offset rate) set out in the following table.

<table>
<thead>
<tr>
<th>Item</th>
<th>If the fuel is:</th>
<th>And the fuel’s qualifying time happens during this period:</th>
<th>The fuel’s offset rate is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Biodiesel</td>
<td>The period: (a) starting at the start of biodiesel’s start day; and (b) ending at the end of 30 June 2011.</td>
<td>100% of biodiesel’s excise duty rate.</td>
</tr>
<tr>
<td>2</td>
<td>Biodiesel, CNG, ethanol, LNG, LPG or methanol</td>
<td>The period: (a) starting at the start of 1 July 2011; and (b) ending at the end of 30 June 2012.</td>
<td>80% of the fuel’s excise duty rate.</td>
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(1A) If you are entitled to a cleaner fuel grant for a quantity of fuel not covered by subsection (1), the amount of your grant is worked out in accordance with the regulations.

(11) Clause 8, page 7 (line 31), omit “Subsection (1) has”, substitute “Subsections (1) and (1A) have”.

The amendments, as I understand, will be supported by both the Democrats and the Labor Party. The government is indeed glad that, following a period of time and some negotiations, these long-term reforms will establish both a fairer and more transparent fuel excise system which will improve competitive neutrality between fuels. The amendments that have been moved today will strike a balance between desirable fuel tax reform and the appropriate period of adjustment for affected industries and will give certainty to the industry. Indeed, that has always been the government’s intention—
that there would be a move to much greater clarity in the period going forward.

Obviously this matter has been somewhat fraught. It is indeed pleasing to see that the Democrats have consistently supported reforms to the industry that will see cleaner fuels and better outcomes for the health of Australians and a better environment and certainty for the industry. As the bill and the amendments are supported, I do not intend in the committee stage to canvass all of the comments that have been made by earlier speakers. However, I do say that the speech from Senator Wong supporting the bill was most extraordinary. Senator Wong made a number of not only cynical but totally unsupportable comments in what seems to be from the Labor Party not only any alternative policy position but one whereby there has been very little in the way of active support for these very sensible long-term reforms of an industry that has needed this kind of treatment. In those circumstances, I do not think it achieves anything at this late stage once again to be crawling all over the history of this matter. I welcome very much the support of the parties to these very sensible amendments and to this long-term reform.

Senator BROWN (Tasmania) (10.43 a.m.)—I want to put on record my commendation for the work that Senator Allison and the Democrats have done in this area over the years. It has been longstanding—I heard her talking about Meg Lees—and we are seeing some progress here. What does concern me about this legislation is the spectre of tariffs and increased fuel costs for alternative fuels which will hang over to 2011. It is testimony to the power of the fossil fuels industry that that spectre is not removed. Also I have circulated the Greens amendment—which I have just drawn up—which would insert, in part 3, the words:

Notwithstanding any provisions of the Excise Tariff Act 1921, no tariff applies to biodiesel which has been produced for non-commercial purposes, using non-commercial facilities and equipment.

We are all aware of the lobbying of Mr Martin from Kareela. He is logical when he says that, if people want to produce fuel in their own backyard to run their cars and it is a biodiesel fuel, then it should not be subject to the complicated provisions to recover the tariff that the government would levy. He draws the excellent analogy that the Excise Tariff Act 1921 has a provision for removing home-brewing from the tariffs that apply to beer and to breweries. People all over this country make home-brew of varying qualities, and we all approach home-brew with some care because we know the effect can be somewhat different from the standard brew produced by breweries with ethanol and alcohol.

Senator Wong—You’ve had some experience of that.

Senator BROWN—Yes, I have had some experience of that, Senator Wong, and I found that two glasses is a real stopper at times. According to Mr Martin, we already have some 500 car owners in Australia who make their own biodiesel. That is great. I was in Dublin in 1995 and met the then Mayor Gormley, the first Greens mayor of that fair city on the Liffey River. He was being pilloried in the press because he had a mayoral car which was run on biodiesel. There were cartoons about him stopping halfway to work and cooking fish and chips and all sorts of things. It is still a matter of debate around the world. If somebody is going to produce a fuel in their own backyard that will be better for the environment than burning fossil fuels then we should not be putting a complicated yolk of saying: ‘They do an enormous amount of paperwork,’ or saying, ‘They are effectively doing it illegally.’ We should say: ‘That is fine,’ just the same as home-brewing is. If it is not produced for commercial pur-
poses and it is not produced with commercially capable equipment then they should not be feeling that what they are doing is illegal because, in fact, what they are doing is a good thing, as far as I can see. I commend that foreshadowed amendment.

Finally, I ask the Minister for Revenue and Assistant Treasurer: where did the Prime Minister get the statement from that he made to the House of Representatives last Thursday that all political parties have received donations from Manildra? Would she care to correct the statement, because it simply is not true. The Prime Minister misrepresented the truth in the House of Representatives. It is quite important that he not be fast and loose with the truth on the matter of political donations. All political parties have not accepted donations from Manildra. I can show that that is not the case with the Greens. When the Prime Minister refers to all political parties, I do not know whether he does not see the smaller parties—who are so important to our democratic system—as existing. He has to be very careful and scrupulous when it comes to making statements like that. I ask the minister; where is the information that the Prime Minister relied upon to make that statement, and would the minister care to retract it on behalf of the Prime Minister, if it is not true?

Senator WONG (South Australia) (10.49 a.m.)—I indicate to Senator Brown that the Labor Party will not be supporting the foreshadowed Greens amendment. In response to the Minister for Revenue and Assistant Treasurer, who, I think, accused me of making unsupported allegations, I emphasise again that the Prime Minister’s statement in the other place that the delay in this bill was due to parties other than the Liberal Party and The Nationals is simply untrue, and anyone who was in this chamber through the course of the debate last week when the matter was deferred will know that that is the case.

Senator ALLISON (Victoria) (10.50 a.m.)—There is one thing I want to get on the record before we complete this debate. Minister, as part of this arrangement there is an agreement that, once the excise comes in in 2011, there would be a grant made available for conversion for LPG vehicles. Could it be put on the record that this grant would not be subject to tax and that the only measure which, as I understand, is what is being proposed would be that the amount of the grant would be deducted from the total value of the vehicle for the purposes of depreciation. Minister, it would be useful if you could confirm that.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (10.51 a.m.)—Senator Allison’s interpretation is correct in relation to the grant being deducted for the purposes of depreciation. In relation to Senator Brown’s proposed amendment, the government will not be supporting it, perhaps not for the usual reasons that Senator Brown would anticipate. But I think it is relevant to point out that for the purposes of the Constitution the amendment cannot be considered for inclusion in this bill in any event because the bill deals with grants. If I read Senator Brown’s proposed amendment correctly it relates to taxation, so they could not sit together in this bill. The government will not be supporting it. The other point I make is that I have nothing further to add to my earlier comments, except to say that I believe that the Prime Minister is careful and scrupulous. If I understand what Senator Brown was saying, he appears to have given some literal interpretation to what the Prime Minister said. But if there is anything that I can add to my earlier comment, I will do so.
Senator BROWN (Tasmania) (10.52 a.m.)—How else, other than literally, should we interpret the Prime Minister? Of course we have to interpret what he says literally. The Prime Minister should say what he means and mean what he says. In making that statement he was manifestly wrong. You cannot get away from that by saying, ‘You’re making a literal interpretation of it.’ How on earth are we meant to interpret a statement by the Prime Minister that all parties have received donations, when it is not true? The record needs to be corrected, and I ask the minister to correct it on behalf of the Prime Minister. She knows that he is wrong. We all know that he is wrong. He should retract the statement. It negatively affects political parties in this chamber that are not present in the other chamber. We just want the record put straight. Through the chair I ask the minister to approach the Prime Minister to ask him to correct the statement in the House of Representatives. That would be the honourable thing to do in this situation. Otherwise, his statement misleads the parliament and, I think, stands as a greater reflection on him than on the parties who are traduced by the statement. Madam Temporary Chair, I will speak to the Greens amendment a little more when I move it formally.

Question agreed to.

Senator BROWN (Tasmania) (10.54 a.m.)—I move the Australian Greens amendment:

Page 8 (after line 8), at the end of the bill, add:

- **10 Exemption from tariff**
  Insert at Part 3, “Notwithstanding any provisions of the *Excise Tariff Act 1921*, no tariff applies to biodiesel which has been produced for non-commercial purposes, using non-commercial facilities and equipment”.

I have only circulated this amendment this morning. That is not good practice, so I apologise for that. However, I want the amendment to be there as a working amendment for the government to adopt in other legislation which is before the parliament but has not yet been debated. Senator Cherry and Senator Allison have put the Democrats’ point of view on this, which is supportive. It is one that they have been working on. I think that those people out in the community who are directly affected by this excise—those making their own fuel—are faced with the prospect either of their activity being illegal or of having to do a huge amount of paperwork to manage the expense and the tariff that they should be paying. It is important that we not discourage them but encourage them in what they are doing.

I ask the minister if she might tell the committee what the government’s attitude is to the Greens amendment and, in particular, what the government’s philosophical approach to it is. I think it would be accepted by everybody if the government said, ‘We’ll amend the Excise Tariff Act 1921 at the next opportunity to get around this obvious problem for home produced biodiesel’—in the same way as a simple amendment to the tariff act got around the problem of home produced beer. It is a pretty simple matter really. I hear that the amendment is not supported by Labor or the government, so I will not take it to a division. But I ask the minister if she can say to the small but increasing do-it-yourself fuel production line in Australia: ‘Yes, you’ve got the government’s blessing. This is private enterprise, and we will not saddle you with all the paperwork that is involved or the feeling that what you’re doing in the backyard is illegal, when it really is good production. Go ahead: we’ll remove the complicated legal prospects that you face and encourage you rather than discourage you.’

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treas-
I say in response to Senator Brown that, obviously, this matter might require some further thought. The government’s announcement of the application of excise duty to biodiesel as part of broader tax reform in the budget did not include an excise exemption for the production of biodiesel for personal use. I suppose you could say that a valid comparison of small-scale biodiesel production and small-scale production of other fuels that compete with biodiesel, such as conventional diesel, clearly shows that there is no exemption for non-commercial small-scale production of conventional fuels.

The lack of an exemption in the case of biodiesel, according to the government’s thinking, accords with the general principle that excisable fuel production is subject to the provisions of the excise licensing regime, in which the criteria to be satisfied are normally directed to commercial-scale production. It is consistent also with the government’s active implementation of fuel standards for conventional fuels, which are directed towards minimising emissions. Fuel standards are in place for diesel, petrol and LPG as well as biodiesel. In the way in which this matter currently stands, it is not certain and it is possibly unlikely that small-scale biodiesel production by non-commercial parties would consistently produce fuel that satisfied the required standards. I am not saying that this might not be the subject of some further evidence, but small-scale non-commercial manufacture of biodiesel may not be desirable. I also put this on the table. That is because of the hazardous nature of the chemicals involved in biodiesel production, such as methanol and sodium hydroxide—that is, caustic soda.

I note that Senator Brown has proposed this amendment for the purpose of helping us think about future debates in relation to some bills that are coming forward. But for the purposes of today’s debate, it obviously cannot proceed the way it stands. I hope my comments have given Senator Brown some indication of what the government has in mind when considering non-commercial production issues.

I indicate that the Democrats are very supportive of the principle of this amendment; it is consistent with our view that alternative renewable energy should not be subject to an excise at all. It will be interesting to have this debate. I too think it makes it very difficult for backyard or small-scale producers who make biodiesel for their own use if they are caught up in the whole system. It will be very expensive for them to test their fuels. I am not sure that there are not significant dangers associated with the use of this fuel, and we need to have a discussion about that.

The other point to make is that the control of manufacturing, as I understand it, is dealt with under state legislation. There may be a good argument for the Commonwealth to get together with state governments to sort out this issue and find a way forward so that we are not imposing huge administrative or cost barriers to small-scale producers. Of course we want it to be safe and we do not want this fuel to be made outside the very good, new fuel standards that are in place for other fuels. There are a number of issues that need to be talked about, but in principle the Democrats support the concept.
important for the government to reckon with its own support for small business and for enterprising individuals. That is why this amendment should be supported. That is why I ask the government and the opposition to look seriously at exempting people who want to produce biodiesel for non-commercial purposes from the onerous weight of the legislation that we have before us. It is clearly analogous with the homebrew exemption. That produced all sorts of worries for people who were opposed to it, but it has worked out quite well. I am sure the same will apply here. I would like the government and the opposition, at the earliest opportunity, to deal seriously with this problem rather than letting it go off into the wide blue yonder.

Question negatived.

Bill, as amended, agreed to.

ENERGY GRANTS (CLEANER FUELS) SCHEME (CONSEQUENTIAL AMENDMENTS) BILL 2003

Bill—by leave—taken as a whole.

Bill agreed to.

Energy Grants (Cleaner Fuels) Scheme Bill 2003 reported with amendments and Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) Bill 2003 reported without amendment; report adopted.

Third Reading

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (11.05 a.m.)—I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

SUPERANNUATION SAFETY AMENDMENT BILL 2003

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Superannuation Safety Amendment Bill 2003, acquainting the Senate that the House has agreed to amendments Nos 1 to 25, 28 to 39 made by the Senate, disagreed to amendments Nos 26 and 27 and desires the reconsideration of the amendments disagreed to.

Ordered that the message be considered in Committee of the Whole immediately.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (11.06 a.m.)—I move:

That the committee does not insist on its amendments nos 26 and 27 to which the House of Representatives has disagreed.

(Quorum formed)

Senator SHERRY (Tasmania) (11.09 a.m.)—We are considering the House of Representatives message with respect to a number of amendments that were successfully moved in the chamber to the Superannuation Safety Amendment Bill 2003. The original bill did not contain measures that were objectionable to the Labor Party, and we supported the bill. However, the original provisions in the bill fell way short of what the Labor Party consider adequate in terms of protecting the safety and the security of the retirement income system of Australians through superannuation.

On a previous occasion when we debated the bill, I made the point that Australians now have approximately $550 billion in superannuation savings. It is a substantial part of our retirement income system, together with the age pension. It is unacceptable in principle to the Labor Party that a bill dealing with the safety of superannuation does not provide for full compensation, for example, in circumstances where theft and fraud occur from an individual’s superannuation fund. The Labor Party have been arguing this principle for some years. It is now the policy of the Labor Party to ensure full compensation in the event of theft and fraud. It is not a
matter that should be left to the discretion of the minister of the day, whoever that may be. There should be full compensation, which means 100 per cent, in the event of theft and fraud.

The Labor Party take the view that superannuation has a very special status. Obviously it is for retirement incomes. That gives superannuation in part its special status. It is moneys that accrue over a long period of time; it can be 30 or 40 years through a working life. In the event of theft occurring, it is quite catastrophic in its impact. We are talking here about superannuation savings that are now compulsory for Australian employees. Superannuation is now at a contribution level of nine per cent—thanks to the Australian Labor Party, which introduced compulsory superannuation in Australia. In the main, superannuation is now the compulsory element underpinning our superannuation savings system. So it is long term; it is for retirement.

Superannuation is complex. It is not easy for many in the community to understand its complexity. If your money is stolen prior to retirement, it is quite a catastrophic event. So superannuation has a unique purpose as a financial product in Australia’s finance system. It has a unique purpose for retirement savings, and it is also compulsory. If a person’s money is stolen—let us say they were in their 50s or 60s; whatever age they decide to retire—they could not simply go back and work in order to recover the moneys that were stolen. That is impractical. We know from the government’s recent announcement that they want Australians to work until they drop. The Labor Party do not support this policy. The Treasurer, Mr Costello, has said on a number of occasions that there will be no such thing as full-time retirement. He does not want people to stop working. That might appeal to some people in the community; it does not appeal to the Labor Party. We do not believe in the concept of ‘work until you drop’. We think it is impractical and unfair. Whatever the circumstances, it is grossly unfair that, if a person’s money is stolen as a result of theft and fraud, they will not be fully compensated. They should be fully compensated in those circumstances.

The minister has used her discretion and exercised the existing mechanism on a couple of occasions—the most well-known case being Commercial Nominees—to provide 90 per cent compensation. The Labor Party does not believe that is acceptable, given the circumstances I have outlined. It should be 100 per cent, and it should not be up to ministerial discretion. I am not criticising the minister personally in the case of Commercial Nominees, but I do not believe it is appropriate that a minister should be required to make those sorts of decisions about levels of compensation.

The Labor Party have adopted as policy the extinction of the compensation mechanism and applied it to a couple of other circumstances in superannuation. For example, there are some post-retirement products—annuities or pensions that people buy when they get to retirement—that are not covered by theft and fraud. If you are in retirement, we have the somewhat ironic situation where you may get no compensation if you have invested in a superannuation annuity pension product and your money is stolen. That is unacceptable to the Labor Party. Our new policy of full compensation in those circumstances is reflected in the second reading amendment. It is not reflected in an amendment to the bill we are considering the message on but, for the reasons I have already outlined, the Labor Party believe that full compensation should be provided.

The third area is where an employer goes out of business, goes bankrupt or the business fails. The Labor Party has adopted as
policy that, where a business fails and there are outstanding superannuation contributions that the employer has not placed with the superannuation fund, there should be full compensation. The Labor Party argues that superannuation is a basic employee entitlement in this country now. Again, that is not reflected in the message or in the bill, but it is reflected in the second reading amendment that the Labor Party successfully moved on the previous occasion.

The Labor Party believes this is an absolutely fundamental issue of principle. It is Labor policy. The Labor Party will not back away from its amendments to the bill. Therefore, we will not support the request from the House of Representatives. I have no doubt that the minister will argue that the compensation that has been awarded in the circumstances of Commercial Nominees is adequate in the circumstances. She has advanced that argument on previous occasions. The Labor Party does not accept the Liberal government’s approach with respect to theft and fraud compensation. The theme, as put forward by the Liberal Party, is that there should effectively be a penalty if theft and fraud occur and that you should not fully compensate because otherwise you would have trustees, who are the guardians of our superannuation system, making irresponsible decisions—there would be less pressure on them to live up to their obligations as trustees and therefore full compensation should not be payable. I do not agree with that approach. I have outlined why theft and fraud should be covered fully.

The argument advanced by the Liberal government falls over for two basic reasons. Firstly, it is a trustee system. Therefore, why should we expect the individuals in the trust to bear part of the losses in the event of theft and fraud? If trustees are involved in theft and fraud, they may well end up in jail. There may well be part compensation payable, the trustees may well be sued and some moneys may be recovered from the trustees but, at the end of the day, that is not a big help to the victims, who in this case are members of a superannuation trust. They are a member of a superannuation trust because the Australian law requires them to be. There is no choice about being in the superannuation system; it is compulsory in Australia for employees. Even if we accept the theoretical argument about choice of superannuation funds, which may or may not be implemented in practice, the argument still holds that you are legally obliged to be in a superannuation fund. Whether or not you can choose which superannuation fund you want to be in is debate for another time but, even if that theory came to pass in practice, it is still compulsory. No matter what superannuation fund you choose to join, there should be full compensation in the event of theft and fraud.

I have not heard the latest news about what has happened to the trustees of Commercial Nominees and I do not know whether they have been successfully prosecuted. The minister may be aware of where the legal case is up to, but I do know that at least one of those trustees who, prima facie, was involved in theft and fraud at Commercial Nominees ended up in Guatemala, in Central America, in some exotic location from which extradition apparently is very difficult.

Senator McGauran—I’ve been there!

Senator SHERRY—Senator McGauran has been there. Thank you, Senator McGauran, for that contribution to our superannuation safety debate.

Senator McGauran interjecting—

Senator SHERRY—That is good news. It would be even better news if we knew that the fellow that is in Guatemala, having been involved in the theft and fraud case of Com-
mmercial Nominees, was back in Australia. I hope he is in jail. The minister may be aware of where we are up to with the proceedings in that case.

I mention that one of the trustees ended up in this exotic location in Central America because, even if this individual is brought back to Australia and ends up in jail, that is not particularly satisfactory for the poor victims who had their money partly or wholly stolen. It might be useful, and important in terms of our system, that that individual should end up in jail if successfully prosecuted, but it is no great solace to the victims. The Labor Party are very clear: we think that it is a very important improvement to the Superannuation Safety Amendment Bill 2003. The changes contained in the bill are modest. They are changes the Labor Party support, but we think fundamental to this issue of the future of retirement income systems and superannuation in Australia is full protection in the event of theft and fraud in the circumstances I have outlined. We will not be supporting the request from the House of Representatives to back down. The Labor Party have got a clear policy and we will not be backing down.

We have got a Liberal government that is weak—very weak indeed—when it comes to the protection of Australians' retirement incomes. I do not think there is anything more fundamental than ensuring full compensation in the event of superannuation theft and fraud. In concluding, I would appreciate it if the minister has the detail of the case involving Commercial Nominees, and where that is up to, and if we could have some indication of when the regulations would be available if this bill were to be passed.

Senator CHERRY (Queensland) (11.24 a.m.)—The Democrats will be supporting the minister’s motion not to insist on these amendments this morning. We do so with a little bit of reluctance in some respects, but our concern is very much to ensure that this bill is proceeded with in this session of the parliament. The Superannuation Safety Amendment Bill 2003 seeks to set in place the legislative framework for a modernised and strengthened prudential supervisory regime for superannuation. The reforms are to commence on 1 July 2004 with a two-year transitional period. The industry has accepted this timing and is preparing for implementation on that basis. The government has argued that it is vital that the bill pass the Senate before the end of the autumn sittings in order for the reforms to commence on time. Should the bill not pass the Senate in these settings, it would not be possible to finalise the supporting regulations and operating standards for consideration by the Executive Council until immediately prior to the commencement date for the reforms. Delaying passage of the bill would also prevent the Australian Prudential Regulation Authority from finalising its guidance material, which will help ensure that industry fully understands and is able to meet its new obligations. These are obviously very important, and industry has made it quite clear to us that it wants this bill to proceed at this point in time.

There will obviously be a debate during the election campaign about superannuation safety, and I should acknowledge the excellent work that Senator Sherry has done on behalf of the Labor Party in outlining a very comprehensive policy of reforms in these areas. But the time for that debate is, I think, during the election campaign rather than at this time. We do want the fairly mild set of measures in this legislation to take effect from 1 July. I think that is a reasonable position for the government to argue and to put before the Senate and for the Senate to agree to. I think the debate over the appropriate level of compensation in the case of theft and
fraud, and whether that should be extended beyond theft and fraud to cover negligence or employer collapse, are reasonable matters to be argued but should be argued at the appropriate time. At essentially five minutes to midnight in terms of the implementation of this bill is probably not the best time to do it.

There are two amendments, and I did not quite catch Senator Sherry’s approach to the second amendment disagreed to by the House of Representatives—Senate amendment (27)—which was about the reporting arrangements of defined benefit funds. I do want to put on the record that the Democrats will not be insisting on this amendment at this time. There are in relation to defined benefit funds some significant reporting arrangements already in place. Trustees, for example, as the minister pointed out last time we debated this bill, are required to report to members when employer sponsor contributions are less than the actuarially approved amount. The trustee must also tell members the consequences for the fund of the shortfall and what action the trustee will take in relation to the shortfall.

The introduction of further reporting requirements for defined benefit funds would impose costs on both funds and APRA for what could be seen in some circles as a fairly minimal cost. The concern of industry in particular is that these costs may make defined benefit funds less attractive to employer sponsors, and that is something which the Democrats are concerned about. Defined benefit funds have been in decline in the corporate sector over a long period of time, despite the fact they have provided a very, very good product for many workers. I think the Senate should think very carefully before imposing new cost requirements on defined benefit funds, which may ultimately result in more funds being taken out of circulation by their employer sponsors. From that point of view, we will not be insisting on the amendment, but we would, through the minister, seek to ensure a message is sent to APRA that the Senate is deeply concerned to ensure that defined benefit funds are being fully actuarially supported by employers and that APRA continues to be active in this particular area—and possibly more active than it has been in the past.

In respect of the Democrats’ view on the appropriate level of compensation, we are increasingly less attracted to the government’s argument that there is a moral hazard argument in respect of compensation for failure of superannuation funds. In theory the argument can be sustained that the consumer should be aware and should accept some part of the risk in respect of their superannuation investments. In practice, of course, that does not work, because it is impossible for a consumer to know what their fund is up to. They rely on annual reports from their trustees. It is virtually impossible under current statutory arrangements for a consumer to hold their trustees to account in any way, shape or form. In addition it is also noteworthy that most workers are told what superannuation fund they will be in and do not get to choose the superannuation fund they will be in. From that point of view, the notion of moral hazard in this area is a principle which is not as strong as the government makes it out to be.

Nevertheless, on this occasion, the Democrats are prepared not to insist on the amendment. We note that there is a continuing review of part 23 being conducted by government, and we note that there is an ALP policy to change the ministerial discretions in this area. As a result of those two significant developments, we note that this will be a continuing area of debate, but at five minutes to midnight before this bill is to take effect probably is not the best time to have that debate. So we will not be insisting on the amendments at this point in time, but
we certainly are sympathetic to the content of both amendments. I think that they are matters to be debated at another time in this place.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (11.30 a.m.)—We are debating the message and my motion that the committee not insist on amendments (26) and (27). Amendment (26) relates to what has been colloquially called the 100 per cent compensation matter—inserting a requirement in the legislation for the government to provide financial assistance of 100 per cent for superannuation losses due to fraud or theft. As has been noted this morning, the government is rejecting the amendment. I should just say why briefly. Under part 23 of the Superannuation Industry (Supervision) Act 1993 the minister, in this case me, has discretion to grant compensation for losses as a result of fraudulent conduct or theft. In exercising this discretion the minister may grant financial assistance up to 100 per cent of the determined eligible loss. I should say that I can envisage situations where it may be appropriate to do so but I can also envisage cases where it certainly may not.

Ministerial discretion ensures that public interest considerations can appropriately be taken into account when determining the level of financial assistance to be paid in the event of theft or fraudulent conduct. Within this framework, it has been longstanding government policy to cap financial assistance provided under part 23 of the SIS Act at 90 per cent of the eligible loss. Eligible loss is not necessarily confined to the amount of an investment that may be lost; it can also extend to the costs of replacement trustees and other expenses.

Payment of less than 100 per cent financial assistance seeks to address moral hazard concerns. In particular, it ensures that fund members bear at least some responsibility for any losses, have incentives to monitor their accounts and check that funds are being managed in a prudent manner. Were the Senate to support the government’s choice legislation, any arguments about investors being trapped in some fund being inappropriately managed would be at least addressed by members being able to choose a fund that is managed appropriately. The government’s approach to compensation also ensures that the cost of losses resulting from theft or fraudulent conduct is shared equitably between members of funds who have suffered losses and other superannuation fund members through financial assistance levies imposed on all funds.

Capping financial assistance is also consistent with international practice and other government assistance programs. Comparable overseas financial assistance schemes generally limit the compensation paid through either a percentage or a monetary cap. The fact that something might be done in other jurisdictions is not necessarily an indication that the Australian jurisdiction should fall into line or be the same. We can be out in front and often are. I think our superannuation system is arguably one of the best in the world. If other jurisdictions do not provide 100 per cent compensation, it does tend to suggest that there is a carefully thought out position not only in this jurisdiction that something less than 100 per cent is appropriate. The United Kingdom’s Pension Compensation Board limits payments of assistance to 90 per cent of loss suffered, except where a person is within 10 years of retirement and 100 per cent is paid. The OECD reports that countries such as Canada, the United States and France impose caps on payments while Japan and the United Kingdom provide a percentage based limit on compensation.
The government considers that determining the level of financial assistance should continue to be implemented using the existing arrangements in part 23 of the SI(S) Act. This will ensure that appropriate flexibility in the operation of these provisions is retained. The Senate’s amendment to mandate the level of financial assistance would inappropriately limit the minister’s ability to take into account public interest considerations when applying government policy. As I said a little earlier, I can envisage situations where 100 per cent may be appropriate; I have had cases where 100 per cent has not in all the circumstances been appropriate.

Senator Sherry mentioned that I had used my part 23 powers a couple of times. I am reminded that, since becoming minister, I have actually made 802 determinations in a total amount in the order of $45 million in financial assistance to those investors who were the subject of fraud in relation to management of their investments. That was rightly so. It was something that needed to be done and it was appropriate that that response be made for those investors.

Before I go off the compensation issue—I had not proposed to actually respond to Senator Sherry’s sort of set speech whenever we have a debate on superannuation—it is appropriate that I note my advice is, in the other place this morning, Senator Sherry’s colleagues were of the view that Labor would not be insisting on these amendments. I do not know if it is just one more policy confusion or backflip, whether it could not be held onto for a couple of hours or the party has changed its view since this morning. It is certainly very difficult to run these matters in the Senate when you get a totally contrary indication in the House of Representatives.

I want to take this time in the committee stage of the debate to make a few comments on defined benefit funds and the reporting requirements for defined benefit funds. The government will not be supporting the Senate’s amendment to the Superannuation Safety Amendment Bill 2003 requiring defined benefit funds to report annually to the Australian Prudential Regulation Authority on their financial position and for APRA to publish information on its web site concerning the financial position of defined benefit funds.

The government considers that the current provisions provide appropriate protection to members and ensure that they have sufficient information upon which to make informed decisions about their superannuation. The Financial Services Reform Act and associated regulations already require information on the management, financial position and investment performance of superannuation funds to be provided on at least an annual basis. This information includes audited fund accounts or abridged financial statements and details of fund reserves. In relation to defined benefit funds, the trustees are also required to report to members when employer sponsor contributions are less than an actuarially approved amount. The trustee must also tell members the consequences of the shortfall for the fund and what action the trustee will take in relation to the shortfall.

The financial services reform regime also requires the ongoing disclosure of material changes and significant events to members of superannuation funds, which may include a significant event relating to solvency. In addition, members of the public may request copies of the audited accounts of a superannuation entity. In meeting a request, funds must provide a copy of the auditor’s report, even if this has not been specifically requested. The introduction of further reporting requirements for defined benefit funds would impose additional costs on both the funds and APRA for what must be regarded as
minimal, if any, additional benefit. These costs may indeed make defined benefit funds less attractive to employer sponsors. Labor’s amendments would tie defined benefit funds up in further red tape for little perceived benefit, or indeed none at all.

I have a few final comments in relation to the urgency of the bill. I am very mindful at this stage of the progress of this bill that it is urgent; indeed that has already been noted by Senator Cherry. I urge senators to consider the importance of these improvements to superannuation safety and to support the bill, as amended by the government, without insisting on further amendments. It is vital that the bill pass the Senate before the end of the autumn sittings on 1 April 2004 in order for the reforms to commence on time. Should the bill not pass the Senate in the autumn sittings, it would not be possible to finalise the supporting regulations and operating standards for consideration by the Executive Council until immediately prior to the commencement date of the reforms.

I was asked about the progress of the regulations. As would be well known, the government released discussion papers regarding the regulations and operating standards for industry consultation in December last year, and submissions were sought by the end of February. My information is that the regulations are currently being drafted and that I can anticipate them being finalised in early May and ready for the Executive Council in mid-May.

Delaying passage of the bill would also prevent APRA from finalising its guidance material—which is probably as important as anything else that industry might need—which will help to ensure that industry fully understands and is able to meet and comply with its obligations. Industry has indicated the importance of having all the elements of the new supervisory regime in place well in advance of the transition period for the reforms, in order, quite understandably, to provide certainty and to assist in the smooth implementation of the reforms.

I commend to the Senate the strong model that the government has developed for the safety of superannuation, which has been widely consulted on and carefully developed. I regret that the Australian Labor Party is unable to support what are unarguably significant advances in relation to securing the safety of the retirement incomes of Australians. I thank the Australian Democrats for their support of this legislation as amended by the government.

Senator SHERRY (Tasmania) (11.42 a.m.)—Firstly, the minister referred to my reference to compensation being awarded a couple of times and then stated that 802 compensation awards have been declared. Of course, the vast bulk of those 802 relate to one case—Commercial Nominees and all of its subentity trusts. Secondly, as I said, the Labor Party believes these are useful but very modest safety measures—very modest indeed—that do not go far enough for the reasons I have outlined. Thirdly, the minister touched on some of the international compensation provisions, and they certainly vary. What is different in Australia compared with the United Kingdom and the United States, which are two comparable systems, is that the UK and the US do not have compulsory private savings for superannuation or pensions in the private sector and Australia does.

Senator Coonan—They have choice though.

Senator SHERRY—I accept that interjection and will get to it in a second because the minister is wrong. With respect to compensation for theft and fraud, in the United Kingdom the Labour Party is introducing a theft and fraud fund. It is a funded, separate legal entity that will provide compensation.
But in the UK you are not dealing with 100 per cent of employees being in a compulsory, private sector superannuation system or private pension system as it is in the United Kingdom; you are dealing with a system where approximately 40 per cent—and it is rapidly declining, I have to say—of private sector workers, and public sector workers for that matter, are in private pension plans. You are dealing with a similar situation in the United States where a significant minority of workers are in private pension plans, either traditional defined benefit funds, as we know them, or what is known as 401K plans. So you are dealing with a minority of the work forces in both the UK and the US.

In Australia, 90 per cent of Australian workers are in compulsory superannuation. The remaining 10 per cent of employees are not members because their earnings are too low. The Australian system is not unique in the world but, certainly compared with those two countries, it is unique in that it is compulsory and covers a much greater proportion of the employed work force.

I was not going to go back to the choice debate but the minister did interject and say that they have got choice. She is absolutely wrong. In the United States there is no choice of fund, as the minister would argue, at least in theory. There is investment choice within a fund, which the Labor Party has no argument with at all, but, if you are a member of a private sector pension plan in the United States and it is a defined benefit fund, you do not have choice in those circumstances. It is impractical. It just does not exist in the United States. If you are in a 401K plan in the United States, there is no choice of fund. You are a member of the fund that the employer provides in the United States in respect of 401K. There is certainly a vast range of investment choice within the 401K private sector retirement plans.

Senator Coonan—Precisely.

Senator SHERRY—But that is not what you are referring to, Minister. In the United Kingdom, there was an experiment with choice of fund. Margaret Thatcher introduced choice of fund back in the 1980s. This is where an individual selects a fund to be a member of. In fact, the Thatcher government said to existing members of private pension plans in the United Kingdom, ‘You need to go and make a choice of fund.’ Many did that. What happened? We had the largest financial scandal in UK history, if not anywhere around the world in the last 25 years. When members of private pension funds in the United Kingdom chose a fund, they got ripped off. They got ripped off, largely by exorbitant commission based selling, when they were convinced to move from one fund to another. This case is well known. It caused huge controversy in the UK at the time. The compensation industry ended up paying £11.5 billion because of the mis-selling scandal. The financial services industry had to pay this amount in compensation as a result of the mis-selling scandal as a direct consequence of the Thatcher government’s ideological obsession with deregulating and imposing a model of choice of fund on the UK system.

This is an approach this government wants to emulate in part—not in whole, I have to say, but certainly in part. In response to the mis-selling scandal in the United Kingdom, the UK Labour government had to come back in, re-regulate the system in terms of the so-called choice option and impose a cap on fees and charges of, I think, one per cent. It had to re-regulate the system because of the mis-selling scandal that occurred at that time. It is not correct for the minister to interject with the assertion that they have choice in the United Kingdom and the US. It is just not correct.
Senator Coonan—It is not compulsory.

Senator SHERRY—To take your interjection, the dangers of a mis-selling scandal are actually greater in a compulsory system because you are covering, in our case, approximately 90 per cent of the work force. But there is not a choice model—which this government is advancing—on offer in the United Kingdom or the US any more because they learnt some very bad lessons as a consequence. The so-called choice debate is one we will have on another day.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (11.50 a.m.)—There are two comments I want to make briefly because we are getting right off the track of this bill. Senator Sherry said that, because most of the decisions that relate to the exercise of my discretion relate to commercial nominees and the various entities associated with commercial nominees, that means I have used my discretionary powers a couple of times. Senator Sherry is wrong about that. I am required to make individual discretionary determinations. In fact, there have been 802, which is not a couple of times. They relate to determinations that require the exercise of ministerial discretion. It is simply wrong to say that I have exercised my discretion a couple of times in that regard.

In comparison with other countries, Senator Sherry is right in his observation that Australia is leading the world when it comes to a safe and broadly available retirement savings system. Even though not all workers have compensation, the impact on individuals is no less catastrophic. The United Kingdom, as I understand it, still caps the available compensation. The point I was making in relation to my interjection about choice is that superannuation is not compulsory in the United States, which was taken as an example. We all know that there is investment choice if one is a member of an employment fund in the United States, but the point that follows on from what Senator Cherry said is that obviously Australians do not currently, in many instances, have the choice of changing funds. Where it is not compulsory it oversees jurisdictions. Obviously in those circumstances the safety issues and the need for compensation may not be as compelling if there is greater and broader investment choice.

Question agreed to.

Resolution reported; report adopted.

FAMILY ASSISTANCE LEGISLATION AMENDMENT (EXTENSION OF TIME LIMITS) BILL 2003 Consideration of House of Representatives Message

Consideration resumed from 30 March.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (11.53 a.m.)—I move:

That the committee does not further press its request for amendments not made by the House of Representatives.

Senator JACINTA COLLINS (Victoria) (11.54 a.m.)—I would like to make some general comments on the Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003 and the Senate amendments to it. From the debates on this bill in this place so far this week we have seen the true colours of the Minister for Family and Community Services. The minister had a chance to put forward a bill that is fair and that resolves some of the very difficult problems with the government’s family tax benefit system, but with this bill she failed. Since June 2000, when the government introduced its family payments system, it has been an unqualified disaster. The system is grossly out of step with the lives of modern Australian families. Families are asked to do the
impossible—that is, to estimate their income a year in advance—and then they are punished with large debts when they inevitably fail in that task or when their circumstances change through no fault of their own. The Commonwealth Ombudsman has criticised the rules, which he argues often result in unavoidable and large debts for families. Also, the Prime Minister’s own work and family task force delivered to cabinet in December 2002, 15 months ago, a scathing report on the family payments system.

In the face of all the problems, there has been no substantial action. This bill represents mere tinkering at the edges. Over the three years this scheme has operated, it has delivered to families 2.9 million incorrect payments—that is, 56 per cent of all payments have been incorrectly delivered—worth $2.5 billion. The percentage of families with family payment debts remains extremely high and the level of debt has also remained significant—at an average of around $900 for every family with an overpayment. There has been a significant increase in the percentage of families who are being underpaid throughout the year, with an average of $32.50 a fortnight forgone—and $32.50 a fortnight can be enormously significant in the life of a young child. These are the figures for the payments being forgiven by families under this system, which has been, as I said, an unqualified disaster.

This dismal record speaks for itself, and it shines a light on the Howard government’s blatant contempt for the wellbeing of Australian families. Labor is committed to root and branch reform of arrangements for families. This morning Mark Latham announced the first steps of Labor’s commitment to a baby care payment for Australian mothers. Labor meets its commitment to paid maternity leave through its baby care payment, but this is also a commitment to assisting non-working mothers during the weeks and months after a baby is born. Following the birth of a baby, Labor will give eligible mothers a baby care payment, paid in fortnightly instalments, for a minimum period of 14 weeks. This payment will be $3,000 in 2005, but by the year 2010 the payment will rise to $5,380. What this payment represents is Labor’s commitment to paid maternity leave. This is the first step in our setting out very detailed proposals to fix this unqualified disaster in family assistance and support.

I am proud we have made this statement today, because my first question in this place was about the maternity allowance scheme that was introduced by the then Labor government. What saddens me is that it has taken nine years to move beyond the down payment of just seven weeks of basic income support to a plan that will meet our international obligations and eventually deliver 14 weeks of income support at total minimum award rate level for Australian women who have babies. This will also deal with many other problems. For instance, Labor’s proposal to date—and I stress this point—assesses income at the time of birth. It does not ask families, as the family tax benefit scheme does, to assess in advance their income over a 12-month period. It does an assessment of a family’s income at their time of need. Unlike the baby bonus, it actually delivers income support at a family’s time of need. This demonstrates our credentials and our plans for what we will do with the family payment system, and more detail will follow.

In the context of this bill, and our concern that the minister has not gone beyond the initial limited proposal to deal with family tax debts, it demonstrates that Labor will have a much more comprehensive plan. Our baby care payment—simple and easy to understand—will relieve the financial pressures on families at the time a baby is born, allowing mothers to recover from childbirth and care for their newborn baby.
This is just the start of Labor’s reform drive. The family payment system must be reformed to end the cycle of debt created by the current flawed rules. The minister knows the system is flawed. The Prime Minister told the minister’s predecessor in a letter last year that Australian families had seen nothing from this minister. That is why Labor has made amendments to the bill before us today. This bill extends top-up payments to half the people who missed out on them. We welcome what it does but we are very scornful that it does not help everyone. We know that a group of families numbering more than 25,000 were denied over $37 million in 2000-01 family tax benefit entitlements, at an average of almost $1,500 per family. These families deserve—and, I stress, need—that money.

The Australian community has become extremely cynical about measures such as the $1,000 waiver that John Howard introduced before the last election to try to buy off families’ concerns about this flawed system. In part, this is what a measure such as this is. It is very limited and it does not deal with the flaws of the system. Anyone following the political cycle needs to be extremely cynical. We were told at the time of the $1,000 waiver that it would only be necessary for the first year—people would get used to the system, debts would start falling and the numbers of families involved would start falling. But none of this has happened. The number and size of family tax debts has not gone down. The government claims administrative hurdles prevent it from being more generous.

Senator Patterson—You’re misleading the chamber, you know.

Senator JACINTA COLLINS—Minister, why can’t you release a public notice or place ads if there is no other way to contact families? The truth is that the government does not want to try, because it does not want to give families their due. We have seen over the last few days from the leaked cabinet-in-confidence document that this minister is more concerned about achieving $2 of cuts for $1 of benefit in this budget than about being more generous to families who are missing out under her system. The government ought to remember that it encouraged families to claim at the end of the year or to seek a catch-up payment to minimise the risk of getting into debt. Now it has said to these families, ‘You can’t have your entitlements unless you’re within a particular time frame.’ This is an extraordinary double standard when the department is now cross-matching families’ income circumstances and pursuing debts up to 10 years old. It is a considerable double standard. Labor has no problems with the 12-month limit for families to lodge tax returns for compliance purposes, but this has nothing to do with the eligibility for past period claims. If a family subsequently proves its entitlement, it should be paid the benefits.

I would also like to address howls from the government that Labor did not provide any sort of top-up payment. We have heard this consistently from the minister during question time, but now I have an opportunity to demonstrate that this argument simply does not stack up. The previous family payment system had very little use for top-up payments because most families were paid on the basis of their previous year’s income. With wages growth, this was a very generous system because it allowed families to be paid greater payments than they would have been eligible for if a prospective annual income test had been used. But more importantly—and this has had to be drawn out of the department quite painfully at past estimates hearings—for those whose income was going to fall or rise, the system had a 10 per cent income buffer which allowed families to
retain all entitlements, even if their actual income was up to 10 per cent more than their estimate. No such buffer exists in this system.

This is a despicable attitude from a government that simply does not value the contribution that families make. Our amendments and those of the Australian Democrats attempt to address this top-up issue and a range of other problems in the system. Labor has moved an amendment that seeks to address the government’s clandestine recovery of family assistance debts through family tax returns, without consent. Currently, when a family accrues a family assistance debt, often without their knowledge, their tax return may be stripped to recover all or part of the overpayment. All of this occurs without warning to hapless families who were counting on the money for bills, or school fees or other such concerns. Most families do not even know they have a debt, let alone the fact that it may run into thousands of dollars. The government relies on the fine print in the TaxPack that says ‘refunds may be used to offset family assistance debts’. But the truth is that there is not so much as a phone call or a letter before the money is stripped.

The Ombudsman has called for an end to this practice, or at least to have a requirement whereby a family assistance debt may not be recovered from a tax return until a subsequent financial year. But have we seen any movement from the government on this issue? No. Labor’s amendments seek to provide for written consent from families before debts are recovered from tax returns. This need not be an administrative burden. The consent could be contained in the TaxPack or on the annual income estimate forms that families are required to fill out, or at the time of an original claim. This would give families a greater sense of control.

The Democrats have moved an amendment that I would also like to comment on briefly. It deals with a clause that does not allow debts to be waived, even those which are the fault of Centrelink, unless a family can prove they are in financial hardship. Clearly this is a problem which requires reform. It is simply not good enough for government mistakes to be borne by families through the use of this slippery hardship clause. We recognise that this is a limited piece of legislation that offers some belated assistance to a small group of families. For this reason, we would be extremely reluctant to see it mired in this chamber. But I must stress: the government’s intransigence, its unwillingness to address even basic flaws in the family payments system has created great community anger. Naturally enough, when people see legislation in the parliament that offers some hope of reform, they want their issue dealt with. I implore the government to reconsider its opposition to the very modest and sensible amendments which have been moved by Labor and the Democrats.

Senator GREIG (Western Australia) (12.08 p.m.)—The Family Assistance (Administration) Act 1999 deals principally with family tax benefit, FTB. In essence, the Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003 is aiming to ensure that families which have underestimated income for a period of the previous two years can now lodge late claims to receive a top-up. On the surface, that is a fine principle, it is a fine piece of legislation, but we Democrats see that there is an opportunity within the broader debate to deal with the very real problems with debt which are being encountered by families. Senator Collins touched on some of them.

In essence, we are finding that many people are receiving debts through this process, some of which are caused by government departments and not by the citizens. As a
result, families find that debt recovery is being undertaken by one of two processes: either money is taken from their tax returns—which is inconvenient and a surprise, a shock and a difficulty for many families—or they are being presented with letters giving them up to 28 days to begin a process of repayment of debts which can be several thousands of dollars. The difficulty is that the debts are often incurred as a result of Centrelink error. Unlike the Social Security Act, which waives debts wrongly incurred by the department, this measure is not accommodated in the family assistance legislation. People can only argue for some kind of humane method of repayment if they can prove some kind of hardship. We have heard throughout the course of this debate that many families may only be in receipt of welfare payments yet still are not being considered to be in hardship. The Social Security Act 1991 makes it clear in section 1237A(1) that:

Subject to subsection (1A), the Secretary must waive the right to recover the proportion of a debt that is attributable to an administrative error made by the Commonwealth if the debtor received in good faith the payment or payments that gave rise to that proportion of the debt.

So we have this discrepancy under the Social Security Act where debts are waived when it is the fault of the government department, but that is not the case when the debt is the fault of Centrelink. We came to this debate thinking that this was a very good opportunity—indeed, the only opportunity—to broaden the discussion and ameliorate the difficulties through the debts that are being incurred. Our amendments went to three core elements which we thought should have been in the legislation. Firstly, where an administrative error was made by Centrelink and a family incurred debt, that debt should be waived; secondly, Centrelink should provide very clear options in an unambiguous way for clients to begin the process of repayment when the error was made by them; and, thirdly, one of our original amendments was to ensure that in repaying a debt a client ought not be in a position where they were repaying more than 50 per cent of their total income. We accept in retrospect that that was a well-meaning and clumsy attempt by us to ensure that families were not placed into particular financial difficulty but the minister did say that it would be the case that families in that situation would not be in a position of paying any greater than 14 per cent, which is a far better option nonetheless and something which we agree with. We have not yet seen, I do not believe, any real administrative process for dealing with and addressing that. In approaching the legislation, we were trying with our amendments to harmonise the treatment of family tax payment with the provisions in the Social Security Act of waiving the debt when the error is Centrelink’s and the person has received the money in good faith.

The key difference between the Social Security Act and the Family Assistance (Administration) Act is that the family assistance bill requires that the recipient who received the money in good faith can only have the debt waived if they can demonstrate financial hardship. There are two key problems with that: firstly, people often do not know about the provision and certainly Centrelink does not make them aware of it; and, secondly, the Welfare Rights Network can recite many cases of people who are on pensions or benefits with debts of $2,000 or more but who are not considered to be in financial hardship, begging the question: if people in that scenario are not, who is? During the committee stage of this debate on 13 October the minister said:

I have not done the costings for this amendment but I believe it would be enormously costly.
I think that is an extraordinary statement and admission. Effectively, what the minister is acknowledging is the considerable extent of Centrelink error. The minister went on to say:

It will also mean that, because somebody had made an error in entering the data, some people either get a top-up they do not deserve or a bill that they do not deserve at the end and which should have been dealt with during the year.

We would say let us keep the wedge politics out of this debate and concentrate on getting Centrelink to do its job properly. We believe the incentive, if we can build it into legislation before having to pay for poor administration, should help enormously. There is considerable anecdotal evidence suggesting that most errors are not caused by people underestimating their income but by computer and calculation errors in making arrears payments or dealing with where a dependent child, for example, moves from FTP to youth allowance, or Centrelink gives the wrong proportions of family tax benefit A and B.

It can be complex, and staff can get it wrong and families have no idea what they are entitled to. So there is a range of questions that come out of that for Minister Patterson. I think the minister needs to answer: what is the number so far of families who have had changes to their payments made in this financial year because of changed circumstances? What is the number of overpayments raised last financial year due to underestimates of annual income? What is the number of overpayments made due to family changes in composition? What was the number of overpayments due to administrative error? We also need to know what level of Centrelink error might be prepared to be tolerated and accepted by the government. What is the average annual income for those people who want a top-up through the tax system in 2002-03 versus the annual income of those people who received an overpayment debt?

In considering this legislation, we introduced a raft of amendments which were aimed at harmonising this situation. For example, amendment (3) went to the heart of trying to ensure integrity of debt recovery. We are not bleeding hearts about this for the sake of it; we want to ensure that a deadline is not imposed on people about making choices of options. The point is that this was a way of giving people two weeks to make a decision about how they would repay, after which Centrelink could determine it. The 10-day option was introduced so that people have to state their choice of repayment option within an administratively feasible time.

The minister has told us that already people have 28 days, but all they are given is 28 days to pay. This is quite a different proposition and as such we intend to insist on amendment (3) and others.

Our amendment (5) went to the heart of social security issues relating to repayment amounts. Unlike social security payments—where there is a protection that the maximum withheld will be 14 per cent in the event of overpayment—there is no such legislative protection for family tax benefit. The point of the amendment was to give such protection in legislation, as opposed to protection in policy or administration. Minister Patterson has suggested to me in informal discussions that our amendment was clumsy, and I acknowledge that. My staff and I have indicated to the minister that we would be pleased to change the amendment to better reflect current practice—which she advised me was more generous in terms of the government’s proposal—should she wish to provide that amendment. But the proposal was not forthcoming. There has not been any further discussion or negotiation on that.
The minister has indicated that she wants people who are receiving FTB to be better informed about their entitlements, that forms will be fixed and that the seven choices— that we have spoken about and heard about—she has heralded will mean that people will, hopefully, make mistakes less often. While that might be the case, the minister has not taken the opportunity to persuade us of that. She did not reply when we asked why the family assistance officer letter copy, which we discussed, was different from the one that she provided that came forward with options. The minister also did not provide information, as requested, about Centrelink guidelines on debt recovery, and the minister did not provide us with any legislative and administrative options that could satisfy us that people would be subject to less debt due to Centrelink error. I would have been more than happy to have negotiated with the minister but that option was closed.

In return for a top-up for 30,000 families, we would like some guarantee that the administration of a flawed policy is less harsh on those 645,000 families who incurred a debt. We are not talking about policy—and if we are, then it is micropolicy. We are talking about the administration of government policy—administration being the key point— and trying to ameliorate the harmful effects of poorly thought out and flawed policy. It is our view, therefore, that the amendments that the Senate originally agreed to should remain.

Senator HARRADINE (Tasmania) (12.19 p.m.)—First of all, I was very encouraged by the forthright support for the family that was offered by Senator Collins in her address to the committee. This is a matter which will in fact be of such great importance within the next few months. It will be very interesting to see what emerges from the budget in respect of family policies. Family policies will determine, in my view, the outcome of the next election. Of course, this measure that we are discussing at the moment does not deal with the broad issues—to which Senator Collins adverted—that need to be dealt with at some time. This measure deals with the issue of top-ups for a number of families—approximately 35,000, as far as this legislation is concerned, or more if the legislation is amended.

The legislation is troubling for this reason: it has become an exercise in legislative brinkmanship, and that concerns me as a member of this chamber. In essence, I was told by the government that senators had to accept the legislation unamended, as there was no longer time to take account of amendments due to the setting up of computer systems to implement this legislation—take it or leave it. But if I decide to leave it, the government have said to my office, with little subtlety, that it will publicise the names of senators who denied those 35,000 families a top-up of their family assistance bonus. It is a petty and childish approach—even a child would not do that. They can publish my name as much as they like, but my primary concern is to see that Australian families do not miss out on those benefits. Of course, my immediate inclination is to say, ‘You please yourself and go down that track.’ But my duty is to those 35,000 families, who are missing out on average, I think, about $600. The minister might remind me.

I insisted to the minister, in a meeting with her, that information should be provided by the Australian Taxation Office and Centrelink with respect to this particular problem—that is, the set-up time for computer systems to implement the legislation. It was my concern that Australian families do not miss out on those benefits. Of course, my immediate inclination is to say, ‘You please yourself and go down that track.’ But my duty is to those 35,000 families, who are missing out on average, I think, about $600. The minister might remind me.
for families to submit their tax returns so that even more families would potentially be eligible for government benefits. That seemed reasonable to me. I was also happy to support allowing families to give their consent to debt recovery through tax returns. I agree that it is important that steps be taken to help families to minimise any debts that they may have incurred through the family payments system. But more needs to be done to allow them to be informed of that possibility, rather than money disappearing from their tax refund. Many families have tight budgets and plan carefully where their tax refund money will go—to pay particular debts and so on. So it is not reasonable to take money without them giving informed consent.

In meeting with Senator Patterson I was not able to argue past a number of administrative snarls that appear to be dictating government policy on this issue—and, I am told, dictating what the Senate can realistically do to amend the legislation. I met with the minister on this issue last week, and we discussed what was and was not possible according to advice from the Australian Taxation Office and Centrelink. I do not want to be unreasonable and support amendments which are impossible administratively, but I am concerned that administrative restrictions, dictated largely by what I see as the rigidity of computer systems, are impeding decisions by the Senate and impeding what it can and cannot do. That really is not acceptable.

I asked Senator Patterson why we could not give Australian families even longer extensions of time, as suggested by the opposition. Senator Patterson said that severed datalinks between the Australian Taxation Office and Centrelink meant that this was not possible. To convince me of the administrative impediments to amending the bill, the minister agreed to get further information direct from the ATO explaining why there were these problems. I assume that that came direct from the ATO, through Senator Coonan. Senator Coonan relayed advice from the Commissioner of Taxation that delays in passing this legislation could lead to costs of around $200,000 for three months extra administrative work, which of course would delay families getting their money.

So the situation, as put to me, is that I can support extra money for the 35,000 families who would otherwise not be eligible for top-ups to their family payments or I and other senators can be held responsible for denying those benefits to families. I am told that I cannot extend the time limit further to allow even more families in. The minister has said that the Taxation Office has advised that, if the legislation is passed without amendment on or before tomorrow, 1 April, the ATO will be able to incorporate the two-year extension for lodging tax returns into their system update for this year, and the datalink between the ATO and Centrelink will be available for the 2001-02 income year. The minister stated in writing to me that any amendments to the legislation, even if passed by 1 April 2004—that is, tomorrow—could not be incorporated by either the ATO or Centrelink. That presents us with a real difficulty.

I conclude by saying that I am still inclined to support amending the legislation to stop families having overpayments deducted from their tax refund without their consent. I believe that that could be taken on board by the minister and by the government. Surely that could be done administratively, by appropriate directions. But I am in a difficult situation and I know that the Senate has been placed in a difficult situation. I insisted on getting and I obtained—I thank the minis-
ter—information from the ATO and Centrelink. Obviously, these organisations would not deliberately mislead. If that information turns out to be inaccurate then they will be caught out, but I have to take it on face value since they have put it in writing. As I say, that leaves us in a difficult situation with regard to deciding the issue on the basis of not denying a substantial number of people a substantial amount of money.

**Senator JACINTA COLLINS (Victoria)**  (12.32 p.m.)—A number of senators, including Senator Harradine and I, put some issues to the government for explanation in this debate and there has been no response. I can understand if Senator Patterson does not want to make a contribution in this debate. I was somewhat perturbed that, during my contribution, she interjected and accused me of misleading the chamber. Yet I find it interesting that Senator Harradine has exactly the same explanation of what the government provided to him as indeed has been my advice. It seems there is some question before the chamber now from Senator Patterson as to what other senators in this place have been informed on this matter. We are very disturbed that Senator Patterson has not responded to any of these issues. I invite Senator Patterson to do so before we vote on the matter. If not, then we are in the chamber’s hands and obviously we proceed from there.

**Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women)**  (12.34 p.m.)—I outlined the government’s position on the Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003 when it was before the chamber previously. A message has come from the House of Representatives with regard to the bill. I am conscious that Senator Collins made some comments about FTB overpayments not going down. They have gone down. When you compare the ongoing figures for the relevant quarters with last year’s results, you find that the number of overpayments has gone down, the level of overpayments has gone down, the number of top-ups has gone up and the number of people who are receiving top-ups will go up. Do not let the truth get in the way of a story: that is Labor’s approach. With regard to some of the issues that Senator Greig raised, there was a request for information which involved a huge amount of data. We gave him as much of this data as we possibly could to be of assistance.

I know Senator Harradine feels strongly about the issue of people’s tax returns not being reconciled. But this is a joint Centrelink-ATO payment. There are other moneys that people receive that do not have PAYE tax taken out of them. As I have said before—I think it was in the previous debate on this bill—some people may have a small shareholding and get a very small dividend. At the end of the year they may feel a bit miffed that a third of it has to go in tax, but they understand that. It is about reconciling what we owe to the taxpayer and what the taxpayer owes us at the end of the financial year with regard to our tax and family tax benefit.

Over and again we hear of people’s concern about the level of debt of families—and I am concerned about this as well. I do not think it is appropriate to encourage families to go further into debt. If there is money from their tax that is in credit and they have had more assistance from the taxpayer over the year than they were entitled to, compared with a family in a similar circumstance during that 12-month period, then we believe it is appropriate and right that it should be reconciled as far as possible at the time. All we would be doing, if we were to support the amendment, would be to make families go further into debt.
The bill is about families who have not lodged their tax return. It would have been nice to get the bill through sooner, because not doing so continues to create some problems at this late date. I would encourage families to lodge their tax return; it makes it easier. It does surprise me that some people do not lodge their tax return—but I suppose it was a former Prime Minister who set the example of getting your tax return in late. I encourage families to lodge their tax returns. But for those families who have not, we have extended the time period so that they can get a top-up. We think there are about 35,000 families who will get that top-up. That is what this legislation is about.

The government were unable to accept the amendments to the bill. As I said to Senator Harradine, when people write to me about the top-up and about not getting it back in, I have to say to them that the government put an amendment before the house but that we could not agree with other amendments attached to it and, therefore, the bill was unable to go forward. I have to explain that that is what happens when you put legislation forward and it is not supported.

I believe this is important legislation. It has a time limit on it for a number of reasons—one is the updating of the computer systems and the other is that we have de-linked data between Centrelink and the ATO to protect people’s privacy. We had a cut-off point, which is one of the factors that have affected this legislation. We are saying that we want to extend this cut-off point. It will catch some people—about 35,000—who have put their tax return in late and who will receive a top-up. It is beneficial. We can have a debate about the other issues at another time, but it was important to debate this one because of the time factor. I have had some assurances that we will get the support to take the bill through. That would mean that about 35,000 families would be better off by over $700 or $800 on average.

Senator JACINTA COLLINS (Victoria) (12.39 p.m.)—It was very interesting to hear Senator Patterson say that the bill was very time critical and that it needed to come forward, because my understanding of where this legislation was sitting on the House of Representatives bills list was as a matter not to be dealt with urgently—and all of a sudden it appeared today. I think it more reflects some of the pressure that the minister has been under this week from some of the information that has now become publicly available about what the government’s plans might be.

Indeed, what the minister did not deal with was Senator Harradine’s concern. The issue that even some very childish threats might be made against senators during this process is, I think, very concerning. But the substantial issues still remain. The minister knows that there has been nowhere near the decline in the level and number of debts that families are experiencing under this system. If you go back to the $1,000 waiver that the Prime Minister introduced and to his claims that the system would work out over time, that none of that has happened.

What the minister has not addressed, for instance, is the Ombudsman’s views about what should occur with tax stripping. There is a very clear recommendation there that, at the very least, we should make it the prospective year ahead rather than the current year for tax stripping. But no, that is being ignored. The government is just simply being mean in some of these matters. They will not cost a considerable amount of money. It is sheer intransigence. Having the minister deal with this matter as she has today, without clear and adequate address to the issues at
hand, stresses the concern we all have. None of us here want to hold back money to 35,000 families, but the manner in which this matter has been dealt should be of serious concern to all senators in the chamber.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (12.41 p.m.)—Senator Collins said that FTB overpayments had not gone down. There was also a comment by Senator Greig—and I will stand corrected if this is not correct—that most overpayments were Centrelink errors. That is not correct. Centrelink officers undertake about 4.2 billion transactions a week. I think that works out to something like 19 million transactions on a working day. Yes, there will be errors. Sometimes the error is due to the officers, sometimes the error is due to the clients and sometimes the error is due to a mixture of both. Every effort is made to reduce those errors.

If I were a shareholder in a bank and that bank made the error of depositing $500 into somebody else’s account, I am not sure that as a shareholder I would be very impressed if the bank said, ‘We don’t need to actually recoup that; we made an error.’ This is taxpayers’ money. Centrelink tries as hard as possible to reduce the number of errors; but, in the end, it is about families in similar circumstances receiving the same amount of money. We can always do better to reduce the errors, but it is difficult to argue that a family should receive more than it is entitled to.

If the money was received in good faith and it was an administrative error—and this rule applies to all tax payments; as I said, this is a hybrid between Social Security and Tax—and there is hardship, there is the opportunity for waiver. So there is a condition there. What we want to do in any system in which we are using taxpayers’ money is to treat families in similar circumstances in the same way. That is what we are about and that is why there has always been that rule when dealing with the tax office in terms of errors. As I said, this is a hybrid between Tax and Centrelink.

I am not going to say any more on this legislation, except that the bill is about giving families who put their tax returns in late an opportunity to get money to which they were entitled because they had a top-up due to them as a result of being underpaid in a family tax benefit. I think it is important that the chamber gets the legislation through. It was not a childish threat, as Senator Collins said. I was stating the facts. People write to me and ask: ‘Why haven’t you done this? I’ve got my tax in late. I need a top-up.’ I explained to Senator Harradine that I have to say to them, ‘We put a bill forward; we could not accept the amendments’—people can make a judgment on whether or not we should have accepted the amendments—‘and this is why we were not able to proceed with it.’ That is not a threat; that is reality.

If the opposition fails to support something, or opposition members or Independents fail to support something, it is legitimate to say: ‘We had a go at it. We didn’t agree with their amendments. Now let the public make a decision as to whether we should have agreed with the amendments or not, but that is the reason we didn’t continue with it.’ That was not some sort of childish threat; I was just explaining that people were writing in saying they wanted their top-up. I was saying that we had legislation before the house, which had been stalled because of amendments we could not accept and, if they were not accepted, I would continue to write to people in the same vein, which I think is legitimate. But it was not some childish threat, as Senator Collins called it. I think
Senator Harradine understood what I was saying.

Question agreed to.

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Foreign Affairs: China

Senator EGGLESTON (Western Australia) (12.45 p.m.)—Napoleon Bonaparte famously said, ‘Let China sleep’, but there is no doubt that China has woken and is becoming an increasingly important economy not only in the Asian region but, more importantly, in the world. China, as we all know, is the world’s most populous nation, with approximately 1.3 billion people. It has the world’s fastest growing economy and is rapidly becoming an economic giant. As a result of market reforms, China’s economy has experienced a long period of substantial economic growth and has become the sixth-largest in the world. Between 1978 and 2001, its gross domestic product grew at an average annual rate of more than nine per cent, peaking at 14.2 per cent in 1992. As a result, China’s GDP has quadrupled since 1978. In 2003, its economy grew by 9.1 per cent and, assuming its reforms stay on track, high rates of growth are predicted to continue.

China is a vitally important trading partner for Australia. As China’s economy continues to grow, so too will its importance to Australia. Since the mid-1990s, we have witnessed nearly a trebling of our two-way trade with China. In 2002-03, it was our third-largest merchandise trading partner, up from ninth in 1990. With trade to the value of $22.6 billion, comprising exports of $8.8 billion and imports of $13.8 billion, this represents export growth of 12.5 per cent and import growth of 22.3 per cent on the previous year. In 2002-03 our services trade with China had a value of $1.9 billion. Australia’s exports to China have been growing strongly. Between 1995 and 2001, they increased at an average rate of 16 per cent annually. However, this strong rate of export growth has been matched by imports from China, which have experienced annual average growth of 17 per cent since 1995. The result is that, in 2002-03, Australia experienced a trade deficit with China to the tune of almost $5 billion.

The Australian and Chinese economies are highly complementary. As a major exporter of primary commodities, Australia is well placed to feed China’s insatiable demand for raw materials to fuel its economic growth. According to the economic analytical unit of the Department of Foreign Affairs and Trade: Vastly different Australian and Chinese economic endowments and strengths mean Australia faces relatively little competition from China in export markets and strongly complements China as a trading partner. As a net exporter of many products China demands, particularly minerals, energy and agricultural commodities, Australia is well placed to benefit from its rapid growth. Australia also is a large net importer of goods China supplies to world markets, including a wide variety of more labour intensive consumer goods.

In 2001, primary commodities comprised just over 80 per cent of the value of our exports to China, whereas manufactured goods made up 86 per cent of Australia’s imports from China. Australia’s major imports from China include textiles, clothing and footwear, computers, cameras, mobile phones, toys and sporting goods.

We live in a world of increasing trade liberalisation. China’s accession to the World Trade Organisation at the end of 2001 will eventually result in enhanced market access and associated opportunities for Australian exporters. According to the Department of
Foreign Affairs and Trade, China has committed to reducing a range of trade and investment barriers. Industries that are expected to benefit are the wool, sugar, wheat, barley, meat, seafood, horticulture, dairy, cotton, rice, oilseeds, wine, processed foods, hides and skins, chemicals, pharmaceuticals, metals, information technology and automotive sectors. In late October 2003, Australia and China signed a trade and economic framework to enhance trade and investment and promote cooperation in various key fields. As part of the framework, both countries have agreed to undertake a joint feasibility study into a free trade agreement.

China is second only to the United States of America in its consumption of energy and is highly dependent on coal. Natural gas consumption in China is predicted to grow strongly as a result of China’s rapidly growing economy and as a more environmentally friendly replacement to coal-fired electricity generation. China’s latest five-year plan makes clear that natural gas will play a larger role in the country’s energy mix in the future. Given the significant reserves of natural gas off the north-west coast of Western Australia, the increasing emphasis on natural gas in China presents obvious opportunities for Australia. However, the magnitude of the opportunities will ultimately depend on a variety of factors, including China’s ability to meet its needs from its own domestic reserves. ABARE believes that, for reasons of energy security, China will seek to diversify its sources of natural gas. Of course, Australia will be one of a number of producers in the Asia-Pacific region that will compete to supply natural gas to China. However, our natural advantages include our stable security and economic environment, our political security and our legal system. These things give Australia an important competitive edge in terms of ensuring security of supply of LNG.

In August 2002 the North West Shelf venture was successful in securing the largest ever single export deal in the history of the country when it was selected as the sole supplier of gas to China’s first ever LNG project in the province of Guangdong. In a deal worth up to $25 billion, the North West Shelf will supply 3.7 million tonnes of LNG annually over 25 years, commencing in mid-2006, and possibly rising to five million tonnes by 2008. The proposed Gorgon venture, off the north-west coast of Western Australia, is also important in terms of the possibility of sales to China. On 24 October 2003 the Gorgon venture signed an agreement with the China National Offshore Oil Corporation to supply LNG to China. This agreement is subject to final contracts and, according to the Gorgon joint venture participants, will see:

... CNOOC Limited ... purchase a substantial equity stake in the Gorgon gas development, and its parent, CNOOC will arrange to purchase foundation volumes of LNG from Gorgon for use in China. CNOOC will also assist Gorgon to secure markets in China for a further designated amount of LNG.

Assuming that final contracts are signed, the deal will involve a substantial amount of LNG and further significant export earnings for Australia. Indeed, it could be worth from $20 to $30 billion over the 25-year period from 2008.

In respect of agriculture, China is expected to move away from producing broadacre crops. Its imports of agricultural produce are predicted to expand by an average of 15 per cent each year until 2010. This will provide increased export opportunities for wheat, barley, animal feeds, beef and other land intensive crops. In 2001 tourism and education were amongst Australia’s top 10 exports to China and are viewed as being
an area of significant potential. In 2000-01 tourism and education made up 53 per cent of our service exports to China. The approximately 30,000 Chinese students studying in Australia make our top source of international students. The attractiveness of Australia as a study destination was underscored in 2001-02, when visas granted to Chinese students increased by a massive 51 per cent and by a further six per cent in the following year. Now we have a very large number of Chinese students studying in this country.

China is Australia’s sixth largest source of tourists, which is a surprising statistic. In 2002 there were 190,000 visitors from China to Australia, compared to just 22,000 in 1993. It is a measure of the value placed on bilateral relations that we are one of few Western nations to have been granted approved destination status in China, allowing group tourism to this country. Since the scheme commenced in August 1999, around 100,000 Chinese group tourists have visited Australia. The announcement in October 2003 of the gradual expansion of the tourism scheme to eventually cover all of China is proof of the success of the scheme and will further boost tourist numbers. The Tourism Forecasting Council expects China to be our fastest growing market over the decade from 2002. Likewise, China has become a popular destination for Australian travellers, with 26,500 visitors in 1993, compared to almost 137,000 in 2002. The Tourism Forecasting Council is predicting that Australian tourism to China will grow more strongly than in any other main destination market in the decade from 2002 with average annual growth of 6.8 per cent, compared to average growth of 2.8 per cent across the board. By 2012, it is forecast that approximately 263,000 Australians will visit China annually.

In summary, China’s economic rise has been remarkable and has been and will continue to be mutually beneficial to China and Australia, as Australia supplies China with the raw materials to fuel its industrial growth and China supplies Australia with relatively inexpensive labour-intensive manufactured goods. Beyond the economic synergies and trade considerations, it has to be said that China is playing an increasingly significant role in regional and world affairs. There can be no doubt that the development of our relationship with China will be at the forefront of Australian government policy considerations from here on into the foreseeable future. China indeed has awakened from its long sleep.

Sport: Drug Testing

Senator LUNDY (Australian Capital Territory) (1.00 p.m.)—I rise to speak on a matter of public interest today: the issue of EPO research. Until recently Australia was the world leader in antidoping research. Inexplicably, however, since the Sydney Olympics the Howard government has chosen to enforce a ban on some of this world leading research, which has effectively relegated Australia to a position of disciple rather than Messiah. In the lead-up to the Sydney Games scientists at the AIS were working to develop cutting-edge tests to detect the powerful performance enhancing drug EPO, which had become a major concern in the late 1980s. In a world-first the AIS scientists had developed two tests, an on-model test which detects EPO when an athlete is still using, and an off-model test which can detect EPO traces after an athlete has stopped using but is still gaining doping benefits. The International Olympic Committee, which had strongly sup-
ported this research on the basis of its groundbreaking potential to catch cheats using a substance that was previously undetectable, gave the go-ahead for the on-model drug test to be used at the Sydney Olympic Games. At the Sydney Olympic Games no competitors tested positive to EPO using the on-model test. However, in a data collection exercise several athletes tested positive to EPO under the off-model test. While the off-model test was not officially in use, these positive results showed that the AIS scientists had been successful in developing a test to detect a performance enhancer that had eluded antidoping efforts for so long.

The importance of this work on the world scale did not go unnoticed. It was applauded by the IOC, by the World Anti-Doping Agency and by the AIS. And, in an attempt to gain acclaim for their role in supporting this world leading research, it was applauded by the federal government. In fact the government was so impressed with the work of the AIS scientists it awarded those involved in this project the Australian Sports Medal for their work, in particular for developing the EPO test.

In what was a totally inexplicable and unjustified move, however, within nine months of the Sydney Olympics the Howard government placed a ban on any more of this world leading research being conducted at the AIS. Under a directive issued in April 2001 by the then Minister for Sport and Tourism, the AIS scientists were ordered to cease any further work on blood doping research and to confine their participation in antidoping research to intellectual property. This meant that the AIS’s world leading scientists could contribute to the scientific design of research studies and assist in the evaluation of research findings turned out by others but could not conduct any antidoping research on-site at the AIS themselves. Incredibly, despite its receiving recognition from many quarters, including the then minister for sport, without reason or explanation as to why, the Howard government had scuttled the AIS’s world leading blood antidoping research program.

On a number of occasions we have heard, most recently from Minister Kemp, that the decision taken by Minister Kelly was ‘undoubtedly carefully considered’. Last week, former Minister Kelly, in a personal explanation in the House of Representatives, stated: ... there was extensive consultation and correspondence between my office, the AIS scientists, the Department of Industry, Science and Resources, the Australian Sports Commission and the Australian Sports Drug Agency.

In reality not one of the scientists involved in the EPO research program was aware of any discussion surrounding the banning of further research at the AIS and they most certainly were not consulted. In fact the principal researcher and head of the AIS’s sports haematology and biochemistry lab, Robin Parisotto, was curtly notified of the decision via an email forwarded from the head of the AIS. The ban was imposed by the Howard government on the spurious pretext that such testing might compromise elite athletes at the AIS. It was implied that it was the World Anti-Doping Agency that had raised concerns regarding research being conducted on-site at an institute where athletes train.

Despite repeated requests, however, there has been a decided failing on the government’s part to substantiate these claims. This is not surprising given that the following evidence clearly indicates that it was not WADA that had concerns about the AIS research. Firstly, Dick Pound, head of the World Anti-Doping Agency, has himself clearly stated that it was not WADA that called for a ban on the AIS research. In fact he has said he ‘could not fathom why the Australian government had done so’. Secondly, WADA, in response to a request for
funding by this group to continue their anti-doping research was, according to scientists, ‘almost pleading with this group to continue research to have a test in place for synthetic haemoglobin for the 2002 Winter Olympics’. And thirdly, the fact that WADA recently allocated a very large sum of money to the German Sports Institute to conduct antidoping research clearly refutes claims that WADA has an issue with supporting research being conducted at sports institutes.

It appears that, in an attempt to scuttle antidoping research at the AIS, the Howard government and its representatives made erroneous comments regarding the AIS research to create the spectre of a conflict of interest. What does seem to be very clear is that integral members of the discussions conducted between the minister’s office and relevant authorities were influential officers from the Department of Industry, Tourism and Resources and that it was these influential officers who exerted considerable pressure to have the AIS research program axed. In an empire building coup d’etat, these heads of divisions at the Department of Industry, Tourism and Resources seem to have successfully lobbied to have the AIS research banned and moved into AGAL, the Australian Government Analytical Laboratories. Coincidentally, AGAL, which is home to the Australian Sports Drug Testing Laboratory, is overseen by the Analytical Division of the Department of Industry, Tourism and Resources. This is the same division that is responsible for the establishment of the new National Measurement Institute, as announced in the 2003-04 budget, which will coincidentally take full control of AGAL and its drug testing laboratory in July this year.

It appears from this evidence that the ban on research at the AIS is directly linked to a premeditated move by the officers within that department to gain complete control over blood doping research. The government has now tried to cover this seemingly obvious transgression by touting that there is now a record level of funding going towards anti-doping research in Australia. What is not mentioned is that AGAL has been successful in garnering a large proportion of the funding currently being handed out by the government for antidoping research, having been given two of the four research grants being awarded.

The fact that the development of the EPO test was only possible as a result of work that the AIS haematology unit were doing on blood analysis and could not have been done outside the AIS has not been noted or acknowledged. Undeterred, after the Sydney Games the Canberra based EPO research team moved to form an international consortium of major pharmaceutical companies, sports scientists and drug testing laboratories to continue the fight against drug cheats. This consortium, known as Science and Industry Against Blood Doping, was established with the blessing of WADA and was successful in being granted research funds from the US Anti-Doping Agency to continue work in the area of blood doping. However, at the eleventh hour, as work was due to commence in October last year, approval for this research, which had initially received strong support, was once again withdrawn under the direction of the Australian Sports Commission board.

The government’s decision to scuttle the AIS’s world leading antidoping research not once but twice is mystifying. If there is a just cause, a reasonable explanation as to why they continue to ban world leading antidoping research, we are yet to hear of it. While a number of weak excuses have been made, the facts seem to indicate that the real motive behind these directives, which have effectively relegated Australia to a position of follower rather than leader in the fight
against drugs in sport, was based on departmental empire building. This sorry situation was perfectly encapsulated by a well-respected member of the sports community who described it in a recent *Four Corners* program on this issue as ‘bureaucratic perversity and ministerial stupidity’.

It seems hypocritical for the government to now cry foul play on having their motives questioned when in reality it is the AIS scientists who were working on this project who have suffered and had their reputations tarnished via the implications and suggestions by interested parties that there were international suspicions about institutionalised doping at the AIS. Not surprisingly, five of the scientists involved in this cutting edge research have left the AIS, after becoming disillusioned as a result of the government’s ban.

Staying ahead in the fight against the use of performance enhancing drugs in sport means staying ahead in research. Every day there is evidence of previously undetected drugs coming to light—THG, EPO, HGH, genetic modification; the list seems endless. Athletes from all sports must know that the chances of being tested and being caught are much greater than the chances of avoiding detection. While the government continue to talk up their support for their Tough on Drugs in Sport policy, their actions have spoken much louder than their words. It is totally incomprehensible to think that the Howard government are genuine about this fight against drugs in sport when they are chosen to get tough on the people who are fighting to expose them.

**Trade: Live Animal Exports**

*Senator BARTLETT (Queensland—Leader of the Australian Democrats) (1.11 p.m.)*—I would like to speak today on the issue of the live animal export trade. This issue is topical at the moment and, indeed, has been topical, off and on, for many years throughout Australia. The Senate set up the Senate Select Committee on Animal Welfare back in the 1980s. The committee was established on a motion by former Democrat leader Don Chipp, and one of the first inquiries of the committee was into the live sheep trade. It came down with a report and recommendations that highlighted significant problems with animal welfare in the live sheep trade nearly 20 years ago. Despite all of the concerns that have been expressed repeatedly by animal welfare organisations—from the RSPCA through to Animal Liberation and many other organisations in between—other community groups, industry organisations and, most importantly, the general community there continues to be a clear-cut situation where the level of cruelty involved in this trade is simply unacceptable. On top of that, we have clear-cut evidence that the trade costs jobs in Australia. We have a significant decline in the number of meatworks in Australia, and a clear opportunity for value adding in Australia is lost because of the export of live animals as what is obviously produce in its rawest form.

The trade has basically had 20 years to get its act together. Despite repeated assurances from consecutive governments that the trade will get its act together, that it has got its act together and that standards have been improved, time after time there is another incident, another public outcry, another inquiry and more assurances that it is fixed up—until the next time it happens. I believe the indus-
try has had enough chances and it is time to
genuinely look at moving to phase it out.
There is clearly an alternative industry that is
actually bigger: the slaughtered meat trade—
the processed meat trade, the frozen carcass
trade—is already four to five times larger
than the live animal trade. The processed
meat and frozen carcass trade is the one that
generates jobs in Australia, and it is con-
ducted in a way that is much closer to ac-
ceptable animal welfare standards than those
overseas.

Two things in the last week have once
again reinforced the significance of this is-
issue. On the weekend we had more footage
screened on *60 Minutes* highlighting the un-
believable cruelty involved in the live animal
trade. It is not sufficient for the Australian
government to say that they are concerned
about animal welfare standards and to make
all the right noises when it is clear that the
animals that are involved in the trade are
subjected to unspeakable cruelty. After 20
years it is clear that the trade, the industry, is
either not willing or not able to address that
level of cruelty. Some of the footage that was
shown on *60 Minutes* was simply stomach
turning in its cruelty to the animals. What is
particularly damning about the footage is
that, yet again, it was up to animal activists,
veterinarians, individuals and non-
government organisations to get the evi-
dence. The industry and governments have
repeatedly failed in monitoring and provid-
ing the facts about the reality of what the
animals endure, and it has been up to others
to highlight the truth.

I do admit and acknowledge that changes
have been made over time, but a lot of those
have been made only because the industry
has been exposed in terms of the level of
cruelty that is involved. The industry’s claim
that they can, in the long term, influence
animal welfare in countries that we export to
simply does not stand up to the evidence.

The trade has been going on for a long time
now, and the animals are suffering enorm-
ously now. The handling and slaughter
practices are completely unacceptable and
would not come even remotely close to the
standards that are required here in Australia.
There is no way the industry can credibly
claim that they are having a positive impact
on standards overseas. The minimal im-
provements that have been made overseas
have been happening only as a result of ex-
posure to material such as that shown on *60
Minutes*. Exposure such as that was in the
Australian Veterinary Association magazine
a year or two ago, and I spoke about it in the
Senate at the time. The fact is that the reality
of slaughtering and handling standards of
such cruelty, way below the standards re-
quired in Australia, means that the processes
in Australia are being undercut by others
who do not have to meet those standards. In
effect, they are subsidising the industries in
other countries that do not have to meet
those standards.

I draw the Senate’s attention to an article
in the *Australian* on Monday of last week by
Richard Yallop, which highlighted a Western
Australian government report on the live
animal export trade. That report has not been
released, perhaps not surprisingly because it
was critical of the live export trade in terms
of its economic impact, not specifically
about the animal welfare components. The
report related to the issue of jobs in the live
export trade versus jobs in Australia. It said
that the federal government subsidises the
services provided to live exporters. The re-
port found that the government has distorted
the competition between the live export trade
and processed meat exporters by subjecting
the processed meat sector to taxes and
charges not levied on live exporters. So taxes
and charges are levied on the meat sector in
Australia that are not applied to the section
of the industry that exports live animals.
Also, higher standards are required of the processed meat sector than those that apply to the live animal sector. In effect, not only is this unspeakably cruel industry allowed to continue; it is doing so in a way that is costing Australians jobs and it is actually being subsidised by governments along the way. That is an absurdity, and it is something that needs to be responded to directly. It is time that that report was formally released.

Yesterday we did have the response by the minister, Mr Truss, to the Keniry report, which was specifically commissioned following the latest in a long line of debacles surrounding the live export industry—including the Cormo Express debacle. The report was a useful contribution and is something that at least gives an outline of some of the many problems with the industry. But the terms of reference for the Keniry review related only to the preparation, selection, loading and shipboard phase of the live export process. They did not address more comprehensively the inherent nature of transport stress. In particular there was no brief in relation to the treatment of the animals in the importing countries, about what happens when they get to the other end, when they are offloaded, when they are transported again, when they are slaughtered, when they are taken to market—all of those aspects that are an inevitable component of Australia’s willingness to allow live animals to be exported from Australia.

So by necessity, because of the limited terms of reference, the Keniry review was only able to deal with a certain component of the industry. It did make some good recommendations, I must say. But it is disappointing that the minister did not accept all of those recommendations, and that is something that highlights again the fact that this industry continues to have the government in its sway despite the enormous amount of community concern about the issue. I have no doubt that all senators would be aware just how strong the concern is amongst the Australian community about this issue. Signatures from over 100,000 Australians have been tabled in the Senate expressing concern about the live animal export industry and wanting action. They have been waiting a long time. The changes that have been made over the last 20 years have not been adequate. We can see quite clearly—as we have seen on 60 Minutes and as we saw from the Cormo Express debacle—that the suffering continues and that the job losses continue in Australia.

Whilst we welcome the fact there has been some movement from the government, some adoption of the recommendations, finally we have a requirement that there will actually be a vet on board all voyages to the Middle East. That is something that people have been calling for for well over a decade. What we need is to ensure that all those reports are provided—and they will be provided directly to AQIS. Previously we had the absurd situation of reports provided to Livecorp which this Senate asked for—I had motions successfully passed requiring reports to Livecorp be tabled in the Senate—not being tabled because the government said: ‘We can’t because Livecorp is an independent organisation; it’s not a government organisation. There are commercial-in-confidence issues.’ So we could not even get on the public record what the reports showed. We need to make sure that those reports that are provided to AQIS by these veterinarians are able to be made publicly available, that there is not just more of the industry closed shop. There will be a new code of practice, according to the government. That is welcome in theory. It is not going to be finalised until the end of this year. How long is it going to take? How many chances are they going to get? It might sound good, but that is what we have heard
before, time after time: ‘We’ll improve the standards. We’ve done a review. We’ll get a new code of practice. We’ll fix it up.’ You can bet that the code of practice will not deal with the problems such as those that were outlined on 60 Minutes.

The government has outlined the requirements that will be needed for exporters to get a licence. It talks about requirements such as demonstrated competency in putting together export consignments, integrity and the company’s export history. There is no mention of animal welfare. It does not even bother to mention it in the requirements for getting a licence. I think it is only a partially positive response from the government, and some of that is really more words than deeds. The big thing, of course, is that the government has ignored the recommendations to not allow export of live animals from particular ports, which are Portland and Adelaide, at particular times of the year. That recommendation was made not because people were wanting to be difficult, just to make life hard; it was made because it was clearly identified that there were major problems involved in that that were not going to be able to be overcome. That has been ignored as well.

That is a fairly disappointing response as far as the Democrats are concerned. Obviously any improvement is better than nothing, but there is no point in even pretending that it is going to address the serious and longstanding concerns about the cruelty involved in this trade. It is continuing and these sorts of changes are just not going to address them. The government has to acknowledge that the trade is taking jobs away from Australia and involves utterly unacceptable levels of cruelty. Clearly the industry is not capable of addressing those levels of cruelty. It also means, as the report in the Australian shows, that in effect the sector here in Australia that processes meat is subsidising—and losing jobs as a consequence—the lower value live export trade.

The reasons that are used in favour of live export against substitution have been used many times with very little basis. The suggestion that there is not enough refrigeration in Middle Eastern countries to take processed meat is simply not true. In relation to the suggestion that they have to take meat that is slaughtered in a particular way, halal slaughtering is done in Australia, and that meat is exported. In the vision that was shown on 60 Minutes on the weekend they were not even doing it in accordance with halal requirements. So there is very little substance to most of the arguments that are put forward. They are just excuses, and I think the Australian public has had enough of excuses. It is time to move to get rid of this trade.

States: Commonwealth Funding

Senator SANTORO (Queensland) (1.25 p.m.)—The issue of how the states and territories are funded has exercised many people both within and outside politics and government throughout the 103 years of our Federation. The Constitution makes plain that the Commonwealth has primacy as revenue collector. A federation of equal participants would not work under any other arrangements. And it is this that over the past century has led to the states ceding successively more financial powers to the Commonwealth. We cannot afford to forget, after all, that Western Australia not only was an eleventh-hour convert to—and, in many respects, an unwilling entrant into—the Federation, but almost seceded in 1933 because it believed it was not getting a fair go from Canberra. In the seven decades since those events we have progressively made better arrangements to share the wealth of our country and its revenue on an equitable basis. That is the purpose of the Common-
wealth Grants Commission, the Australian Loan Council and latterly—because it is recognised that the states, while subordinates, have genuine sovereignty under the Constitution—the Ministerial Council for Commonwealth-State Financial Relations.

There is no doubt that the GST has proved to be a tremendous boon for state governments and for the people of the various states and territories. It has delivered true growth funding to the states for the first time since they ceded income-taxing powers in 1942. It has delivered a financial bonus over which Labor treasurers rub their hands with glee, even if they take care to do so behind closed doors and only in the company of close political friends. There is always an exception, of course. The New South Wales Treasurer, Mr Michael Egan, said after last week’s annual divvying-up of the funding cake that he felt like cutting his wrists. I do not often agree with Queensland Treasurer Terry Mackenroth, but I say to the Senate today that I most certainly do with respect to his response to Mr Egan’s histrionics. Mr Egan has absolutely no reason to slit his wrists, and of course he knows that. The GST has delivered a great bonus to the states, New South Wales amongst them. And that is not taking into account the great political bonus it has delivered to state governments, which get the money but do not have to cop the political pain of raising the revenue.

Queensland is the greatest immediate beneficiary of the tax reform delivered by the Howard-Costello government. Its average annual percentage increase in GST funds provided by the Commonwealth is 11.2 per cent, fully one per cent more than the gain by the next best-off state, Western Australia. The Queensland government has the least reason of all to complain. Of course it still does. State governments are like English soccer players with regard to the things they pretend have injured them: they fail to tackle financial reality and fall to the ground, ready for the cameras to film them writhing in agony. They also claim credit where none is due.

Treasurer Mackenroth has no justification for boasting about the ‘gain’ he has ‘negotiated’ for Queensland this time around. The extra $260 million Queensland got from last week’s outcome is due to the increase in GST revenue nationally and the continuance of the funding formula under which Commonwealth moneys flow to the states and territories. Mr Mackenroth is the first Queensland treasurer in a generation to have delivered two consecutive deficit budgets. The 2000-01 and 2001-02 deficits are an appalling indictment of Beattie Labor’s inability to budget properly and its predisposition to favour spin over substance. The balanced budget for 2002-03 was a sleight of hand operation. Hollow logs were raided in every nook and cranny of Queensland, and statutory authorities were told they must borrow against their assets to finance government calls on their funds. It was a budget designed for electoral purposes, even by the Queensland Treasury.

I want to say something about the detail of Queensland’s Commonwealth funding allocation a little later. Before I do that, though—and I am mindful of the apparent danger to Mr Michael Egan’s wrists from even mentioning the words!—I want to talk about the funding formula. I want specifically to talk about the consistently self-centred political campaign by New South Wales and Victoria. Until recently these two states were comrades in arms—perhaps that should be alms!—of Western Australia, which appeared at one time to have mistaken national mineral worth for state funds. It was their mission to change the historic basis on which these funds were distributed.
Last week there was a very good outcome from the Ministerial Council for Commonwealth-State Financial Relations and the Australian Loan Council meeting. At the meeting on Friday all the states and territories agreed to abolish bank account debits tax by 1 July 2005 as a result of an agreement between the Commonwealth and the states. The abolition of this narrow, inefficient tax will save taxpayers around $1 billion a year. Abolition will be funded by the growing GST revenue to the states. This is another bonus flowing from the political and policy courage of the Howard government and particularly of the Prime Minister and the Treasurer in bringing about productive tax reform.

Agreement was also reached to review a range of state and territory business stamp duties. The review will report to the ministerial council in 2005. These modest moves to clear away the thickets of state taxation are welcome indeed. They suggest that further action to clear up and simplify state taxation regimes is an entirely achievable outcome. With the growth of GST revenue, Treasurer Costello argues—convincingly, in my view—that state finances are generally in good shape across the nation.

A further outcome of the meeting is that GST revenue in 2004-05 will be distributed in accordance with the recommendations of the Commonwealth Grants Commission. This was supported by all state and territory governments other than NSW and Victoria. A majority of the states and territories, with the support of the Commonwealth, have agreed to a work program on simplification of the Grants Commission’s methodology. The Commonwealth will provide state and territory governments with total funding of more than $50.3 billion in 2003-04 and more than $52.8 billion in 2004-05. Total funding for each state and territory government will increase from 2003-04 to 2004-05. Adding payments made directly to local government and those which pass through the states to other bodies, the total funding provided by the Commonwealth will be more than $56.7 billion in 2003-04, increasing to more than $59.4 billion in 2004-05.

The states and territories will receive an estimated total of $32.5 billion in GST revenue in 2003-04 and $34.1 billion in 2004-05. These estimates are based on the MYEFO estimates of GST revenue. On the basis of these estimates, only New South Wales and Victoria require budget balancing assistance—BBA—in 2003-04. The other six states and territories are estimated to be better off by more than $590 million because their GST entitlement is expected to exceed their guaranteed minimum amount—GMA. The estimates also indicate that Victoria will no longer require BBA from 2004-05. In 2004-05, on current estimates the states will share a GST windfall of $953 million, with only New South Wales still requiring BBA.

As part of the intergovernmental agreement signed in 1999, all states and territories agreed that all of the GST revenue would be distributed among them on a horizontal fiscal equalisation basis, based on recommendations of the Grants Commission. Last week the Grants Commission’s recommended relativities were discussed by the ministerial council, and all states and territories put forward their views. The Grants Commission methodology is developed by it in consultation with all the states and territories and is based on the longstanding principle that all state and territory governments should have the same capacity to provide quality services to their citizens.

The states’ complaints about funding are a dispute between the states and territories over the distribution of their own revenue source—the GST. Every dollar of GST revenue goes to the states and territories. No
doubt if all the states and territories were united in wanting the formula changed, the Commonwealth would consider such a proposal. But they are not, and such are the difficulties of equalising regional finances in our Federation that it is highly unlikely they will ever be. New South Wales would prefer to suck in GST funds on a per capita basis—or so Mr Egan, between selecting razor blades, seems to suggest. But, aside from anything else, all this would do is deepen the financial malaise from which New South Wales suffers and for which there is no cure apart from abolition of New South Wales.

I do not think Mr Egan is about to agree with any proposal along those lines, let alone Senator John Tierney, who has just wandered into the Senate chamber. Nonetheless, there is a review and, on balance, this is a positive development. The fact that something works well—and the Australian compact on horizontal fiscal equalisation is one such thing—does not necessarily mean it cannot be improved. The review will consider: whether the present approach, which is based on a comprehensive assessment of virtually all receipts and expenses in the operating statements of states, is appropriate and necessary; the size and trend of the redistributions; simplification; and data issues. On the basis of preliminary estimates, total specific purpose payments available to the states and territories from this round of allocations will increase by around 4.9 per cent or $1,153.5 million in 2004-05. Specific purpose payments to the states and territories are estimated to increase by around 5.1 per cent or $861.5 million. Detailed estimates of the proposed level of specific purpose payments and their distribution among the states and territories will be included in the 2004-05 federal budget.

Last week’s arrangements and agreements extended to national competition policy payments. This has been a thorny topic, particularly in Queensland and specifically on the issue of opening up the water market. For 2004-05 these Commonwealth payments to the states and territories will total approximately $775 million. Each state and territory’s receipt of its per capita share of competition payments will be determined once the Australian government has considered recommendations from the National Competition Council’s assessment of progress under the competition agreements.

Because the Australian Taxation Office collects all GST revenue on behalf of the states and territories, the intergovernmental agreement provides that accountability and performance arrangements will be established between the state and territory governments and the ATO. The ministerial council last week endorsed a number of updates to the GST administration performance agreement between the Australian Taxation Office and the states and territories. It also discussed GST administration costs and related issues and agreed to the ATO’s GST administration budget for 2004-05, consistent with the requirement of the intergovernmental agreement that the states and territories compensate the Australian government for the costs of administering the GST.

All of the foregoing indicates to me—as I am sure it does to most reasonable people—that, in financial terms, our Federation actually works quite well. In Queensland we are by now, regrettably, well accustomed to hearing excuses from the state government about its failure to perform. We hear excuses for its lack of success in looking out for the real interests of children for whom it carries the primary duty of care. We hear all sorts of reasons that seek to explain why the Beattie Labor government cannot do this and cannot do that. It is always someone else’s fault. Crying poor has always been state policy in federal-state financial relations, no more so than in Queensland.
When federal funding progressively takes up larger and larger proportions of overall state revenue, paradoxically it becomes easier—politically—to blame the provider for not giving enough, rather than the recipient for failing to budget efficiently. The Beattie Labor government in Queensland have been in power for just short of six years. Apart from the 2½-year term of the Borbidge-Sheldon coalition government in 1996-98, of which I was a part, Labor have been in power in Queensland since 1989. That is 14 years—and they are blaming everyone but themselves for the financial and political predicaments into which they fall with alarming readiness.

It is true that Queensland is the most fortunate of the states. It does not have the massive structural problems that face New South Wales. The rustbelt manufacturing industries of Victoria are not a factor north of the Tweed. It benefits from being—to use a term made popular in America, where it applies to certain of the southern states and to California—the principal ‘sunbelt’ settlement preference of large numbers of other Australians. Queensland’s consumer market, in fact, is driven by the high growth rates it experiences primarily because of this influx and the spending that this generates in terms of retail sales and residential construction.

Yet Labor has been unable to capitalise on this benefit—or so Premier Beattie, the man who put the capital E on Excuses, would like us to believe. Because of its relatively strong budgetary position—and I say relatively because Labor has now had two six-year periods of untrammelled access to the stored wealth that was the legacy of 32 years of responsible non-Labor budgeting—Queensland is in an enviable position. With an additional $2.4 billion in the kitty between 2000-01 and 2004-05, the people of Queensland have a legitimate right to ask what the government has been doing with the money. That is a huge increase, of 52.4 per cent, in Commonwealth funding to the state of Queensland. It is money on top of what Commonwealth funding would have provided to Queensland under the old, pre-GST formula.

When Premier Beattie gets home from his trade trip, he should devote a little time to the business of explaining what he actually has done with the money. He could usefully start, for example, by explaining why he cannot fund child protection at the level successive reviews have said is necessary; and why, when he is $2.4 billion better off, he cannot afford the $116 million extra he needs to find to match the Commonwealth’s increase in education spending. That is the crux of my argument. There have been huge increases in Commonwealth funds to a state like Queensland yet, because of its inefficient approach to fiscal management and financial prudence, we have basic responsibilities such as the protection of vulnerable children in its care utterly neglected by a government such as the Peter Beattie Labor Party government in Queensland.

**Flinders Region Area Consultative Committee**

**Senator BUCKLAND (South Australia)**

(1.40 p.m.)—On 2 November 2003, the *Sunday Mail* in Adelaide ran a two-page Sunday ‘Focus’ article on teenage pregnancy in Whyalla, my home city. The article claimed Whyalla was the teenage pregnancy capital of South Australia—a claim not supported by the readily available statistics. The article generated considerable controversy in the community, as you would expect, and it was strongly felt that it had misrepresented the city and its young people and, in addition, unfairly stigmatised Whyalla’s teenage mothers.

The article clearly articulated the role of the Flinders Region Area Consultative
Committee, FRACC, in stirring up this issue and in advocating a program to address the issue called the safe schools program. The proponent of the safe schools program was also quoted in the article and referred to as an ‘expert’. The proponent is a chiropractor, Naomi Perry, who is the president of an organisation called the Ideal Human Environment Foundation and has no history of work or involvement with young people in Whyalla. One school principal in Whyalla has described the foundation as a ‘ Californian type cult’. The foundation’s web site states:

The principles of the Ideal Human Environment are not based on traditional morals or a traditional value system. They are based on principles of known physics which correlate perfectly and harmoniously with human nature.

By this time you might be saying, ‘So what?’ When I read the article I thought it was a bit unfair on Whyalla. The fact that Naomi Perry was quoted as an expert was also odd, as was the fact that no mention was made of Naomi Perry and the Ideal Human Environment Foundation having pecuniary interests in the outcome of any submission for funding.

As a result of the article, I had a discussion with the member for Giles, Ms Lyn Breuer. Lyn has a particularly strong and known position in relation to the welfare of our young people. She wrote to the CEO of FRACC on 21 November 2003. A number of specific questions were asked in that letter in relation to FRACC’s role in the Sunday Mail article and the relationship between FRACC and the Ideal Human Environment Foundation.

On the 10 January this year FRACC finally answered the specific questions posed in the original letter. The answer to these questions raised serious doubts in the minds of Ms Breuer and the Whyalla City Council. The Whyalla council resolved to lodge a complaint with the Press Council and, as part of that process, wrote to the editor of the Sunday Mail. The Whyalla City Council also wrote to FRACC asking them to provide the minutes of the various meetings initiated by FRACC on the teenage pregnancy issue. FRACC refused to provide the minutes on the basis that they were confidential. The CEO and chair of FRACC also denied they had initiated the Sunday Mail story.

In the response to the letter from the member for Giles, the CEO of FRACC repeatedly emphasised the confidential nature of the minutes and said that the minutes and transcripts are confidential at the request of those present at the meetings. When the CEO was asked whether he or anybody associated with FRACC had given the minutes to the Sunday Mail journalist he denied any knowledge of that occurring. When the CEO was asked whether he or anybody associated with FRACC had initiated contact with the Sunday Mail, he denied that that was the case and claimed the Sunday Mail had contacted FRACC.

On 4 March 2004 the Whyalla City Council received a seven-page reply from the editor of the Sunday Mail. In the letter the editor made it abundantly clear that the chair of FRACC had approached the Sunday Mail over the issue of teenage pregnancy in Whyalla. The editor also stated that FRACC had provided the minutes to the journalist—minutes they would not provide to the council and other community members because they were confidential. The member for Giles asked why FRACC invited a proponent of what one prominent educator in the community had labelled a California type cult. The answer was that Dr Perry was invited on the basis of her interest in youth issues and as a businessperson in Whyalla and surrounds. According to the chairperson, ‘The views of an anonymous “prominent educator” are of no interest to me.’
What was not mentioned in the response was that Naomi Perry and the Ideal Human Environment Foundation were seeking over $300,000 to run their program, presumably a program based on principles of known physics which correlate perfectly and harmoniously with human nature. I wonder if you get a free set of steak knives or crystals with this program. It appears that it was the intention of Barbara Derham, the chair of FRACC, to get the federal government to fund this program. There is no evidence whatsoever of Naomi Perry being involved in youth issues in Whyalla. This raises a number of questions about the relationship between FRACC and the Ideal Human Environment Foundation. Was it the intention to channel public money into the IHEF without going to tender? If it was the intention to call for expressions of interest or to go to tender for the delivery of a program to address teenage pregnancy, why was one potential bidder given the inside running from the start and involved in the deliberations?

Given the publicly available information on the Ideal Human Environment Foundation, what due diligence process did FRACC enter into to ensure the organisation was a credible deliverer of programs to high schools? Was there, in fact, any such thing as the safe schools program? That the federally funded ACC called together stakeholders in Whyalla so as to provide a platform for a highly suspect organisation to spruik their wares is a serious concern. That they seemed so willing to assist the Ideal Human Environment Foundation to enter the public education system in Whyalla to get at our young folk must lead one to question the judgment of the members of FRACC. It appears that the Sunday Mail article which trashed Whyalla was a deliberate set-up as something to take to Canberra to bolster the threadbare case for funding for the safe schools program.

I trust the government had the good sense to reject any bid for funding for this scheme. But what does this incident tell us about the calibre of the people the Howard government appoints to chair the ACCs? I am not directing any of my criticism at the Sunday Mail. For them it was a good story and worth following. The problem is that they were like the young people of Whyalla: pawns in a scheme to obtain public money. In a letter to the Whyalla City Council, Ms Kirsty Rogers, the Young Mothers Education Program Coordinator at Edward John Eyre High School, was scathing of Barbara Derham and the ACC for instigating such a damaging article. Kirsty Rogers, who works on a daily basis with young people in Whyalla, said in her letter:

I am angry that someone who hasn’t spent time working with these young mothers trying to improve their self esteem and providing them with pathways to reconnect to educational opportunities can instigate such negative press.

Kirsty went on to say:

Why wasn’t the article focussing on Whyalla’s successful programs and why hadn’t FRACC representatives spent sometime with staff and clients in these programs to advocate for them and seek secure funding?

The answer could be that the chair and/or the FRACC board wanted to see themselves as responsible for getting over $300,000 of public money to fund a program based on principles of known physics which correlate perfectly and harmoniously with human nature. And in order to get that public money Ms Derham and/or the board did not care what damage was done to Whyalla.

While FRACC was attempting to manipulate the system to gain federal money to fund a dubious program, real work was being done by genuinely committed people in Whyalla to assist our young people. Programs such as the independently evaluated Core of Life program, the independently
evaluated Talking Realities program, the Young Mothers Education Program, adolescent antenatal classes and revamped sex education are all contributing to addressing the issue of teenage pregnancy. The estimated cost of the Core of Life program is $30 per student—that is, $30 per student for an independently evaluated program that has a track record of effectiveness and that is delivered without the need for a damaging article in the Sunday Mail. What was the Ideal Human Environment Foundation program going to cost per student? Six thousand dollars, compared to $300,000 for a program with a proven record.

**Trade: Live Animal Exports**

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (1.51 p.m.)—I take the opportunity to speak in this debate on matters of public interest to highlight the response by the Australian government to the Keniry report on Australia’s livestock export trade. I heard Senator Bartlett talking about this earlier in the debate, but regrettably Senator Bartlett has a very narrowcast view of the livestock export trade. Whilst he has some concerns about animal welfare, he and many of the senators opposite, particularly those in the Labor Party, have little appreciation of the importance to Australia of the livestock export trade.

As a senator who lives and is based in country Queensland, I do understand, perhaps more than any Labor senator, how very important this trade and many rural primary industry commodity industries are to the future of rural and regional Australia. I have been trying to look at some of Mr Latham’s thoughts on rural and regional Australia, but I understand that even in all the speeches that he had on his web site, which have disappeared now, there was very little mention of rural and regional Australia. Like most of the Labor party senators, he is city-centric—Sydney-centric, in his case—and interested only in what happens in the capital cities and not at all interested in the very productive part of Australia that is rural and regional Australia.

The livestock trade is, for example, a very significant contributor to the Australian economy. It generates about $1 billion each year in rural economies and it supports some 9,000 jobs. Its impact on some of the smaller country towns in rural and regional Australia is very dramatic.

**Senator Chris Evans interjecting—**

**Senator IAN MACDONALD**—I am sure that Senator Evans, who is interjecting, would not have a clue about that. I suspect he rarely gets out to see the areas that produce wealth in Australia. I should congratulate Mr Truss on the way he has handled the whole livestock export trade. I congratulate him as well on his response on behalf of the government to the Keniry report. Some of the elements of the Keniry report have already been implemented, and industry and government will be moving to address the remainder of the recommendations, including tougher regulation and AQIS audits and inspections at all points of the trade.

A veterinary counsellor will be stationed in the Middle East as soon as possible. The Australian government is going to take control of export licensing, and serial breaches of the new standards will result in the loss of the exporter’s licence. The same sanction will apply to all directors and associated entities of the penalised exporter. Those involved in the trade who are not doing it properly will not be able to use the corporate veil to simply switch private companies and continue with trade under another front company. The risk of further rejections or unacceptable on-board mortalities will be significantly reduced by implementing some of Dr
Keniry’s recommendations, particularly those which call for increased government involvement in regulatory control, improved industry quality assurance procedures, improved risk management and systems management, $1 million a year of investment to improve animal welfare outcomes in the Middle East and new export protocols with Middle East destinations.

The Howard government are very concerned about the need to improve animal welfare outcomes in the livestock trade to the Middle East. We are going to address that with an $11 million injection to support the responses to the Keniry report. The latest action that we have taken does continue the good record of reforming the live export trade which our government has involved in, and we want to do that to enhance its long-term sustainability. Our record in recent times is demonstrated by declining mortality rates on voyages, from 0.34 per cent of cattle shipped in 1999 to 0.1 per cent in 2003 and from 1.34 per cent of sheep to 0.99 per cent over the same period. The Australian government have agreed to key changes including a new Australian livestock export code, which will be referenced in legislation and which exporters will need to meet before shipments can be cleared. There will be new annual licensing arrangements for livestock exporters and for the inspection and registration of export feedlots, including increased inspection times in the feedlot before the issuing of export permits.

The government will be paying for some of these improvements, and the industry itself will be joining in to fund many of the new initiatives that have been highlighted by the response. Trade to Saudi Arabia remains suspended and will not be renewed without a government to government memorandum of understanding that will ensure that there can never be a repeat of the Cormo Express rejection. The new regulatory arrangements will be funded by industry, as I have mentioned, with the usual 40 per cent government contribution to AQIS fees charged on export industries. The Australian government will meet the $2 million estimated start-up cost of the new industry regulatory system. All in all, this response to the Keniry report and the Keniry report itself show the very great interest this government takes not only in animal welfare but also in ensuring the continuation of what is a very valuable and very useful export industry, which does make very great contributions to rural and regional Australia and to the economies of small country towns.

QUESTIONS WITHOUT NOTICE

Taxation: Family Payments

Senator BUCKLAND (2.00 p.m.)—My question is to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Can the minister confirm that one in three mothers have missed out on the Howard government’s baby bonus? Can she also confirm that, of those who have qualified, 90 per cent have received less than $500? Why did the government push ahead with a policy which delivers so little benefit to so few families?

Senator Robert Ray interjecting—

Senator COONAN—I am indebted to Senator Ray for helping me here. Thank you for the question, Senator Buckland. The intent of the baby bonus has been to compensate families for a reduction in income following the birth of a child. It is, therefore, calculated on the basis of the fall in income that has occurred and, as Senator Buckland would no doubt know, there is a minimum payment of $500 per annum for claimants with incomes of up to $25,000. The latest published data that I have in my notes from the ATO indicates that as at 7 October for the 2001-02 income year over 154,000 Australians have received a baby bonus payment. The vast majority of payments went to par-
ents with taxable incomes of $20,000 or less. For the 2001-02 income year, over 80 per cent of the benefits paid went to these families.

The baby bonus is able to be claimed for the first five years of a child’s life. Any abolition of the baby bonus would require grandfathering and that would disadvantage existing claimants who have not yet claimed their full five-year entitlement. The baby bonus is in addition to a number of programs designed to assist families with the cost of raising children—in particular the family tax benefit part A is available to families with children under 21 years of age and the family tax benefit part B provides extra assistance to families with one main income earner, including sole parents. If I have any additional information or more up-to-date figures than the ones I have in my brief, I will obviously let Senator Buckland know.

Senator BUCKLAND—Mr President, I ask a supplementary question. Isn’t one of the reasons for the poor take-up of the Howard government’s baby bonus that families find it complex and difficult to understand, and many are not aware that the payment needs to be claimed through the tax system? Don’t families find the family tax benefit equally complex and confusing—a part of the reason why one in three families are caught in your tax trap?

Senator COONAN—I certainly would not accept the contention put forward in the supplementary question that any of these benefits are so complex that people are unable to navigate their way through them. In fact, my information is that the tax office information in respect of these matters is very helpful to families. This government does understand that there is a certain time, particularly when children are young, when families need this help. This government understands that these policies are necessary. They are necessary to help people to rear their families. It is an indication that this government cares about families. The policy, as far as I understand, is meeting its mark.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to a delegation in the chamber from Papua New Guinea led by the Hon. Brian Pulayasi MP. On behalf of senators, I welcome you to Canberra and trust that your visit is enjoyable and informative.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Indigenous Affairs

Senator PAYNE (2.04 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 ongoing commitment to ensuring that Indigenous spending delivers results to Indigenous communities and the Australian people? Is the minister aware of any alternative policies?

Senator VANSTONE—I thank Senator Payne for the question. She and a lot of senators on this side have had a longstanding and strong interest in ensuring that better services are delivered to Indigenous Australians. I find that yesterday I was not Robinson Crusoe in suspecting that Labor’s announcement on Indigenous affairs was more about politics and getting Iraq off the front page than it was about Indigenous Australians. I will rephrase it: the announcement was more about politics than it was about getting better services to Indigenous Australians.

I have said before in this place that the one thing I will remain focused on in this job is not getting on with Indigenous politicians but making sure that better services go to Indigenous Australians. I was, therefore, interested to hear what ATSIC commissioner
Ray Robinson had to say this morning when he came out in support of Labor’s approach. He said a number of things were very positive but he went on to say:

... at the moment this ATSIS—

that is, the people who are now controlling the money, because we took control of the money, 12 months ago—

is a total disaster.

Shock horror, Mr President! He continued:

It has put grant controllers, service providers into organisations all over Australia ...

Yes, it has put grant controllers and service providers in all over Australia because it was clearly needed and the ATSIC board was never going to do it. No-one should misunderstand what is at stake here. It is not just a question of financial accountability—that is for accountants and actuaries; it is a question of making sure the money gets through to the people who really need it.

ATSIS has audited eight Aboriginal companies in Queensland with which Commissioner Robinson is or has been associated. These companies have received a total of $77.5 million in grant money over the past seven years, and it is an enormous amount per person for that region. Forensic audits have found that $1.9 million from these companies is still unaccounted for. One company wrote over $1 million in cash in one year. At an ATSIC board meeting, which included Mr Robinson, the delegation of the ATSIC CEO Mr Gibbons for ATSIC to direct these audits was withdrawn. It was withdrawn, and that does suggest a possible conflict of interest.

Senator O’Brien—are you saying he participated?

Senator VANSTONE—I acknowledge the interjection from Senator O’Brien. He asks whether Mr Robinson participated—a question to which Australians would like to know the answer. In any event, the responsibility of the ATSIC board is to make sure that every cent goes where it is meant to go. What is the explanation they might offer for doing what they did? Mr Robinson, in effect, is saying just give the $1 billion spent on Indigenous welfare annually by ATSIS to organisations, such as the one he controls, and ask no questions. Labor may be prepared to create 35 little ATSICs to spread the problem around Australia, but we will not do that. Clearly Mr Robinson sees the prospect of returning to a system where he can escape scrutiny, and we will not endorse that.

Taxation: Family Payments

Senator MOORE (2.09 p.m.)—My question is to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Can the minister confirm that the leaked work and family task force report criticised the baby bonus because it ‘exacerbates effective marginal tax rates’ when mothers return to work? Given that this unequivocal advice was provided to the government in December 2002, why has there been absolutely no action to fix the policy the government has known, for a significant time, actively punishes families through high effective marginal tax rates?

Senator COONAN—I thank Senator Moore. The baby bonus is a policy that was designed to help Australian families, particularly those who at a particular time in their lives need some additional help—that, of course, is when there is a new arrival in a family. Anyone who has had children knows that it is a time of particular pressure on families. It is a policy that this government has developed and delivered on the basis that it would help families and would assist, particularly mothers, in the time after a child was born.

As I said in response to an earlier question, this policy is meeting its mark. In the latest data that was made available as of
7 October, as I understand it, for the 2001-02 income year, over 154,000 Australians have received a baby bonus payment. The baby bonus is able to be claimed, as many listening to this telecast would know, over the first five years of a child’s life and is targeted to meet the evolving needs when there is a new arrival in a family.

I am sorry to say that a little earlier today there was an announcement by the Labor Party that, far from appreciating this policy, they intend to abolish it. Not only do they intend to abolish the baby bonus; they intend to abolish the maternity allowance for another couple of billion dollars. Also, if they grandfather the existing baby bonus, which of course will severely disadvantage those who are entitled to claim over the first five years and have not yet made a claim, it would cost up to $2,607,000,000. They propose to pay for it in part by reversing the government’s Senate deal on Medicare. Not only are the Labor Party hopping into families and wanting to abolish the baby bonus, which is really helping a lot of people with young families; they are going to wind back a deal that was done in the Senate to assist thousands more Australians meet their medical expenses, particularly low-income families.

It is an appalling position that the Labor Party have taken in relation to the importance that this government places on being able to deliver benefits to families—through the baby bonus, through our family tax benefits A and B and through a number of policies—and provide income tax cuts to Australians together with low interest rates and an economic climate that delivers the opportunity to work in this country. All of these policies deliver family-friendly outcomes for families, and the Labor Party would do nothing but demolish them.

Senator MOORE—Mr President, I ask a supplementary question. Why did the Howard government make punishing effective tax rates a design feature of the baby bonus policy which they intended to be so helpful, through the insistence on entitlement being based on subsequent income upon return to work? Wouldn’t the removal of this design feature from the baby bonus policy assist in improving rewards to mothers returning to work?

Senator COONAN—Obviously this is a totally redundant question on the part of Senator Moore because the Labor Party have said that they would abolish the baby bonus, so any enduring interest in it would seem to be entirely academic. I have said that this government will support families, will support people with babies and will continue to deliver good economic outcomes that enable families to flourish in this country.

Australian Defence Force: Deployment

Senator EGGLESTON (2.14 p.m.)—My question is to the Minister for Defence, Senator Hill. Will the minister advise the Senate of the work being undertaken by the Royal Australian Air Force and other Australian defence personnel in Iraq? How important is their contribution to the future of Iraq? Is the minister aware of any other policies?

Senator HILL—I thank Senator Eggleston for his question. Royal Australian Air Force personnel are continuing to provide expert and vital assistance to the reconstruction of Iraq. When the combat phase in Iraq ended, the government made the decision to bring home elements of our force, such as the Special Forces and the FA18 Hornets, which had completed their tasks. But, having ousted Saddam Hussein and removed the threat associated with weapons of mass destruction, along with the international community we made a commitment to securing the peace. We contributed forces
that would deliver the greatest benefit to the efforts to secure a better future for Iraq and consolidate the gains in terms of a free democratic country that would contribute to peace and stability in the region.

Our C130 Hercules crews have worked tirelessly in the post-combat period and have carried more than 10.6 million pounds of cargo in the last year. These aircraft have also transported more than 10,500 passengers and have carried out around 950 aeromedical evacuations. That is a fantastic achievement, as every flight is a dangerous flight. Our air traffic controllers have now overseen more than 121,000 air movements at Baghdad International Airport in the last year alone. Australian personnel and officials are providing guidance on the establishment of the Iraqi Ministry of Defence, and public works and humanitarian assistance programs. They are helping to establish the services which will deliver schools, water and sewerage, electricity, roads, police and security, and economic, social and cultural programs.

When Mr Rudd visited Iraq he would have heard both Iraqi officials and coalition force leaders praising the work of these Australians. That is no doubt why Mr Rudd came home and called for more ADF trainers to go to Iraq. Mr Rudd wrote to the Prime Minister, saying:

My own observation and that of the various foreign nationals with whom I met was that these Australians are performing a first-class function in Iraq.

So the Labor Party position is: Australians are playing a critical role and doing a first-class job but let us bring them home before the job is finished. It makes no sense. But then, Mr Latham did not understand the issues. Why? Because he did not take the opportunity to be briefed. He took no briefings on the operational situation in Iraq. He has had no briefings on the consequences of his cut and run policy. He did not seek to be briefed by the Chief of the Defence Force nor the Vice Chief of the Defence Force, the Chief of Army, the Chief of Air Force or the Chief of Navy. Mr Latham made his decision in ignorance. Mr Latham needs to learn that a media stunt a day is no substitute for well-informed policy. Instead of making excuses, Mr Latham should seek some briefings and rethink his short-sighted and ill-considered position to desert the Iraqi people in their hour of need.

**Taxation: Family Payments**

Senator CROSSIN (2.18 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm that in the first year the government’s baby bonus gives less to a baby born at Easter than to one born at Christmas? Will the minister also confirm that the government’s baby bonus is a one-child policy, paid only with respect to the first child? Why didn’t the Howard government design its baby bonus policy so that all babies are valued equally, no matter when they are born during the financial year and no matter whether they are the first, second or subsequent child in the family?

Senator PATTERSON—Senator Crossin has asked a very similar question to the question that was asked of Senator Coonan. We have given families assistance in a number of ways. One way is through the family bonus scheme. Senator Coonan said that there were about 154,000 families on less than $20,000 who received the baby bonus. What the Labor Party will never refer to or talk about is family tax benefit B, which gives assistance to families who have children under the age of five. I will go through what we have achieved with that payment. For single income families with children who get FTBB, it provides additional assistance of up to $2,920 per annum for families with a child...
up to the age of five and $2,036 per annum for families with children aged more than five. That is a payment to assist families where one member of the family stays home to care for the children. Labor never refers to that. They choose to ignore it because we have given families almost $2 billion more in assistance since the introduction of the new family tax system.

Senator Jacinta Collins—You had an enormous underspend.

Senator Patterson—As I said yesterday, Senator Collins could not read a budget paper to save her life.

Senator Crossin—Mr President, I raise a point of order. My question did not go to the family tax benefit part B. My question went to whether the government’s baby bonus is a one-child policy and whether it is paid only to the first child born. I would ask you to assist the minister in answering the question correctly.

The President—As you know—and I have said it many times in here—I cannot direct how the minister should answer the question, but I would remind the minister of the of question that was asked of her.

Senator Patterson—The question gives me the opportunity to talk about our policy for assisting families, part of which is the baby bonus; part of which is family tax benefit B, which assists families where one parent chooses to stay at home; and part of which is family tax benefit A. We have assisted families with almost $2 billion more since the new tax system came in. We have also assisted families by doubling the amount of spending on child care and by increasing the number of child-care places by 210,000.

Senator Crossin—No-one asked about child care!

Senator Patterson—The Labor Party does not want to hear about how we have assisted families. The baby bonus is part of that assistance. Today we had Senator Collins in the chamber absolutely bucketing the family tax benefit, but she must have been out of the loop, like most of you were with respect to other policies—such as those on Iraq and ATSIC. While she was in here bucketing family tax benefit A, Mr Latham was out at Queanbeyan using family tax benefit A as a framework for the Labor Party’s plagiarised baby care payment policy. You cannot even get a new name! You have to get a leaked document and plagiarise a name. Labor cannot even dream up a name for a policy. That is how absolutely bereft of ideas they are.

I am sure the Independents would have been thrilled to see that Labor would wipe out some of the benefits they negotiated in the MedicarePlus package, including the lower threshold for the Medicare safety net. Labor would take away from families at the very time they need assistance with out-of-pocket out-of-hospital expenses, when their children are young, the lower threshold in the Medicare safety net negotiated by the government with the Independents. What Mr Latham giveth with one hand, he taketh with the other. When you look very carefully at the details of the policy, you see that in it there is an absolute sop to his union mates with the elimination of the Office of the Employment Advocate in response to the building industry royal commission and task force.

Senator Abetz—Shameful!

Senator Patterson—I was sure you would be interested in that, Senator Abetz. That is one thing that has gone. Also, there is an impost on businesses through the elimination of the GEERS program. In addition, there is a moving away—(Time expired)
Senator CROSSIN—Mr President, I ask a supplementary question. I would have liked my first question answered, actually. That question went to whether the baby bonus was a one-child policy paid on the birth of the first child in the family and addressed the issue of the timing of that payment. Isn’t it the case that the government’s leaked work and family task force report had much criticism of the timing of the family tax benefit, particularly the part B component, because a working mother may not be eligible for the payment if her baby is born part way into the financial year? When and how will the government act to fix this unfair aspect of the family tax benefit part B?

Senator PATTERSON—That document talked about a baby care payment. What did Labor do? They plagiarised it. They moved away from a policy of paid maternity leave, which Ms Macklin announced last year and which was discussed at their conference in January. What did Mr Latham do? He ran backwards at 100 miles an hour away from paid maternity leave to a baby care payment. Some policies last for 24 hours; some policies last for a week. The paid maternity leave policy lasted for about two months. I am sure that Labor’s baby care payment policy will change, because nothing in any policy that Mr Latham has put down seems to have stayed the same. We have seen backflips, we have seen changes and we have seen Mr Latham not able to hold to a policy for more than a few weeks.

Telstra: Services

Senator CHERRY (2.26 p.m.)—My question is to the Minister representing the Minister for Communications, Information Technology and the Arts. Is the minister aware that the telecommunications performance monitoring report released today shows a rising level of faults in the Telstra network, with a decline in the percentage of fault-free services and a decline in the percentage of faults repaired on time? Does the minister concede that these figures are consistent with the internal memo from Telstra Infrastructure Services tabled in the other place last month, which showed that the number of faults was at a five-year high and will continue to rise without a substantial investment in infrastructure? Does he believe that the ACA’s finding that around 10.3 per cent of phones in Australia, and as many as 21 per cent of phones in the Northern Territory, reported a fault in 2003 reflects an acceptable level of service? If not, what steps will the government be taking to reverse the downward trend in Telstra’s performance—a trend marked, not surprisingly, by the downward trend in Telstra’s capital investment and staffing levels?

Senator KEMP—I thank Senator Cherry for that question. A number of interpretations can be made and, at least according to the brief I have received, yours does not seem to me entirely consistent with what was reported. The latest telecommunications performance monitoring bulletin from the Australian Communications Authority, the ACA, shows that industry performance against regulatory safeguards during the December 2003 quarter was high. For example, overall industry CSG connection and fault rectification performance at a national level remained at above 90 per cent compliance with required time frames. I am advised that, where time frames were not met in the quarter and no exemption applied, Telstra and Optus reported 100 per cent compliance with the automatic payment requirements.

The NRF provides visibility of fault rates affecting consumers by requiring Telstra to publicly report on the number of services experiencing no faults and average service availability across 44 regions each month. I am advised that, in 2003, CSG services monitored by the NRF were available on
average 99.94 per cent of the time. On average, 99.10 per cent of CSG services per month did not experience a fault. Where individual services experience multiple faults—that is, more than three faults in a 60-day period or more than four faults in a 365-day period—the NRF requires Telstra to remediate the service. In 2003, out of around 7.2 million CSG services, only 639 individual services breached the multiple fault levels and required remediation. If fault levels exceed the NRF thresholds, Telstra risks—as Senator Cherry would know—being ordered to undertake rehabilitation action at the exchange level and remediate at the individual service level. All aspects of remediation work undertaken under the NRF, including operational and capital expenditure, are subject to scrutiny by the ACA, which is empowered to order Telstra to advise remediation plans if they are not up to scratch.

For the government, the central issue is how Telstra adheres to the consumer safeguards that the government has set, such as the CSG and NRF. Again, the advice that I have received from the Minister for Communications, Information Technology and the Arts is that the solid industry performance recorded in the December 2003 quarter shows that industry is committed to meeting the service requirements set by the government.

Senator CHERRY—Mr President, I ask a supplementary question. That answer did not touch on the key issue, which was the decline in performance identified across most of the criteria. The minister might be aware that the network reliability framework shows that six of the seven non-metropolitan regions in New South Wales, all five Queensland regions, one of the three Victorian regions, two of the three Western Australian regions and the Northern Territory Top End—in fact, 15 out of 23 non-metropolitan regions in Australia—recorded faults on more than one per cent of their phones in two out of the last three months, compared with just one of the 21 metropolitan regions. In light of the data from the official regulator and the data leaked from Telstra, how can the government justify its view that Telstra’s services in the bush are up to scratch?

Senator KEMP—There are a couple of aspects that I can add to my remarks in the light of Senator Cherry’s question. Firstly, if a fault occurs the major task is to make sure that it is fixed quickly. Secondly, it is to make sure that the overall reliability of the network is maintained to minimise the chances of recurring faults. Senator Cherry will know that the government introduced the consumer service guarantee to address the first of these and the NRF to address the second.

Senator Cherry referred to leaked documents. My advice is that this demonstrates that the NRF is working and influencing Telstra’s decision making in relation to capital expenditure decisions. In the document Telstra cites the need to ensure it complies with the NRF as one of the key reasons it should commit to additional infrastructure investment. I am advised that the ACA has looked closely at the Telstra document and has ascertained that the information contained in it is not inconsistent with the information provided to the ACA for the purposes of reporting against the NRF. (Time expired)

Family Services: Child Care

Senator JACINTA COLLINS (2.32 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm her plans to provide ongoing funding for the greater flexibility and choice in child care initiative? Will the minister continue the existing 3,000 in-home child-care places currently provided, or will she finally meet the original
promise of 7,700 places, promised by Senator Newman in this place in 2001?

Senator PATTERSON—I thank Senator Collins for the question because it gives me the opportunity to talk about what this government has done in child care. Child care is an important part of the government’s policy to assist families to balance their work and family commitments. We have spent and continue to spend more than Labor ever spent on child care. We have allocated around $4 billion over four years to support child care. That is almost a doubling of spending on child care. More than $8 billion has been spent on child care—more than double the amount that was spent during Labor’s last six years in office.

The introduction of the child-care benefit in July made child care more affordable. Child care has been more accessible, more affordable and more flexible than it ever was under Labor. Families receive an average child-care benefit payment of over $2,000 a year, and that subsidises around 70 per cent of the total cost of child care to low-income families paying average fees. We have done more for child care than Labor ever considered doing. Record numbers of children have access to Commonwealth funded child-care places. The number of children using child care has increased by around 223,500, making a total of 530,000 places across all service types, and most recently boosted by the additional places announced by Mr Larry Anthony in December 2003. The largest increase was in outside school hours places, which increased by over 168,000 places. Senator Collins does not like to hear, Labor does not like to hear, how much has been done for families not only through family assistance but through what we have done in child care and in assisting families to balance work and family life. We have also implemented quality assurance systems to ensure that the services provide quality outcomes for children.

Senator JACINTA COLLINS—Mr President, I ask a supplementary question. I think Senator Patterson was referring to the accreditation process introduced by Labor. The minister has not addressed my question which was in relation to the greater flexibility and choice in child care initiative. There was not one skerrick of information about that initiative in any of her comments. If she wants to deal with more general issues, perhaps she could answer why the government is continuing to allow significant shortages in long day care to accumulate. Why has this government allowed a net decline of 500 long day care places between 1998 and 2002?

Senator PATTERSON—All I am saying is that Senator Collins does not like to hear this, because we are saying that we have spent more on child care. We have doubled the funding for child care, we have increased the number of places, we have made it more accessible and we have made it more flexible, and Labor does not like to hear that. The number of Commonwealth funded child-care places and services has increased since the government came to office. The number of child-care places has increased by around 223,500, making a total of 530,000 places across all service types, and most recently boosted by the additional places announced by Mr Larry Anthony in December 2003. The largest increase was in outside school hours places, which increased by over 168,000 places. Senator Collins does not like to hear, Labor does not like to hear, how much has been done for families not only through family assistance but through what we have done in child care and in assisting families to balance work and family life. We have also implemented quality assurance systems to ensure that the services provide quality outcomes for children.
bor Party to provide adequate child care. We have doubled the funding. We have increased the number of places by over 230,000, but Senator Collins and the Labor Party do not want to hear what we have done to assist families by increasing the number of child-care places.

**Discrimination: Sexual Harassment**

**Senator HARRADINE** (2.38 p.m.)—My question is to Minister Ellison representing the Attorney-General. I refer to the recent national survey conducted by the Human Rights and Equal Opportunity Commission which found that 28 per cent of Australians had been sexually harassed at some time, that the main harassers were male coworkers and that their victims were younger women. What is the government doing to change the culture which sees women merely as objects for the sexual gratification of men? For example, is the government doing anything about sexist television advertisements such as the ad for Double A copy paper which depicts a woman on all fours over a photocopier as ‘upskirt’ pictures are taken and viewed by a young man and also a series of Cougar ads in which men are depicted as approving the treatment of a young woman in a sexually demeaning way?

**Senator ELLISON**—The government views sexual harassment with concern. We have sexual discrimination legislation in place which provides for people to make a complaint to the Human Rights and Equal Opportunity Commission. A survey conducted by the Human Rights and Equal Opportunity Commission found some alarming statistics. Apart from the 28 per cent of adults who revealed that they had been the subject of sexual harassment, as I recall, 15 per cent of women felt that they had been the subject of sexual harassment in the workplace. As a result, the government is looking at this closely. Just last week, the Attorney-General, Mr Ruddock, issued a code of practice for employers entitled *Sexual harassment in the workplace—a code of practice for employers*. We believe it is very important that there be education not only of the wider community but particularly of employers in relation to their duties to people who work for them and their obligations in relation to sexual harassment. This code of practice provides employers with practical guidance on the sexual harassment provisions in the Sex Discrimination Act. It assists employers to implement policies and procedures which will eliminate and prevent sexual harassment at work. We believe that this is a step forward in that education process.

Senator Harradine has raised an issue in relation to a number of advertisements. There is of course the Advertising Standards Bureau, to which a complaint can be made. I understand that over the last few months a number of advertisements have been withdrawn or modified as a result of a complaint. I am not aware of the particular advertisements that Senator Harradine has referred to. I will take those on notice and advise the Senate accordingly. In relation to advertising, there is an avenue of complaint for people and those complaints are acted upon. Complaints can relate to discrimination on race, nationality, sex, age, sexual preference, religion, disability, political belief, violence, language, portrayal of sex, sexuality or nudity, health and safety, alarm or distress to children. Maintaining these standards is another important area, particularly in relation to any sexual harassment.

Also, the HREOC publication that Senator Harradine mentioned, *20 Years On: The Challenges Continue ... Sexual Harassment in the Australian Workplace*, provides a valuable report in relation to sexual harassment in the community. Over 1,000 Australians between the ages of 18 and 64 were surveyed. The statistics which have been
revealed are alarming. It translates to some estimated 230,000 workers in Australia claiming to have experienced sexual harassment in 2002-03. The government views this with concern and this matter has high priority in this government.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in my gallery of a delegation from the Council of Federation of the Federal Assembly of the Russian Federation led by Mr Valeri Kadokhov. I warmly welcome the delegation to Canberra and to the Australian Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Women: Domestic Violence

Senator MACKAY—My question is to Senator Patterson, Minister Assisting the Prime Minister for the Status of Women. Can the minister confirm that the ‘No respect, no relationship’ domestic violence campaign which was designed to be broadcast last December included a special program using senior football figures to educate junior football players about sexual, physical and emotional abuse against women? Can the minister explain why the government refused to allow the Coaching Boys Into Men campaign to go ahead before the 2004 football season began? Given the recent number of alleged sexual assaults by Rugby League and AFL players, does the minister now agree that the original timing for this campaign was spot on?

Senator PATTERSON—Since we came to government we have spent over $60 million on the prevention of domestic violence, particularly against women, on about 230 individual programs to address the issue. I would say that this is one matter that we all agree on on both sides of the chamber and at the other end as well: violence in any form, particularly against women, is unacceptable. We are committed to preventing and reducing instances of domestic violence and responding to the issue of domestic violence and sexual assault. We initiated a $50 million program for Partnerships Against Domestic Violence and have committed $16½ million to the national initiative to combat sexual assault.

I have said a number of times in this chamber when I have been asked a question about one particular part of the program, which was the communications strategy, that we are absolutely determined to ensure that the message is clear and unequivocal when the campaign goes forward. We are absolutely determined as well to ensure that there are appropriate support systems in place behind that program. Sometimes when a proposition is put forward it may look good on the surface. It was proposed to have a web site as one part of the program. We did not think that was adequate for those people who raised concerns, who had been victims of sexual assault or believed they were likely to be victims of sexual assault or abuse. We thought that they should have access to appropriate resources. That would require not only a 1800 number but also a structure behind that number to ensure that people can be directed to the appropriate resources and services that are available in the relevant states and territories, and also to assist in backing up some of those services. We will not let the campaign go ahead until we have that assurance that we have a backup. It is vital that we ensure that those people are assisted when they contact the 1800 number. Labor will make merry hell out of this, but it is absolutely vital that the message is clear and unequivocal and that we have the appropriate support behind that program.

Senator MACKAY—Mr President, I ask a supplementary question. Can the minister
confirm that she organised a lunch in a private room at Sydney’s exclusive Longrain restaurant last month to reassure senior female journalists and editors, including Mia Freedman, Editor of Cosmopolitan, about the future of the ‘No respect, no relationship’ campaign? Did the minister subsequently tell the gathering that she would not discuss the future of the ‘No respect, no relationship’ campaign at this lunch because she had just inherited the women’s portfolio? What was the cost of this exclusive lunch, with no apparent purpose and why do taxpayers have to foot the bill?

Government senator—What’s the cost of Centenary House?

Senator PATTERSON—It cost significantly less than about an hour’s rental of Centenary House. I talked about the program at length with the person from the Bulletin, who was sitting next to me on my left. In fact, she wrote an article afterwards, so you cannot claim that I did not talk about the campaign. I talked about it at length. The aim of the meeting was to meet with senior women—and I think it is important that I met with them—who run magazines which contain information about families and women’s issues. As the Minister Assisting the Prime Minister for the Status of Women, I thought it was appropriate for me to meet with those women and to discuss a number of other issues as well as the campaign. I think former Senator Newman met with them on a number of occasions as well. I thought it was appropriate to do the same thing. (Time expired)

Superannuation: Self-funded Retirees

Senator LIGHTFOOT (2.49 p.m.)—My question is directed to the Minister for Family and Community Services, Senator Kay Patterson. Will the minister outline to the Senate the actions the Howard government is undertaking to assist self-funded retirees and is the minister aware of any alternative policies?

Senator PATTERSON—I should get overtime this week.

Opposition senators interjecting—

Senator PATTERSON—They cannot even take a joke. They are very serious today.

The PRESIDENT—Order! I thought we were going to get through question time today with a little less noise, but it does not seem that is going to be the case. Could senators on both sides of the chamber please come to order and allow the minister to answer the question.

Senator PATTERSON—I appreciate the question from Senator Lightfoot. We recognise the valuable contribution that self-funded retirees have made to their own retirement. Not only does the government recognise it but we also assist them. We have given them significant tax concessions which apply to their superannuation contributions, their earnings and benefits paid to them. Self-funded retirees have benefited from the lower personal tax rates introduced in the new tax system. Taxation benefits, through the senior Australian tax offset, allow eligible single senior Australians to earn up to $20,500 without paying income tax and allow couples to earn up to $33,000 without paying income tax. That is a significant benefit for those eligible senior Australians. The Commonwealth seniors health care card is now available to single people over age pension age earning taxable income of up to $50,000 or, in the case of a couple, $80,000. Since January 1999 this figure has been increased by $29,000 for a single person and $45,000 for a couple since January 1999. Self-funded retirees will also benefit from changes recently announced by the government that will allow a greater choice and flexibility in accessing their superannuation.
The Australian government have also committed $25.5 million so that the state and territory governments could offer concessional fares on public transport for state senior card holders travelling outside their home state. I receive letters about this over and over again. We have made an offer to the state governments to assist those seniors who are travelling interstate to receive a discount. We have written to the states saying that the concession would be available on specified routes. It would not be available on all transport; the states could decide. We have made it more flexible for the states, but they have not come to the party—not all of them.

Last week I announced a $75 million package, which could save Commonwealth seniors health care card holders an average of nearly $700 a year on their rates, car registration, electricity, water and sewerage charges. If you read the papers and see what is going to happen in New South Wales to those charges, they will need that sort of assistance to pay for those services. If the state and territory governments sign up to this offer, self-funded retirees who are eligible for the Commonwealth seniors health care card will be eligible for a range of concessions.

It is time that the states and territories came into line, I have to say, with Western Australia and the Northern Territory, both of which offer concessions to their Commonwealth seniors health care card holders. We have given the states an offer of $75 million. I was in Tasmania the other day and I indicated to them that it was a significant increase in the money that would go into Tasmania to assist those people who have worked hard all their lives to provide for themselves—to give them some relief from expenses like their car registration, their electricity, their water and their rates. As I said, in New South Wales they will need that assistance because, from what we can see, they are going to increase those taxes and charges, and self-funded retirees will need that assistance from the Commonwealth.

We are offering 60 per cent of those concessions. What we are asking the states to do is to give 40 per cent towards it to give relief to those self-funded retirees. What we need is for those governments to come to the party and pay up and assist those self-funded retirees, who would benefit to the tune of about $700 on average per family of self-funded retirees, to relieve them from the pressures of some of those costs. Labor on the other side needs to go to their state premiers and treasurers and say that they should be meeting that Commonwealth offer. (Time expired)

**Taxation: Charitable Institutions**

**Senator WONG** (2.53 p.m.)—My question is addressed to Senator Coonan, Minister for Revenue and Assistant Treasurer. Does the minister recall the Prime Minister’s response to a question on ABC radio in Adelaide on 18 March regarding the loss of salary sacrifice arrangements for low-paid workers in the disability sector? He said:

I was not conscious that these changes were going to result in people paying more tax. I thought they might result in some different categorisations to certain institutions, but I was not conscious that they were going to pay more tax.

Does the minister also recall her own comment in question time last Thursday that ‘certain matters that do deserve consideration have been brought to the government’s attention. Some rationalisation of this approach may be necessary’? Is the minister aware that the new fringe benefits tax year begins tomorrow and that thousands of workers in the health and disability sectors will face huge drops in income because the tax office has removed their employer’s PBI status? What action does the minister propose to take in this matter?
Senator COONAN—As I said last week, the government is aware of certain issues relating to salary sacrifice arrangements and people who otherwise were entitled as employees of PBIs. We are indeed aware of that. What I said was that the tax office has not so much changed its position but, where there have been situations where state governments have taken over management or control of agencies, clearly the issue then is: should state governments actually be getting the same tax benefits? That is an issue that arose because of judicial interpretation. As I have said very clearly, the federal government is not reducing the salaries of workers in state health bodies. That is a matter that the Labor Party should get clear. State governments exert more control over organisations than in the past. It means that these organisations may no longer qualify as public benevolent institutions but will be government bodies.

Public benevolent institutions receive a $30,000 capped fringe benefits tax exemption—a generous concession that recognises the benevolent nature of these organisations. It is a well-established principle of the existing common law that a government body is not a charity or a public benevolent institution. Whether an entity is a government body or not depends on whether it is subject to government control. The government has not changed the requirements that an organisation must meet to be a public benevolent institution, nor has it proposed legislation that would change these requirements. The Commissioner of Taxation enforces a compliance program in this area to ensure that self-assessment is being correctly applied, just as he enforces compliance programs in other areas of tax law to ensure that taxpayers are acting within the law.

Loss of status as a public benevolent institution would mean that employees could no longer access a fringe benefits tax exemption. That would only affect employees if the employers made a decision to change the remuneration that was available to employees. Having said that, the government recognises—and indeed it was, I think, without doubt a generous move—public hospitals, and a $17,000 capped fringe benefits tax exemption is available specifically to public hospitals, which may be controlled by government. The government has recently extended this concession to public ambulance services on the basis that they are closely connected with the work of public hospitals. As I said in response to a question last week, there are some issues being brought to the attention of government that are currently under consideration. I will make an announcement or the Treasurer will make an announcement if there is some further considered response necessary.

Senator WONG—Mr President, I ask a supplementary question. Minister, given that the fringe benefits tax year begins tomorrow, will you or the Treasurer make an announcement before then as to whether the government will give these workers the same tax treatment in respect of salary sacrifice that it is giving to workers in public hospitals, ambulance services and country fire services?

Senator COONAN—I mean absolutely no disrespect to Senator Wong when I say that the policy is not going to be made on the floor of the chamber. Policy—and a policy response by government, if there is a further one—will be made after all matters have been considered and will be done in the appropriate way.

Senator WONG—My question is addressed to the Minister representing the Minister for Health and Ageing.
Can the minister explain why consumers were not told that some batches of the prescription drug Codalgin Forte lacked its most important ingredient, codeine, despite the fact that a recall of 240,000 packages was ordered? Is the minister aware that pharmacists say that patients who do not know about this problem may be upping their dose to get the pain relief that they need and that this has the potential to cause liver damage? Is the minister aware that pharmacists are also concerned that these patients may be in great danger of overdose and breathing difficulties if they now take Codalgin Forte with codeine? Why has the TGA failed to provide consumers with potentially lifesaving information?

Senator IAN CAMPBELL—I do not have a brief to hand on that. It is obviously a very important question. We would like to get information to Senator Allison and the Senate about it, so I will have to take it on notice.

Senator ALLISON—Mr President, I ask a supplementary question. I thank the minister for his non-answer, but this was mentioned in the press this morning. Given the massive recall undertaken with Pan Pharmaceuticals where, in fact, no contamination or danger in natural supplement tablets or capsules was ever detected, can the minister assure us that the lack of public recall here—when we know there was, in fact, a real danger and a real safety and quality issue—is not due to the fact that Sigma is a business at the big end of town?

Senator IAN CAMPBELL—I have already taken the question on notice, and I will answer it then.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Environment: Uranium Mining

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (3.00 p.m.)—Last Thursday in the Senate, Senator Allison asked me, as the Minister representing the Minister for the Environment and Heritage, a question about water contamination at the Ranger mine. I have quite a lengthy answer from the Minister for the Environment and Heritage and I seek leave to incorporate it in Hansard.

Leave granted.

The answer read as follows—

I would like to reiterate the Government’s concern that the mining company allowed this incident to occur. It should not have happened, and I have asked the Supervising Scientist to work with the mining company and the NT Government to ensure that appropriate mechanisms are put in place to prevent a recurrence.

Senators will be aware that in any mining operation, indeed any industrial operation, accidents or incidents will occur. What is important is that systems are in place to ensure the early detection of these incidents and to ensure the protection of people and the environment when incidents do occur:

There have been a number of events at the mine in the 20+ years since the mine started operating, and last week’s event was at the more serious end of the scale. However, none of these events have caused any harm to the people or the environment outside the mine site. Just last year, in his submission to the Senate Inquiry on the Environmental Regulation of Uranium Mining, the Supervising Scientist provided a thorough analysis of all of these incidents. He concluded that, of the total of 122 incidents that had been reported at that time since mining began at Ranger in 1979, one incident has been assessed as being of moderate ecological significance and one incident has had significant impact on people working at the mine.

Given the proximity of the Ranger mine to Kakadu National Park, the Commonwealth ex-
pects nothing short of best practice environmental performance at the Ranger mine.

This latest incident is clearly not good enough and will need addressing to ensure that it does not happen again. I must, however, note that the overall number of incidents reported is also an indication of the rigour of the reporting framework, and that not every incident is as serious as the one that occurred last week.

Since this issue was raised in the Senate last Thursday, the Supervising Scientist has advised me that, some of the contaminated water had been inadvertently discharged at the Jabiru airport, which is on the mine lease.

As soon as becoming aware of this incident, I immediately asked the Supervising Scientist to carry out tests to assess what, if any, impact may have occurred to the external environment. Over the weekend, tests were conducted, and I was pleased to see that the Supervising Scientist was able to formally advise that the people and the environment of Kakadu National Park had not been harmed by the leak of contaminated water from last week’s leak. This news provides an assurance to the area’s Traditional Owners and other Aboriginal people that local bush tucker and creek water are safe to consume.

In relation to worker health issues, I can advise that approximately twelve mine workers have reported health issues, and both the mining company and the Supervising Scientist have sought specialist advice on possible health impacts.

Over the course of these events I have asked the Supervising Scientist to treat this issue extremely seriously, and he has informed ERA that operations at Ranger should not recommence until we have complete confidence that systems are in place that will not allow a similar incident to happen again and there is no risk to people or the environment.

As a result, the Ranger mine remains closed. Approximately twenty mine workers were allowed back on site last night, for maintenance operations only, and more are expected to return to site today. I must stress that these workers will be engaged in maintenance activities only and that no decision has been made on resumption of actual mining and milling operations. The NT Government regulators have concurred with the Supervising Scientist’s assessments in relation to return to site issues.

It is likely that a decision on possible resumption of mining and milling operations at the mine might be made in the next few days. The Supervising Scientist met with and briefed Traditional Owners, including Senior Traditional Owner Yvonne Margarula, at Jabiru yesterday, and also participated in a public forum in Jabiru in which approximately 150 Jabiru residents raised concerns about issues associated with last week’s incident.

As to the question on possible punitive action, it is clearly too early to consider this issue. I note that media reports this week suggest that the NT Government may consider legal action against the company. This is appropriate given the NT’s responsibility for day-to-day mine regulation.

As Senators were advised last Thursday, I have asked the Supervising Scientist to conduct an immediate inquiry as his top priority. I expect to receive a full and comprehensive report from him once all the facts are known and that is when the Government will consider any possible punitive action.

Any recommendations made by the Supervising Scientist will be pursued by the Government, and any possible measures will be taken with the intention of ensuring that such incidents do not happen again.

ANSWERS TO QUESTIONS ON NOTICE

Question No. 1403

Senator ALLISON (Victoria) (3.01 p.m.)—Pursuant to standing order 74(5), I ask the Minister representing the Prime Minister for an explanation is to why an answer has not been provided to question on notice No. 1403, which I asked on 22 April 2003.

Senator HILL (South Australia—Minister for Defence) (3.01 p.m.)—Senator Allison informed my office shortly before question time that she intended to raise this matter. The history is that she put a series of
questions on notice regarding the UNMOVIC weapons inspection process in the lead-up to the Iraq war. A number of these questions were rhetorical in their nature and, I respectfully suggest, were little more than an attempt to re-argue the reasons behind Australia’s involvement in the Iraq war. Notwithstanding that interpretation, my office has contacted the Prime Minister’s office and we are attempting to get the answer for Senator Allison as soon as possible.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Family Services: Child Care

Taxation: Family Payments

Senator JACINTA COLLINS (Victoria)

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

The debate across the chamber today was very similar to those we have had for the past two days, although today we were also able to concentrate in part on Labor’s announcement of a new baby care payment. The responses today were very interesting in two ways. Firstly, they demonstrated the denial of the Howard government with respect to the wellbeing of Australian families and, secondly, the most ludicrous aspect of the debate across the chamber today was the suggestion that Labor had plagiarised its policy.

We know how long we have waited for action on work and family from this government. We can understand why senators got up today and said, ‘Families are flourishing.’ It reminds me of the Prime Minister not long back saying, ‘Actually, we’ve looked at work and family issues and we’ve decided we’ve pretty much got the balance just about right.’ I hope the government maintain that position; I really hope they maintain that position all the way to the election because, as Senator Harradine said earlier in the chamber today, if they do not, then they will be judged very, very poorly. Community sentiment on this is akin to what is happening with Australia’s fertility rate: it is in decline because families are not getting the support they need. We see headlines like the one in the Australian today: ‘Poor record on maternity leave’. I quote the first paragraph of that article:

AUSTRALIA is one of the worst countries in the advanced world for maternity leave and affordable childcare, and our birthrate will continue to decline until governments intervene.

Stand that statement—and this is based on an OECD survey on these issues—against Senator Patterson’s statements in the chamber today. She gets up and says, ‘Oh no, we’ve thrown money at this and we’ve thrown money at that and Senator Collins can’t read budget papers and no-one else really knows what they’re talking about.’ There are very serious concerns about the data and the material that Senator Patterson brings to this place. Outstanding concerns from the last estimates round include the fact that the government’s figures are double counting childcare places. When she talks about the growth in child-care places, the government are double counting. When she talks about the level of spending, they are double counting. They are counting money that they have clawed back through underspending, through family tax debts and many other measures too.

But that is not where the misrepresentations end—oh no. Senator Patterson says Labor refuses to acknowledge the benefit of family tax benefit B. What is significant about today’s announcement is that Labor in government would improve what is available
for women at home through family tax B because we would actually enable them to spread over a period of 12 months—the first year after their baby’s birth—additional support, which for some families amounts to between $50 and $60 a week over and above family tax benefit B. Senator Patterson misrepresents the situation in relation to the maternity allowance. Whilst the funding of our package refers to the current expenditure for the maternity allowance, the proposal actually absorbs it.

As I said previously in the chamber today, when I first came into this place I was able to ask a question about the establishment of the maternity allowance. What Labor are saying is that we will double it. We will extend the maternity allowance—the down-payment that Labor made nine years ago. We will double it, and we will increase the amount paid to families up to the federal minimum award rate. When Senator Patterson says we are abolishing the maternity allowance, she is being very misleading. When she says we are plagiarising their policy, she is being completely misleading. Let us hope the government continue to perform like they did today, because if they do they will not be in office for much longer.

Senator WATSON (Tasmania) (3.07 p.m.)—Senator Collins appears to be under the misapprehension that an increase in tax benefits to families will significantly change the fertility rates in Australia. I put it to you, Senator Collins, that it is only one factor but that it is perhaps not the most important factor. Senator Collins and other members of the Labor Party well know that social norms and people’s priorities in relation to work and family have changed significantly. So what you are talking about is part of a long-term demographic trend, and you appear to blame that on the Liberal Party. When you look at the figures and at the past history of what we have achieved, it is significant and commendable.

I remind the ALP that the coalition government now spends more than $13 billion per annum on payments to families through family tax benefit, child-care benefit and other family payments. That is around $2 billion more each year than under the old system; it is very significant. For example, under the Liberal Party the family tax benefit provides families with real choices. We are about choice—choice in family alternatives, obligations and entitlements, choice in superannuation and choice when you want to retire. The family benefit provides families with a real choice of whether to have one parent at home as a full-time carer or to have two parents in the work force.

Mention was also made of the baby bonus. The baby bonus is in recognition of the fact that, when the first child is born, there is quite often a significant drop in a family’s income. I know that, because I have seven grandsons. Senator Collins may have known that, but perhaps she continued in full-time work and was one of the lucky ones who did not experience a big drop in family income. Senator Sherry possibly took advantage of the Liberal Party’s family baby bonus. For most people in this country, there is generally a reduction in family income following the birth of a child. The Liberal Party recognises that, when a family’s income drops and their costs go up and are continuing to go up because of the arrival of a new infant, there is a need for some compensation. I remind everybody that there is a minimum payment of $500 for all claimants with incomes up to $25,000. It is targeted at the bottom end.

When we look at the data for October 2001-02 we find that over 154,000 Australians have claimed the baby bonus payment. It is true that some people have expressed a little bit of difficulty in understanding some
of the Taxation Office publications. But for those who have taken advantage of going to the tax office direct line, it is a relatively simple calculation. Those who have taken advantage of that assistance through the tax office helpline have been surprised at how relatively simple it is to take advantage of the benefit and claim it.

The other important feature of the baby bonus is that it can be claimed over the first five years of a child’s life. Whether or not we go down the path that Labor suggested is a moot question because of their flip-flop changes in policy—or should I call them the ‘ping-pong policies of Mr Latham’, who is on one side of the table and then on the other side of the table. Without certain grandfathering, abolishing the baby bonus will disadvantage existing claimants who have not yet claimed the full benefit of their first five-year entitlements. Surely that will be a big disadvantage if you go down that particular line. It cannot be an equitable one—

(Time expired)

Senator WONG (South Australia) (3.13 p.m.)—I rise to speak on the motion moved by Senator Collins to take note of answers given in question time today by Senators Coonan and Patterson. Many of the questions asked by the opposition focused on the issue of work and family. On the day that Labor announced its baby care payment—a comprehensive system of paid maternity leave—you would have expected two of the ministers in the Howard government to come out and defend the government’s record on work and family. But what did they come up with instead?

Frankly, we had a pathetic contribution from Senator Patterson. The minister’s great line about Labor’s policy was not a criticism of the policy or an engagement about the substance of the policy but a complaint that we had plagiarised the government’s leaked cabinet minute for the title. Is the best you can come up with, Senator Patterson, that the Labor Party has used words that the Howard government previously used when it was considering this issue? This is quite consistent with the approach the government has taken on the issue of work and family. The government has been very good at words, very good at speaking about what it might do and what it thinks it should do and putting the issue on the agenda. But there is very little action. Senator Patterson’s contribution today is simply the same modus operandi from this government when it comes to work and family.

Senator Coonan jumped up and down about the baby bonus, telling us what a wonderful policy it was. The reality is that the baby bonus has been a substantial failure. It has been a flop. One in three new mothers has not received a single cent of the baby bonus since its implementation. Less than one per cent has received more than $1,500. Ninety per cent of new mothers who claim the baby bonus receive $500 or less. That is the policy that this government continues to trumpet on the issue of work and family. The reason that these two ministers could not defend the Howard government on the issue of work and family is that they do not have any answer to Labor’s announcement today. They know that this is a far more comprehensive system of paid maternity leave than has ever been promised by either of the two major political parties in Australia.

On the one hand Labor are saying, ‘We will deliver essentially paid maternity leave for the vast majority of Australian mothers, whether they are in the paid work force or not.’ On the other hand, we have a government that complains about words, that keeps talking and that trumpets a baby bonus that has been a dismal failure. What we have seen from this Prime Minister is lots of words but very little action. At the announcement of the
last federal election, the Prime Minister talked about better balance of work and family responsibilities. In July 2002, he raised the issue of paid maternity leave. On 19 July he described the work and family policy as the ‘biggest ongoing social debate of our time’. He said: ‘I call it a barbeque stopper.’ But then there was a fair bit of backtracking, and there was plenty of discussion in the papers about maternity leave not being in the budget despite previous consideration of it. If you look at what this Prime Minister has done, the reality is that he has been long on rhetoric, he has spoken a lot of words about work and family but he has delivered very little to many Australian families, particularly to mothers with respect to the baby bonus.

The reason we saw two ministers today unable to attack Labor on the issue of the announcement is they have no answer to it, and they know it. All you can come up with is yet another round of rhetoric. You trot out again the same old rhetoric about the baby bonus and the family tax benefits that everyone knows are riddled with problems. That is the best that you can do when it comes to the issue of work and family. Australia is one of the worst countries in the developed world when it comes to the issue of maternity leave. (Time expired)

Senator HUMPHRIES (Australian Capital Territory) (3.18 p.m.)—Today we are debating the latest of Mark Latham’s policy lurches which, I am sure we all realise, is more designed to take a bit of heat off the fiasco of his announcement earlier this week that he was going to have troops home from Iraq by Christmas—a clanger of a policy that has caused a few others to be trotted out at great haste and which we have now come to debate today. I am not impressed by the slipshod policy that has been put out today any more than I was impressed by those that were made earlier in this phoney campaign.

The Labor Party have discovered families. The Labor Party have realised they have to say something about families in order to deal with their obvious inattention to this issue the last time they were in government. The party that delivered to Australian families record unemployment, spiralling downwards growth and record interest rates, all of which had a hugely damaging impact on Australian families, have now come back to talk about what they are going to do for Australian families.

The record of this government on families is a pretty good one, and Labor will have to work very hard to deliver something better than what has been provided by this government over the last eight years—the lowest interest rates in a long time, the lowest inflation, growth in real wages, growth in employment, growth in productivity and an unemployment rate of just 5.6 per cent, the lowest in 22 years. Those things all make a difference to Australian families. If those things are changed, if those benefits are withdrawn from Australian families, look out. Those families will not be thanking a Labor government.

This policy has been trotted out in short order to deal with the broader problems faced by Mark Latham and his Labor Party during this week. But the devil is in the detail. Can the Labor Party deliver the promises they have made in this policy? What are the details that are so little attended to by Mark Latham and his colleagues in putting these policies together? What are the things that have been put to one side and forgotten about as another policy on the run is produced by Mark Latham’s Labor? One of the details I have looked at in this policy gives me great concern. It is mentioned on the very last page of Labor’s document on the baby care payment. One of the savings that they make to achieve this $2.6 billion supposedly to be spent on Labor’s baby payments is a
cut of almost $50 million over four years to the National Capital Authority, which is nearly $12 million per annum for each of the next four years. The total budget of the National Capital Authority is in the order of $30 million. That amounts to a cut of 40 per cent in our National Capital Authority. There is not 40 per cent fat in this National Capital Authority. You cannot take out 40 per cent without cutting jobs in the national capital or without cutting programs that are important not just to the people of the ACT but to preserve the status of this planned national capital.

When we saw the Labor Party’s announced cuts to the National Office for the Information Economy a few months ago, we might have been forgiven for thinking that this was a one-off, not thought through policy announcement that had an implication for the national capital. I could forgive Senator Lundy, as the other senator for the ACT, for perhaps not noticing that policy matter get through and not realising it had a big impact on the ACT. Fair enough. But this policy—a 40 per cent cut to the National Capital Authority in the course of the next four years—is not forgivable. It is not excusable. It is a significant blow to our capacity as a nation to preserve and enhance our national planned capital.

And you people—you people who tout yourselves as being the people who care about Canberra, the people who are promoting and protecting the ACT—have been exposed for what you are: you are frauds. You have seen the ACT as a milch cow to pay for your discredited policies, and it is about time that you came good on the realisation that you are nothing more than people who are prepared to rip money out of the ACT in order to pay for your discredited policies.

The DEPUTY PRESIDENT—Senator Humphries, I think you should withdraw the imputation about the people on the other side being a fraud. It is unparliamentary.

Senator HUMPHRIES—If you require that, Mr Deputy President, I will withdraw it.

The DEPUTY PRESIDENT—Not if I require it—I think you just should withdraw it.

Senator HUMPHRIES—I withdraw.

The DEPUTY PRESIDENT—Thank you.

Senator Hill interjecting—

The DEPUTY PRESIDENT—Senator Hill, we are not going to go into that.

Senator BUCKLAND (South Australia) (3.23 p.m.)—It is interesting that Senator Humphries mentioned that the Labor Party has discovered families. It was not until Mark Latham became the leader of the Labor Party that the Prime Minister realised that there were families out there. He had his mind on other things but certainly not on families and certainly not on people’s need for work. He was diverted, and it brought him back to a very sharp realisation that there were other people in this country who were reliant on government policy.

Labor has been proud to be able to release a policy today—a policy that is right for this country, a policy that is equitable and a policy that treats all women and families equitably at the time of the birth of a child. It does that because Labor realises that parents do face a really abrupt change of finances and lifestyle when a child is born. But what does the government do? It has a policy that does not provide enough for a new cot, a new pram and other necessities when a child comes into a family. It does not compensate properly. The government does not think things through when it comes to families. That is left to the Labor Party to do, and the government will be dragged screaming back
into the debate because it is a debate it does not want to have.

I have always been interested in the things the Prime Minister has had to say about families. He has said some real crackers of things. I think his barbecue stopper one that my colleague and friend Senator Wong mentioned was one of his best. He said:

This is the biggest ongoing social debate of our time; I call it a barbeque stopper.

The barbeque stopped pretty quickly for the Prime Minister because he did not have the sausages to keep it going. The whole thing fell flat for him. He announced it and did nothing further to pursue better lifestyles and better conditions for those families with newborn children. It just did not work for him. I can remember too in October 2001 at the announcement of the federal election the monumental words of the Prime Minister:

Ladies and gentlemen, this election is not only about the record of the Government... it is about how we better balance work and family responsibilities, so important to millions of Australians and their families.

He said a lot; he did nothing. He has done nothing for families. He has done nothing for families with newborn children, and this government does not have the heart to get in there and mix it with people who need help at this most important time.

I looked at a report in the Age of December 2002 about maternity leave. Fourteen weeks, supposedly, would be on the way. It said:

Prime Minister John Howard has ordered senior ministers to craft a three-plank “work and family” package to give women greater flexibility over whether they stay at home or return to work after the birth of a child.

A three-plank program—one that did not take into consideration that women had to give up a lot and then go back to jobs that maybe were not as good as what they left, if they could get back into the work force at all. The three planks seem to me to be: be born into hardship, then struggle when you have children of your own and, of course, work till you drop to help the government out. The whole thing fits together very nicely for this government. They do not have a heart. They do not have families in their sights at any time. They make all the assurances of what they will do, but they simply do not deliver. I think it is high time for this government to realise that they have been outmanoeuvred on this. As I say, they will be dragged screaming into the debate—a debate they will not win, because it is a debate that they were absolutely without credibility on in the past and cannot now—(Time expired)

Question agreed to.

Telstra: Services

Senator CHERRY (Queensland) (3.28 p.m.)—I move:

That the Senate take note of the answer given by the Minister for the Arts and Sport (Senator Kemp) to a question without notice asked by Senator Cherry today relating to Telstra.

The question related to the telecommunications performance monitoring bulletin released today, which had some fascinating data on the performance of Telstra in terms of its clearance of faults in its network. The most interesting thing in Senator Kemp’s answer was his very last comment, which was that the data released today, in the ACA’s view, was ‘not inconsistent’ with the data that was in the internal memo from Telstra Infrastructure Services leaked to the other place earlier this month. Essentially, the memo showed that faults are at a five-year high in Australia at the moment and are still rising and that if there is not urgent remediation done on the telecommunications infrastructure then the fault level would continue to rise. The data shows, particularly in respect of the network reliability framework,
that faults have continued to rise during 2003 at a fairly regular rate and that faults have risen even faster in country areas than city areas. It is fascinating to now have on the record, conceded by the minister in a direct briefing from the ACA, that the ACA’s data is not inconsistent with the finding in the leaked memorandum. That is a concession which I think we have been waiting for for a very long time from government.

It is worth having a look at some of the figures in this document today because they are particularly interesting. Before doing that I should commend the government, as I do not often do in communications, for the development of the network reliability framework, which in my view could be the basis for the development of a decent regulation of the infrastructure of the network over time once the data continues to be put in place. However, the government need to ensure that they follow through the data with real action. The reduction in infrastructure investment that we have seen year in and year out for the last four to five years needs to be reversed. More money is required to go back into Telstra to actually do something about the fault levels.

It is worth looking at some of the figures coming out of the ACA. I am pleased Senator Mackay is here, because in today’s report we have a concession at long last that the monthly fault rates on the network reliability framework are misleading. They now publish the actual annual figure, and 10.2 per cent of all services in Australia had a fault last year and that figure rose to 21 per cent in the Northern Territory. It is interesting to see the rates coming through for some of the regional areas, particularly of New South Wales and Queensland: the mid-north coast and the New England area reported average fault rates of 14 per cent and 15 per cent of services in 2003, which was almost double the national average of nine per cent and the Sydney average of eight per cent; the Central Coast, 12.6 per cent; the Greater Western region, 11.5 per cent; the North Coast and Riverina, 11 per cent; and Newcastle, 10 per cent. In my home state of Queensland, it was up north where the issue really came into play. The far north had an 11 per cent fault rate across its services; North Queensland, 10 per cent; the south-west, 9.4 per cent; Wide Bay, 10 per cent; and Central Queensland, 10 per cent. All of these are roughly a third to a half more than the Brisbane average of 6.7 per cent.

This data means that right across regional Australia—I think it was an enormous number of the regional service areas—there has been a faults performance which, by the government’s own standards and the ACA’s standards, is not acceptable. This really needs to be actioned by the government. It needs to take the data which is now coming out of the network reliability framework and turn it into substantive policy action. It needs to ensure that the ACA is required to follow up on this data and requires real investment in infrastructure. Telstra has reduced investment in its infrastructure for the last four years. This year investment in infrastructure will be $400 million less than last year. The number of staff in Telstra will be 3,000 fewer than last year. It is time for the government to realise you cannot just keep chipping away at the basic infrastructure investment without seeing fault rates continue to rise. I am pleased to see that we have the concession from the minister today that the fault rates now being reported to the ACA are consistent with the fault rates in the Telstra document released earlier this month. It is important we recognise that, until we start getting that investment up, these fault rates will continue to rise, get out of control and deliver service levels which are not acceptable in regional Australia, let alone in urban Australia.
PETITIONS

The Clerk—A petition has been lodged for presentation as follows:

Education: Educational Textbook Subsidy Scheme

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

The Petition of the undersigned draws to the attention of the Senate, concerns that the expiration of the Educational Textbook Subsidy Scheme on June 30 will lead to an eight percent increase in the price of textbooks, which will further burden students and make education less accessible.

Your petitioners believe:
(a) a tax on books is a tax on knowledge;
(b) textbooks—as an essential component of education—should remain GST free;
(c) an increase in the price of textbooks will price many students out of education, particularly those students from disadvantaged backgrounds; and,
(d) the Educational Textbook Subsidy Scheme should be extended past June 30.

Your petitioners therefore request the Senate act to extend the Educational Textbook Subsidy Scheme indefinitely.

by Senator Stott Despoja (from 3,197 citizens).

Petition received.

NOTICES

Presentation

Senator O’Brien to move on the next day of sitting:

That the provisions of the Tourism Australia Bill 2004 be referred to the Economics Legislation Committee for inquiry and report by 13 May 2004.

Senator Sandy Macdonald to move on the next day of sitting:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the effectiveness of the Australian military justice system be extended to 5 August 2004.

Senator Brandis to move on the next day of sitting:


Senator Ludwig to move on the next day of sitting:

That there be laid on the table by the Minister for Immigration and Multicultural and Indigenous Affairs, no later than 5 pm on 12 May 2004, the following documents relating to the exercise of ministerial discretion under sections 351 and 417 of the Migration Act 1958:
(a) the documentary evidence from the case histories relating to the applications for the Minister to exercise his discretionary powers concerning which Mr Karim Kirsawi made representations on behalf of the applicant to the former Minister for Immigration and Multicultural and Indigenous Affairs (Mr Ruddock) which resulted in the Minister intervening on behalf of the applicant, indicating the following:
(i) the Refugee Review Tribunal (RRT) or Migration Review Tribunal (MRT) outcome in relation to each case,
(ii) the outcome of the Minister’s consideration pursuant to sections 351 or 417, and the date of the Minister’s decision,
(iii) an indication of whether the case at any stage was assessed by officers of the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) as falling outside the Minister’s guidelines,
(iv) the date of any such assessment,
(v) the date on which each case was first referred to the Minister’s office, and an indication of whether at that stage the case was a scheduled case (assessed as
outside the guidelines) or a full submission,

(vi) the date on which the file was the subject of a submission (other than on the schedule) to the Minister’s office,

(vii) details of any requests by the Minister’s office for a submission in relation to any of the files, as referred to in the letter, including the date, and any documentary record, of such requests,

(viii) details of the date or dates and nature of the contact with Mr Kisrwani referred to in the letter, and

(ix) copies of any correspondence or other documentation evidencing such contact;

(b) copies of all case files for all cases involving representations by Mr Cameron MP and Gateway Pharmaceuticals to Mr Ruddock to intervene on behalf of applicants and where the Minister exercised his powers under sections 351 and 417;

(c) the documentary evidence for each of the 105 case histories referred to in evidence given by DIMIA officers on 31 October 2003 to the Select Committee on Ministerial Discretion in Migration Matters, indicating in each case the following:

(i) the nationality of the applicant,

(ii) a timeline of the application process including processing of the ministerial intervention request subsequent to the decisions of either the RRT or MRT,

(iii) details of decisions made by departmental officers and review tribunals in relation to each applicant,

(iv) whether the case was assessed by the department as meeting the guidelines for ministerial intervention or placed on a schedule as being outside the guidelines and the date of such decisions,

(v) details including the date of any communication from the Minister or the Minister’s office regarding the case, including any request for a full submission, and

(vi) names of any persons who made representations on behalf of the applicant;

(d) all documents on case files relating to the exercise of the ministerial discretionary powers under sections 351 and 417 in the cases of Ibrahim Sammaki and Bedweny Hbeiche; and

(e) all documents on case files relating to the exercise of the ministerial discretionary powers under sections 351 and 417 in cases involving representations by Mr Fahmi Hussain.

Senator Ridgeway to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) 7 April 2004 is World Health Day,

(ii) the World Health Organization has designated the theme for World Health Day 2004 to be road safety, and

(iii) the proliferation of four-wheel drive vehicles on Australian roads presents a major threat to road safety in Australia;

(b) notes further that:

(i) according to the Australian Transport Safety Bureau:

(A) there was an 85 per cent increase in the incidence of fatal crashes involving four-wheel drive vehicles in the decade before 1998, and

(B) almost 90 per cent of children killed in New South Wales driveways in 1998 were run over by four-wheel drive vehicles or large commercial vehicles,

(ii) sales of four-wheel drive vehicles for passenger use have greatly increased over the past decade, outstripping sales for regular passenger vehicles, and

(iii) the tariff rate for imported four-wheel drive vehicles is 5 per cent, compared
to 15 per cent for imported passenger vehicles; and

(c) calls on the Government to

(i) amend the differential tariff treatment for four-wheel drive vehicles that are aimed at the passenger vehicle market, and

(ii) make road safety and the safe use of four-wheel drive vehicles a national priority.

Senator Greig to move on the next day of sitting:

That there be laid on the table, by the Minister representing the Attorney-General (Senator Ellison), no later than 5pm on Tuesday, 15 June 2004, the following documents:

(a) the Government’s formal response to the United Nations Human Rights Committee finding on 6 August 2003 in the case of Young v Australia, that:

(i) the Australian Government’s refusal to grant Mr Young a pension on the ground that he does not meet with the definition of ‘dependant’, for having been in a same-sex relationship, violates his rights under article 26 of the International Covenant on Civil and Political Rights on the basis of his sexual orientation,

(ii) the Australian Government provided no argument on how the distinction between same-sex partners and unmarried heterosexual partners is reasonable and objective, and no evidence which would point to the existence of factors justifying such a distinction was advanced,

(iii) as a victim of a violation of article 26, Mr Young is entitled to an effective remedy, including the reconsideration of his pension application without discrimination based on his sex or sexual orientation, if necessary through an amendment of the law, and

(iv) the Australian Government is under an obligation, as a signatory to the First Optional Protocol of the International Covenant on Civil and Political Rights, to ensure that similar violations of the Covenant do not occur in the future; and

(b) an explanation as to why a response requested by the United Nations Human Rights Committee within 90 days of its finding will, by that time, have taken almost 10 months to produce.

Senator Cherry to move on the next day of sitting:

That the Senate—

(a) notes the significant impact that the loss of ‘public benevolent institution’ status will have on the employees of organisations in the health and disability services sector, such as the Intellectual Disability Services Council, the Metropolitan Domiciliary Care, the Julia Farr Centre and the Institute of Medical and Veterinary Science; and

(b) calls on the Government to:

(i) declare a moratorium to prevent around 3 000 staff in the sector losing up to $15 000 in after-tax salary from 1 April 2004,

(ii) offer workers in the health and disability sector that will be faced with the loss of fringe benefit tax exemptions the same concessions that were recently provided to employees of public hospitals and public ambulance services, and

(iii) respond to the recommendation of the 2001 charities inquiry and introduce a new definition of ‘benevolent charity’ to ease the uncertainty within the charities sector.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) 6 April 2004 is a national day of action for seniors, observed in order to raise issues of concern for older Australians,
(ii) the majority of older people are active and healthy, contributing to the community, pursuing leisure activities and family support, undertaking voluntary work, and living independently,

(iii) some 10 per cent of people aged over 70 years are presently in residential care, and

(iv) the need for residential care is substantially reduced for the frail or ill aged when there is effective community support; and

(b) calls on the Government to urgently address community concerns about ongoing viability and choice of residential care, as reflected in the withdrawal from the aged care sector of significant non-profit organisations, including the Salvation Army, by:

(i) immediately releasing the finalised Hogan Report on aged care funding, to inform the community prior to a government response through the Budget process,

(ii) responding to claims that the present indexation measure the Government uses to increase recurrent funding is inadequate, and

(iii) reporting on the take-up of aged care nursing scholarships and appropriate specialist accommodation for young people with high care needs.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes that Sir Rupert Hamer, a former Victorian State Premier, died on 23 March 2004 aged 87;

(b) acknowledges in particular Sir Rupert’s contribution to public life, including his active service in World War II, his contribution to the abolition of the death penalty, his pioneering efforts in setting-up national parks and the Environment Protection Authority in Victoria, his commitment to principles of democracy, the Republic, the arts, heritage and young people; and

(c) expresses its deepest condolences to Sir Rupert’s wife, Lady April Hamer and their children Christopher, Julia, Sarah and Alistair.

Senator Allison to move on the next day of sitting:

That the Senate notes that:

(a) on 24 March 2004, the United States of America presented a draft resolution on non-proliferation to the United Nations (UN) Security Council, which required all states to enact criminal and other laws and measures to prevent terrorists and other non-state actors trafficking in and acquiring nuclear, biological and chemical weapons, related materials, and missiles and other unmanned systems of delivery;

(b) some states and non-government organisations (NGOs) are concerned that the approaches proposed in the draft resolution are discriminatory and inflammatory, and will exacerbate proliferation and security issues rather than alleviate them; and

(c) Abolition 2000, a global network of over 2,000 NGOs working for nuclear non-proliferation and disarmament, wrote to all UN members stating that the draft resolution:

(i) refers only to the prevention of proliferation and is silent, rhetorically or substantively, on ending the deployment of existing weapons and on the obligations for disarmament,

(ii) requires all states to adopt national implementation measures, thus assuming a role for the Security Council of a global legislative body, something normally achieved through treaty negotiations requiring consensus by states, and

(iii) is being presented as a Chapter VII resolution to the Charter of the United Nations, which could open the door for the unilateral use of force by certain
states to enforce the resolution in specific situations without having to return to the Security Council for any additional authorisation.

Senator Allison to move on the next day of sitting:

(1) That a select committee, to be known as the Select Committee on Tobacco, be appointed to inquire into and report by 1 September 2004 on the following matters:

(a) the adequacy of the response to date of the Australian Competition and Consumer Commission (ACCC) to the orders of the Senate of 24 September 2001, 27 June 2002 and 12 November 2002, which require the ACCC to report to the Senate on various issues concerning tobacco, including:

(i) what further action, if any, the ACCC should take to address any perceived inadequacies in the ACCC response so far, and

(ii) whether the ACCC has failed to competently and promptly discharge its statutory obligations;

(b) the adequacy and effectiveness of current Federal Government anti-smoking initiatives and comparisons with best practice;

(c) the Commonwealth Electoral Amendment (Preventing Smoking Related Deaths) Bill 2004; and

(d) the Tobacco Advertising Prohibition (Film, Internet and Misleading Promotion) Amendment Bill 2004.

(2) That the committee consist of 7 senators, 3 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate, and 1 to be nominated by the Leader of the Australian Democrats.

(3) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.

(4) That the chair of the committee be elected by and from the members of the committee.

(5) That the chair of the committee may, from time to time, appoint another member of the committee to be the deputy-chair of the committee and that the member so appointed act as chair of the committee at any time when there is no chair or the chair is not present, at a meeting of the committee.

(6) That the quorum of the committee be 4 members.

(7) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

(8) That the committee have the power to appoint subcommittees consisting of 2 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to consider, and that the quorum of the subcommittee be a majority of the members appointed to the subcommittee.

(9) That the committee be provided with necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(10) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Senator Patterson to move on the next day of sitting:

That, on Thursday, 1 April 2004—

(a) the hours of meeting shall be 9.30 am to adjournment;
(b) consideration of general business and consideration of committee reports, government responses and Auditor-General’s reports under standing order 62(1) and (2) not be proceeded with;

(c) the routine of business from not later than 4:30 pm shall be government business only;

(d) divisions may take place after 6 pm; and

(e) the question for the adjournment of the Senate shall not be proposed till after the Senate has finally considered the bills listed below and any messages from the House of Representatives:
   - Telecommunications (Interception) Amendment Bill 2004
   - Appropriation (Parliamentary Departments) Bill 2003-2004
   - Appropriation Bill (No. 3) 2003-2004
   - Appropriation Bill (No. 4) 2003-2004
   - Higher Education Legislation Amendment Bill 2004
   - Intelligence Services Amendment Bill 2003
   - Textile, Clothing and Footwear Strategic Investment Program Amendment Bill 2004
   - Customs Tariff Amendment Bill (No. 2) 2003 (subject to the agreement of the Senate to consider the bill)
   - Excise Tariff Amendment Bill (No. 1) 2003 (subject to the agreement of the Senate to consider the bill)
   - Communications Legislation Amendment Bill (No. 2) 2003
   - Taxation Laws (Clearing and Settlement Facility Support) Bill 2003
   - Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004
   - Superannuation Legislation Amendment (Family Law) Bill 2002
   - Dairy Produce Amendment Bill 2003
   - Kyoto Protocol Ratification Bill 2003 [No. 2].

Senator Brown to move on the next day of sitting:
That the Senate—
(a) notes that areas subject to clear felling, burning and the use of 1080 poisoning of wildlife under the Tasmanian Regional Forest Agreement are habitat for rare or endangered species; and
(b) calls on the Government to ensure that each area is fully assessed for the presence of such species and that the Minister for the Environment and Heritage (Dr Kemp) is informed before any habitat destruction is permitted.

Senator Ridgeway to move on the next day of sitting:
That the Senate—
(a) notes the resolution of the Senate of 30 March 2004 rejecting the recommendation of the review of the Parliament House art collection that it should not, as a rule, collect the works of the emerging artists; and
(b) resolves that the President of the Senate:
(i) immediately implement this decision of the Senate and continue the established acquisition practices for the Parliament House art collection,
(ii) immediately make representations to the Speaker of the House of Representatives seeking concurrence with the resolution, and
(iii) report to the Senate by 17 June 2004 on the instructions the Presiding Officers have given, indicating how the continuation of the policy of collecting the works of emerging artists will be implemented as a core component of the Parliament House art collection acquisition policy.

Senator Brown to move on the next day of sitting:
That the Senate, concerned for Australia’s rare and endangered species of wildlife and plants,
calls on the Government to protect the habitats of such species wherever possible.

COMMITTEES

Selection of Bills Committee

Report

Senator FERRIS (South Australia) (3.36 p.m.)—I present the sixth report of 2004 of the Selection of Bills Committee. I draw Senator Brown’s attention to the proposal in the Selection of Bills Committee report to refer the antiterrorism bills, which was taken as part of the Selection of Bills Committee meeting yesterday and agreed upon.

Ordered that the report be adopted.

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

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 6 OF 2004

1. The committee met on Tuesday, 30 March 2004.
2. The committee resolved to recommend—

(a) the provisions of the Anti-terrorism Bill 2004 be referred immediately to the Legal and Constitutional Legislation Committee for inquiry and report on 11 May 2004 (see appendix 1 for statement of reasons for referral);

(b) the provisions of the Migration Amendment (Judicial Review) Bill 2004 be referred immediately to the Legal and Constitutional Legislation Committee for inquiry and report on 15 June 2004 (see appendices 2 and 3 for statements of reasons for referral);

(c) the provisions of the Surveillance Devices Bill 2004 be referred immediately to the Legal and Constitutional Legislation Committee for inquiry and report on 27 May 2004 (see appendix 4 for statement of reasons for referral);

(d) the order of the Senate of 18 June 2003 adopting the committee’s 6th report of 2003 be varied to provide that the Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002 be referred immediately to the Finance and Public Administration Legislation Committee for inquiry and report on 17 June 2004 (see appendices 5 and 6 for statements of reasons for referral); and

(e) the following bills not be referred to committees:

• Agricultural and Veterinary Chemicals Legislation Amendment (Name Change) Bill 2004
• Bankruptcy Legislation Amendment Bill 2004
• Bankruptcy (Estate Charges) Amendment Bill 2004
• Classification (Publications, Films and Computer Games) Amendment Bill 2004
• Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004
• Intelligence Services Amendment Bill 2003
• Law and Justice Legislation Amendment Bill 2004
• Veterans’ Entitlements Amendment (Direct Deductions and Other Measures) Bill 2004.

The committee recommends accordingly.

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

Bills deferred from meeting of 10 February 2004

• Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003
• Corporations (Fees) Amendment Bill (No. 2) 2003
• Racial and Religious Hatred Bill 2003 [No. 2].
Bill deferred from meeting of 23 March 2004

Bills deferred from meeting of 30 March 2004
- Excise and Other Legislation Amendment (Compliance Measures) Bill 2004
- Flags Amendment (Eureka Flag) Bill 2004.

(Jeannie Ferris)
Chair
31 March 2004

———

Appendix 1
Proposal to refer a bill to a committee
Name of bill(s):
Anti-terrorism Bill 2004
Reasons for referral/principal issues for consideration
The benefits of the bill for the investigation and prosecution of Commonwealth terrorism offences.
The extent to which the amendment advances the objective of the Proceeds of Crime Act 2002 to prevent individuals obtaining financial benefit from criminal activity.
Possible submissions or evidence from:
Law enforcement agencies, members of the legal profession and civil liberties groups.
Committee to which bill is referred:
Legal and Constitutional Legislation Committee
Possible hearing date:
Late April 2004
Possible reporting date(s):
7 May 2004
Senator Jeannie Ferris
Whip/Selection of Bills Committee Member

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Appendix 2
Proposal to refer a bill to a committee
Name of bill(s):
Migration Amendment (Judicial Review) Bill 2004
Reasons for referral/principal issues for consideration
Constitutionality of measure;
Consideration of a mechanism for review of a migration case decision that may be unlawful but has missed the 84 day appeal deadline.
Possible submissions or evidence from:
Law Council of Australia
Refugee Council of Australia
Refugee and Immigration Legal Centre
Committee to which bill is referred:
Legal and Constitutional Legislation Committee
Possible hearing date: Autumn recess
Possible reporting date(s): Budget/Winter sittings
Senator Sue Mackay
Whip/Selection of Bills Committee Member

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Appendix 3
Proposal to refer a bill to a committee
Name of bill(s):
Migration Amendment (Judicial Review) Bill 2004
Reasons for referral/principal issues for consideration
To examine the provisions of the bill relating to the time limits on judicial review for the lodging of applications to the High Court, Federal Court and the Federal Magistrates Court; to the reduction of the jurisdiction of the Courts by limiting the scope of privative clause decisions; and to examine if there are any incidences of discrimination that is created between asylum seeker and other migration applicants in relation to their rights of appeal.
Possible submissions or evidence from:
Law Council of Australia
Refugee Council of Australia
Amnesty International
International Commission of Jurors
Immigration Advice and Rights Centre
Committee to which bill is referred:
Legal and Constitutional Legislation Committee
Possible hearing date: Early May 2004

———
Possible reporting date(s): 15 May 2004
Senator Lyn Allison
Whip/Selection of Bills Committee Member

Appendix 4
Proposal to refer a bill to a committee
Name of bill(s):
Surveillance Devices Bill 2004
Reasons for referral/principal issues for consideration
The needs of law enforcement authorities;
The benefits of the bill for the investigation of Commonwealth offences
The proposed accountability mechanisms in the bill
Possible submissions or evidence from:
Law enforcement authorities, the legal profession, civil liberties groups
Committee to which bill is referred:
Legal and Constitutional Legislation Committee
Possible hearing date: Mid May 2004
Possible reporting date(s): 27 May 2004
Senator Sue Mackay
Whip/Selection of Bills Committee Member

———
Appendix 5
Senator Jeanie Ferris
Government Whip
Selection of Bills Agenda
I write to seek your cooperation to add the Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002 to the agenda of the Selection of Bill Committee meeting on Tuesday, 30 March 2004.
This bill was previously considered at a meeting of the committee but as yet has not been introduced into the Senate.
I am available to discuss this matter with you if required.
Yours Sincerely
Senator Sue Mackay

———
Appendix 6
Proposal to refer a bill to a committee
Name of bill(s):
Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002
Reasons for referral/principal issues for consideration
Further consideration of changes to the penalty regime proposed in the bill.
Consideration of provisions which restrict or remove the role of unions in OH&S processes.
Possible submissions or evidence from:
Public sector unions and employees.
Committee to which bill is referred:
Finance and Public Administration Legislation Committee
Possible hearing date: 14 May 2004
Possible reporting date(s): 17 June 2004
Senator Sue Mackay
Whip/Selection of Bills Committee Member

B U S I N E S S
Rearrangement
Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.37 p.m.)—by leave—I move:
That after consideration of government documents today, consideration of government business continue till 7.20 pm.
Question agreed to.

NOTICES
Withdrawal
Senator FERRIS (South Australia) (3.38 p.m.)—At the request of Senator Sandy Macdonald, I withdraw general business notice of motion No. 823 relating to Taiwan and the World Health Organisation.
SUPERANNUATION: PRESERVATION AGE

Senator CHERRY (Queensland) (3.38 p.m.)—I move:

That the Senate calls on the Government to give consideration to adjusting the superannuation preservation age of 60 for workers born after 1964 if those workers have spent significant periods of their working lives in occupations such as policing which involve significant physical exertion, mental stress and necessitate earlier retirement.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Meeting

Senator FERRIS (South Australia) (3.39 p.m.)—At the request of Senator Heffernan, I move:

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.

Question agreed to.

Community Affairs References Committee

Meeting

Senator FERRIS (South Australia) (3.39 p.m.)—At the request of Senator McLucas, I move:

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.

Question agreed to.

Community Affairs References Committee

Extension of Time

Senator FERRIS (South Australia) (3.39 p.m.)—At the request of Senator McLucas, I move:

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.

Question agreed to.

HUMAN RIGHTS: SYRIA

Senator CHERRY (Queensland) (3.39 p.m.)—I, and also on behalf of Senator Stott Despoja, move:

That the Senate—

(a) notes escalating tensions between the Arab and Kurdish populations within Syria;

(b) expresses concern at reports that recent spates of violence between the Syrian authorities and the Kurdish minority have resulted in multiple deaths and injuries; and

(c) calls on the Minister for Foreign Affairs (Mr Downer) to make representations to the Syrian Government regarding the fundamental importance of adhering to the Universal Declaration for Human Rights in all its dealings with the Kurdish minority.

Question agreed to.

NATIONAL YOUTH WEEK

Senator NETTLE (New South Wales) (3.40 p.m.)—I move:

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 people’s access to genuine employment opportunities, and

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

Question agreed to.

MATTERS OF URGENCY
Indigenous Affairs: Health

The DEPUTY PRESIDENT—I inform the Senate that the President has received the following letter, dated 31 March, from Senator Ridgeway:

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:

The need to address the Indigenous health emergency in Australia which sees the health of Indigenous Australians going backwards in a time of national prosperity, because of the failure of successive Governments to halt this decline, and that this crisis in Indigenous health be a priority in the upcoming Federal budget."

Yours sincerely,

Aden Ridgeway
Australian Democrats Senator for NSW

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 RIDGEWAY (New South Wales) (3.41 p.m.)—I move:

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

The need to address the Indigenous health emergency in Australia which sees the health of Indigenous Australians going backwards in a time of national prosperity, because of the failure of successive Governments to halt this decline, and that this crisis in Indigenous health be a priority in the upcoming Federal budget.

I thank the Senate for allowing the time for this urgency motion on a very important matter in this country. At a time of record national prosperity, the health and wellbeing of Indigenous Australians is in deep crisis. It is slipping further and further behind the health of other Australians and it urgently requires immediate action from all levels of government and, more particularly, the federal government.

Australian Indigenous people now live 20 years less than the rest of the national population. When we look at the percentage of the population who are expected to live to the age of 65, most Indigenous people in this country will probably not get there. Indeed, compared to Third World countries, Australian Indigenous life expectancy is far below life expectancy rates in countries like Nigeria, Nepal, Bangladesh, India, Thailand, Vietnam and so on. The statistics are that twice as many Indigenous children are born at low birth weight and, in remote areas, they are three times more likely than non-Indigenous children to die before their first birthday. The major cause of illness is preventable infections.

Adult Aboriginal people are now hospitalised at about twice the rate of the rest of the
population. Among Indigenous people, the rate of rheumatic heart disease is six to eight times higher; the rate of diseases of the circulatory system is about three times higher; respiratory disease is four times more common; and diabetes occurs four times more often. The rate of kidney disease among Indigenous people is nine times higher than the general rate for non-Indigenous people and, in some regions, 25 and even 60 times higher than the rest of the population. This is a situation of national shame and it affects us all. It is not just a sectional interest matter. It is not just about Indigenous people in this country; it has severe economic consequences for the entire nation. The cost of inaction now will blow out to unsustainable expense in the future.

There is a common myth that this emergency affects only a few Indigenous people in remote areas. That is not true. It affects all Indigenous people. Many of the health problems are more visible in remote communities. Aboriginal and Torres Strait Islander populations live in urban, regional and remote areas and, as a whole, suffer from the same health problems I have described. There is a clear relationship between poor education, high unemployment, poverty, inadequate nutrition and poor health. When you couple these factors with over two centuries of dispossession, social exclusion and the like, it is no surprise that Indigenous Australians continue to have the worst health statistics of anyone in this country.

Numerous reports in recent years and, most recently, last year’s Productivity Commission report on overcoming disadvantage have described this crisis in heartbreaking detail. Gary Banks, the Chairman of the Productivity Commission, described the disparity in life expectancy of Indigenous Australians as a tragic loss and a waste for Indigenous people and Australia as a whole. Each of these reports has made recommendations to government about how to fix this situation. The government is yet to respond.

This morning we heard the Prime Minister saying that he thinks Indigenous people in Australia should not receive any special treatment and that everyone should be treated equally. This may appeal to aspiring One Nation voters, but the fact is that Indigenous people are not treated equally. If we want to talk about equality then treatment is exactly what they do not get. The practical reconciliation approach to Indigenous health by the Howard government can only be declared an unmitigated disaster. It has only ever promised little more than what we know has not worked in the past: mainstreaming of services, more government control and a lack of recognition of historical circumstances.

A key feature of this approach in recent years has been the historical scapegoating of ATSIC and, before that, the Department of Aboriginal Affairs as being responsible for all the major failings of Indigenous policy. The fact is that the blame for the state of Indigenous health cannot be laid at ATSIC’s feet. ATSIC has no responsibility for health in this country. Health is handled through mainstream services at Commonwealth and state and territory level. People seem convinced that the government spend a lot more on Indigenous health than they do on mainstream Australia. This is simply not the case. As the Fred Hollows Foundation’s recently released information kit states:

Indigenous health programs account for less than one per cent of Commonwealth funding of health services.

In 1998-99, the Australian Institute of Health and Welfare calculated that for every dollar spent per year for the general population on schemes such as the MBS and PBS only 37c was spent per Indigenous person. Indigenous people have less access to general practitioners and instead usually go to community
health services or public hospitals. This high hospital use reflects a failure to deliver adequate primary health care. More is spent on high-cost hospital treatment because too little is being spent on more community health care services which can help prevent serious illnesses that exist.

I am aware that I am going to get two minutes at the end to sum up in this debate. I would hope that this important issue does not become a political football, because it requires full cross-party support to provide the solutions. It does not need each of the major parties to beat up on each other about their failures or who owned what policies and programs over what period of time. (Time expired)

Senator O’BRIEN (Tasmania) (3.47 p.m.)—I thank Senator Ridgeway for proposing today’s debate because the growing Indigenous health crisis in Australia is indeed a matter of urgency. It is disappointing that the Australian Democrats did not recognise this fact when they did their dirty deal with the coalition on the introduction of the GST, a regressive tax that has had a direct impact on the wellbeing of disadvantaged Australians, including Indigenous Australians—the very Australians subject to today’s urgency debate.

While Senator Ridgeway is content to forget his party’s not-too-distant betrayal of disadvantaged Australians, I can assure him that those on this side of the chamber have not. But at least Senator Ridgeway, the Democrats’ spokesperson on Indigenous affairs, is here talking about this important issue. I am pleased to join the debate on behalf of the Labor Party and will be joined by two Labor senators with a deep understanding of Indigenous disadvantage and with a close working relationship with Indigenous communities in the Northern Territory and Queensland.

The key person missing from this debate or at least not on the government’s speaking list is the reluctant minister for Indigenous affairs, Senator Vanstone. She is the minister responsible for this government’s appalling contribution to Indigenous health outcomes over the past eight years. She is the person answerable to the Senate and Indigenous Australians for the Howard government’s lamentable performance on Indigenous health. So appalling has the performance been that I am hardly surprised she is not here. But that does not mean she should not be here accepting the responsibility for this crisis. I would encourage the minister to stop hiding in her office, stop hiding behind the junior government senators listed to speak in this debate, stop hiding behind her bureaucrats and stop hiding behind ATSIC.

The minister should come into this place and tell us why, under the Howard government, life expectancy for Indigenous females has declined. According to the latest report of the Aboriginal and Torres Strait Islander Social Justice Commissioner, the bitter fruit of the Howard government’s so-called practical reconciliation agenda is an early death for Indigenous women, who now have a life expectancy of 62.8 years, which is lower than the life expectancy rate for females in India. Life expectancy for Indigenous men is just 56.3 years, which is lower than life expectancy for men in Burma, Papua New Guinea and Cambodia. It is so low that no Indigenous man can reasonably expect to ever claim the age pension, let alone make it to the Prime Minister’s venerable stage of life. Under this Prime Minister, the gap between Indigenous and non-Indigenous life expectancy for men and women has grown. That is right; it has grown.

This month the Fred Hollows Foundation launched an information campaign on Indigenous health. It follows the campaign launched last month by Australians for Na-
tive Title and Reconciliation, which focused on the same shameful failure to deliver improved health outcomes for Indigenous Australians. One of the matters addressed by the Fred Hollows Foundation, which was surprisingly omitted from the motion before the chamber, is the link between the provision of decent housing, good education and improved health outcomes. It has long been known that people with unmet housing needs are likely to have poor general health, more chronic illness and higher death rates. The link between education and health outcomes is often overlooked but has been effectively highlighted by the Fred Hollows Foundation. The foundation has noted that poor education leads to fewer life opportunities, lower income and poor health outcomes. Conversely, poor health often leads to poor educational attainment. These are matters the Howard government has failed to come to grips with during its long period of office. It has used Indigenous disadvantage as little more than a wedge to divide Indigenous and non-Indigenous Australians. The government has talked about practical reconciliation but the only practical outcome it has been interested in is electoral gain from its practice of racial politics.

The coalition had some practice at that in opposition when it mounted its disgraceful—never to be forgotten, in fact—race campaign in the wake of the Mabo judgment. Once, Mr Howard was pleased to provide tacit support to Liberal candidate and One Nation founder, Ms Pauline Hanson, when she was engaging in the most repellent sort of racist politicking. Now Mr Howard has got the dog whistle out and is giving it a big blow, using the sort of language employed by the conservative opposition leader in New Zealand.

Senator Ian Campbell—What’s your Mabo legislation delivered for Aboriginal health? Absolutely nothing.

Senator Ferris—Who wrote this rubbish?

The DEPUTY PRESIDENT—Order! If people stopped shouting, I could take the point of order.

Senator Ian Campbell—Mr Deputy President, I rise on a point of order going to two standing orders. One, this bloke is in breach of Senate standing orders by reading word for word a speech probably written by a junior staffer. Two, he has just called our Liberal Prime Minister racist, which is an absolutely intolerable slur against standing orders. I ask that he be brought to order on both standing orders.

Senator O’BRIEN—On the point of order, what I said was that the Prime Minister was engaging in racist politicking. That is quite different from the suggestion by Senator Ian Campbell, and I do not believe that is unparliamentary at all.

Senator Ian Campbell—What are you doing, you scumbag? You are a disgrace. Sit him down!

Senator Ferris—This is the worst thing for Aboriginal people!

Senator O’BRIEN—It is unparliamentary to engage in the sort of conduct that the Manager of Government Business in the Senate, who continues to perform in the way that he usually does, through his petulant and childish activity, is engaging in in this chamber. He is now showing that he has no control over his temper, he is behaving in a most intemperate way and he ought to be counselled by the whip, who is sitting behind him and behaving in the same fashion.

Senator Heffernan—Mr Deputy President, I rise on a point of order. I am totally devastated by what has been happening here in the last couple of minutes. I thought we came in here today to have a fair dinkum plug for Indigenous health. What have we
got? I appeal to you, Mr Deputy President, and to the Clerk of the Senate—

Senator O’BRIEN—There is no point of order.

Senator Heffernan—There is a point of order, and that is that you should withdraw any imputation that this government is a racist government and that the people engaged by this government, including all the people in this chamber, are racist. I am absolutely disgusted with the person who wrote that speech, who obviously—with respect to the reader—was not the reader.

Honourable senators interjecting—

The DEPUTY PRESIDENT—Excuse me! I have heard the points of order. On the second point of order first: I have sought and listened to the advice of the Clerk, as well as weighed up the matter in my own mind, and there is no point of order. On the first point of order, in respect of the reading of speeches that seems to take place in this chamber: I would suggest that, if we are going to start applying that rule rigidly in this chamber, we will apply it to everyone. Whilst I hear what you say, there are technical matters that people do refer to in speeches and do read. If you want to pursue that point of order then if you desire I will take it up with the President and we will see where it goes from there. On the second point of order: there is no point of order. I did hear what you said and I did hear what Senator Heffernan said. It was skating close to the mark—

Senator Ian Campbell—Engaging in racist politics? It was unparliamentary and should be withdrawn!

The DEPUTY PRESIDENT—Wait a minute. It was skating close to the mark but the advice I have and the opinion I have formed is that it was not unparliamentary, as stated.

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

The DEPUTY PRESIDENT—Just let me finish my remarks, Senator Heffernan. I would advise you, Senator O’Brien, to be careful in how you describe and attribute motives to other people in this place.

Senator O’BRIEN—What I wanted to say was that the sort of language—

Senator Ian Campbell—Mr Deputy President, I rise on a point of order. This government, and I think the Prime Minister, have been accused of engaging in racist politics. You have now ruled that in order.

The DEPUTY PRESIDENT—No.

Senator Ian Campbell—I would ask that you refer that ruling to the President and ask him to report back. This is a dangerous precedent and I would ask that, at the very least, you refer that to the President—that you give me and the Senate an undertaking that you will refer it to the President and seek his ruling as a matter of absolute urgency.

The DEPUTY PRESIDENT—I will refer that to the President, as I think I said I would.

Senator O’BRIEN—Now we see that the conservative opposition leader in New Zealand, Don Brash, is practising the sort of politics that appeals to a prejudice that is resident in non-Indigenous Australians and I believe the Prime Minister is doing just the same thing. This morning, Mr Howard told Channel 9 what he told 3AW a couple of weeks ago, which is that he is no longer sure that Indigenous people deserve a role in their own affairs; he is not even sure they deserve an opinion. Today he said:

... I don’t think abolishing ATSIC and replacing ATSIC with another body is a good idea ... the real alternative is to treat everybody equally and ... maintain programmes that look out for disadvantage where that disadvantage exists.
That is, according to Mr Howard, bureaucrats and non-Indigenous politicians here in Canberra know best. Clearly, those would be the same bureaucrats that have delivered the health outcomes we are discussing here today. I am not sure when Senator Vanstone pays attention to Indigenous health issues. She has been hiding from responsibility during this debate and has never acknowledged the Social Justice Commissioner’s report tabled in this very chamber. I know the only time Mr Howard pays attention to Indigenous issues is when Mark Textor and the other apparatchiks of the Liberal Party headquarters tell him there is prejudice in the community that he can exploit. I wish he paid more attention, because if he did he would understand that ATSIC is not—repeat not—responsible for health funding.

Senator Ian Campbell—You pathetic little creep!

Senator O’BRIEN—The senator does not believe that. Perhaps he could look up the budget papers to see where the health funding is, but I do not believe that Senator Ian Campbell is worried about the facts in this matter. Mr Howard himself—nobody else—is responsible for Indigenous health outcomes. That is something he might want to reflect on the next time he tries to shirk responsibility.

Senator Heffernan—Mr Acting Deputy President, I rise on a point of order. I am absolutely disgusted by the tone of this speech and I am appalled that someone would write a speech—

The ACTING DEPUTY PRESIDENT (Senator Brandis)—What is the point of order, Senator Heffernan?

Senator Heffernan—The point of order is that I would appeal to the Clerk of the Senate to give an urgent ruling to the earlier decision of the chair.

The ACTING DEPUTY PRESIDENT—Senator Heffernan, you can informally approach the Clerk but you cannot appeal directly to the Clerk through me. There is no point of order. I ask senators to contain themselves.

Senator Ian Campbell—Mr Acting Deputy President, I rise on a point of order. Can I ask that Senator O’Brien reflect on the remarks he is making and on the tenor of his speech. It reflects poorly on the Senate. Could I suggest that he resumes his seat, reads the balance of the speech—

The ACTING DEPUTY PRESIDENT—There is no point of order, Senator Campbell.

Senator Ian Campbell—The point of order is that he is reading his speech, which is against standing orders.

The ACTING DEPUTY PRESIDENT—I have just assumed the chair and I will keep an eye on that.

Senator Ian Campbell—What I have suggested is that, if he is going to read his speech, he sits down and reads it first. He has obviously had this speech prepared by a junior staffer—

The ACTING DEPUTY PRESIDENT—There is no point of order.

Senator Ian Campbell—Please hear my point of order, Mr Acting Deputy President.

The ACTING DEPUTY PRESIDENT—Senator Campbell, the point of order you expressed was that Senator O’Brien is reading his speech. If he is reading his speech, I will direct his attention to that fact and I will rule him out of order.

Senator O’BRIEN—I joined with Mr Latham yesterday in announcing a new policy from the opposition, and in relation to that policy—

Senator Ian Campbell—that wasn’t a policy!
Senator O’BRIEN—Here we go again: Senator Campbell cannot contain himself! The framework rejects the politics of division that have characterised this government, but let me move the debate on Indigenous affairs forward, because that is what we are here to do. Yes, we will move on from the ATSIC model, one damaged on the part of ATSIC commissioners by internal disharmony and alleged misbehaviour and on the part of the government by spiteful and ill-informed attacks and policy paralysis. We depart from the government in that regard by having a plan and being prepared to release it.

Senator Ian Campbell—I spent a lot of years working on Indigenous issues.

The ACTING DEPUTY PRESIDENT—Order! Senator Campbell, Senator Mackay, Senator Heffernan: please be silent.

Senator O’BRIEN—We also depart from the government on principles of Indigenous participation and program delivery. Labor believe Indigenous Australians are entitled to a voice in national affairs. We also believe Indigenous Australians are entitled to a role in Indigenous program development and delivery at the regional level. These principles are informed by our party’s longstanding commitment to self-determination for Indigenous Australians and the comprehensive consultation with Indigenous people that I have conducted over the past four months around the country.

It is because of this consultation that I am surprised that Senator Ridgeway was so quick to denounce that Labor plan as having been developed in isolation from Indigenous Australia. In fact, so quick was he that he only had time to ask for a copy of Labor’s announcement and then rush to do a doorstop to gain a few cheap headlines. He had no time to give me a call because the truth would have curtailed his ill-informed comments on the plan. I expected no more from the government—and I have seen that sort of behaviour in here all day and have not been disappointed by Senator Vanstone’s furious comment in response to Labor’s announcement—but I am disappointed that Senator Ridgeway chose to follow the practice he did in rushing out and performing a doorstop, stating that there had been no consultation, without even bothering to ask me. Let me say that in relation to the issue of health I am looking forward to a positive contribution from Senator Ridgeway, I believe that he is committed to the issue of developing Indigenous health in this country and—

Senator Ian Campbell—That is the worst speech on Indigenous affairs I have heard in 13 years. You are an insult—

The ACTING DEPUTY PRESIDENT—Senator Campbell: order!

Senator O’BRIEN—I believe that we will get positive cooperation from the Democrats in relation to what is one of the most important issues this country faces.

Senator FERRIS (South Australia) (4.03 p.m.)—I would have to say that I can only agree with Senator Campbell. In the eight years I have been in this place I have never heard a speech which so disgracefully impugned a number of leaders not only in this country but also in New Zealand. First of all, we had the government being accused of running racist politics—a shameful accusation. We had the New Zealand Leader of the Opposition being accused of being a racist. We had the minister for Indigenous affairs being impugned. We had the Prime Minister himself being impugned in this last speech. And unfortunately and absolutely regrettablly, we had the appeal by Senator Ridgeway—who was the first speaker on this matter of public urgency—completely ignored. Senator Ridgeway appealed for the contributors today not to make the subject a political
football, not to make the subject a matter for sledging and slagging, but the very next speaker in here today made an absolutely regrettable and disappointing contribution which was, I am sad to say, racially based.

There can be no disagreement by any thinking person in this place that there are dire problems in the area of Indigenous health. I can only say, from my visits to the Pitjantjatjara lands in South Australia, that the health issues that now confront the lands in my home state are a tragedy. I shall never forget visiting the lands eight years ago and seeing young children sitting sniffing petrol. We have tried very hard in South Australia to deal with this issue, and I am sorry to say that we have failed. The failure of Indigenous self-government to provide health services is a complete tragedy.

I agree with you, Senator Ridgeway: let’s not make this into a political football, because there is no thinking person in this chamber, in this parliament, who would not argue that we can do more. Last month the South Australian state government finally admitted what many of us have known for many years—that is, that self-government on the Pit lands has failed. This conclusion came from the Treasurer in South Australia after the Adelaide Advertiser revealed that an urgent $7 million health funding package that was promised in May 2003 had never been delivered by the state Labor government to health workers. That was funding that had been provided in response to a 2002 coronial inquest into the tragedy of petrol sniffing on the lands. As Kevin Foley said at the time—and I agree with him and I think everybody in this place would agree with him:

Self-governance in the Anangu Pitjantjatjara lands has failed.

He said:

I think this is an acknowledgement that 20 years of doing what we thought was right for the Aboriginal lands has failed...

Indigenous self-government on the Pit lands in South Australia has not only failed the Aboriginal people as a whole; it has also failed the Aboriginal children on those lands. This has been made clear, and the dire situation in the Aboriginal community of Yalata is, unfortunately, a similar reflection of the same problems where domestic violence and child abuse are rife.

Those in opposition here say that they will abolish ATSIC and ATSIS and replace them with 35 individually elected Indigenous regional bodies. That sounds awfully like regional land councils to me. We already know the land council model does have some quite fundamental difficulties. The Minister for Immigration and Multicultural and Indigenous Affairs has outlined those on a number of occasions in this place. I do not think there is any doubt that there are better ways of managing them, and the minister has given an undertaking that she will act on the report of Jackie Huggins, Bob Collins and John Hannaford and make an announcement regarding the future.

The Howard government has nearly doubled Indigenous health funding since it came to office, and such spending is now at record levels. There is no doubt that money is being made available. The issue is to make sure that it is being spent in the right way, Senator Ridgeway, and that area has been looked at by Jackie Huggins and her colleagues. Funding for the Aboriginal and Torres Strait Islander Health Program stood at $272 million in 2003, a real growth of 99 per cent since 1996.

Senator Crossin interjecting—

Senator FERRIS—Senator Crossin, a 99 per cent increase since 1996 is no mean feat when the government inherited a $10 billion
black hole on coming to office. Our priority in increasing Aboriginal health funding by 99 per cent in eight years is commendable. In the 1999-2000 budget, $78.8 million was provided over four years to improve Aboriginal and Torres Strait Islander people's access to primary health care through our Primary Health Care Access Program. I am pleased to say that an additional $19.7 million, commencing this financial year, was allocated in the 2001-02 budget. There is now very clear evidence that more Aboriginal and Torres Strait Islander people than ever before are having disease detected and treated.

Senator McLucas interjecting—

Senator FERRIS—It is very easy to come in here on the opposition side and hand wring and say that we need more money. While I am trying to keep the politics out of this, Senator McLucas, we have allocated 99 per cent more than was allocated in 1996, and more Aboriginal and Torres Strait Islander people than ever before are having disease detected and treated. Thank goodness for that. And thank goodness also that Indigenous infant and perinatal death rates have fallen by one-third over the last decade. I know they have further to fall—we want them to be the same as for the rest of the Australian community—but at least we are making some progress. There has been a fall of over one-third in Aboriginal children’s death rates.

There are a number of achievements that I could go through today, but I simply want to reiterate: this issue is too important to be a political football in this place, and it is too important to be the subject of racist remarks, unfair and unfortunate comments about New Zealand’s Leader of the Opposition, the minister in this place and a number of other individuals who have made a very clear commitment to Indigenous health.

Senator CROSSIN (Northern Territory) (4.11 p.m.)—Senator Ferris, you are right: this is a very important issue. In fact, it is an issue of national significance, but it is also a national disaster. It is a timely and appropriate debate, particularly when yesterday representatives from the Fred Hollows Foundation provided briefings to a number of us and held a national press conference where they again asked for the issue of Indigenous health and the crucial state of the health of Indigenous Australians to be placed as a national threshold issue. Their letter that went with the information kit they distributed to people yesterday asks for a national understanding of the reality of the situation to be again awoken—in other words, to try to give Australians, front and centre, a genuine and real understanding about what is happening with Indigenous health.

It is not about playing politics; it is not about sledging each other across this chamber; it is about somebody actually taking responsibility for improving outcomes for Indigenous Australians particularly when it comes to health. That responsibility of the federal government of this country lies squarely and solely at the feet of the Prime Minister, the Minister for Immigration and Multicultural and Indigenous Affairs and, of course, the Minister for Health and Ageing. Someone has to take responsibility. We have now had eight years of this federal government, yet we see no significant improvements.

The Fred Hollows Foundation said yesterday that little has changed, that a massive health crisis still exists in Australia. Indigenous people now have a life expectancy more than 20 years less than that of other Australians. Life expectancy for Indigenous Australians is worse than for people in many developing countries—and we have had recorded in press clippings in the last 24 hours a list of those countries. Indigenous infants
are dying at the same rate as babies in some of the most impoverished developing nations. The Indigenous infant mortality rate is twice as high as that of non-Indigenous people. Twice as many Indigenous children are born at low birth weight than any other Australian babies. Low birth weight is an important indicator of chronic health problems later in life. In remote areas, particularly in places like the Northern Territory, Indigenous children are three times as likely as non-Indigenous children to die before the age of one. Sadly, the major cause of illness is preventable infections.

I have raised in this place time and time again, through estimates, the incidence of trachoma in this country and, in particular, in the Northern Territory. But in the Territory the incidence of trachoma is estimated at between 12 and 20 per cent amongst children in Aboriginal communities, and there is currently no data available on the presence of trachoma nationally. Trachoma is a disease which has largely been eradicated in many Third World countries. Australia is the only OECD country where blinding trachoma still exists. That is a national disgrace. When we talk about a rich country, a country full of opportunity, how is it that we still have Indigenous people in our own backyard suffering from trachoma?

We can eliminate trachoma with courses of erythromycin, but we also need to ensure that Indigenous people have healthy lifestyles, that we eliminate their having to have 40 people to one house and that we seal roads in Indigenous communities. But, for eight years, this government has not even started to try to tackle the housing problem. There is an opportunity for the housing problems in this country to be overcome. There is now a need to walk hand in hand, I believe, with corporate and private businesses in this area. We are never going to find enough public dollars to put enough houses in Indigenous communities. It is time to start talking to corporate businesses and to the private sector about how they might jump on board and alleviate the problem. But this government just sits on its hands and is doing nothing that is proactive to overcome the problem.

Aboriginal children in remote communities in the Northern Territory suffer so many middle ear infections in early childhood that only seven per cent have normal, healthy ears. By 2½ years of age, 25 per cent of children have perforated eardrums—think of that. By the time little Aboriginal children are 2½, 25 per cent of them have perforated eardrums—imagine the pain of that, let alone their inability to speak properly or hear what is going on. It is estimated that up to half of Aboriginal children in remote communities have a hearing loss. The current rate of ear infections in remote Northern Territory communities ranges from eight per cent to over 50 per cent. The World Health Organisation regards a rate of four per cent as a massive health problem.

I have seen it myself. I stood in a classroom at Yirrkala in 1981 and saw kids with chronic ear infections, and we did as much as we possibly could back then. But let me tell you this: when I went back to that community only two weeks ago to attend the funeral of an Indigenous man who was well respected and loved in that community, I saw kids still running around with chronic ear infections. It seems that nothing has changed. One has to wonder whether the day will come when we see a turnaround in the results and an improvement in what is happening.

Only $600,000 of $29 million is spent on Indigenous Australians this financial year by Australian Hearing Services. Australian Hearing Services are contracted by this government to provide hearing services to all
Australians, in particular Indigenous Australians. But picture this: of $29 million, only $600,000 is spent on Indigenous Australians through their own program. Is this because Australian Hearing Services have a mainstreaming approach? Is it because the federal government does not direct them about the way in which they need to spend their money? Either way, I cannot get an answer out of this government at estimates about why that is the case.

So when we talk about practical reconciliation, I have given you this afternoon two very real examples of how the health of Indigenous Australians in this country could be practically improved, and the government are doing nothing about it. They give me no answers at estimates about why there is a lack of progress in this area. They provide excuses as to why it cannot be done rather than solutions about why it can be done and, more importantly, when it will be done. When are we going to see a turnaround in these statistics that are embarrassing and that should make us, as a country, ashamed of the fact that we still have Indigenous Australians in our midst who are suffering one of the worst health outcomes in the world? It is an international disgrace and we should be ashamed of it.

Senator LEES (South Australia) (4.19 p.m.)—I thank Senator Ridgeway and Senator Ferris for giving up time so I can have three minutes in this important debate. In the very short time I have I will not dwell on the statistics and the details of the health crisis facing Indigenous Australians except to say that a life expectancy of 47 for men and 50 for women in the Northern Territory is an absolute disgrace. Indeed, it is beyond adequate description.

What I want to look at are some solutions. The solution is not just more money for health—and here I acknowledge that the Commonwealth has put it in some extra money. More money is urgently needed, yes—particularly for the pooled funding model that is working well and that should be extended nationally. I stress here that Indigenous Australians still get less Commonwealth funding per head for primary health care than other Australians. But the solution is not just to have more money for health services. It is about education, it is about jobs, it is about housing and it is about good phone and Internet services. It is about a whole-of-government plan, a whole-of-government approach. The key, I believe, is in education to ensure that local Indigenous people can qualify for the jobs in their own communities.

There is so much to be done in Aboriginal communities—from nursing and teaching to maintaining roads, building appropriate housing and ensuring sewerage systems are for the 21st century, not the 19th. There are desk jobs, jobs on garbage trucks, jobs in child care and aged care. There are jobs in providing clean water, which many communities do not have. There are jobs in tourism, jobs in protecting the environment and jobs in such things as the Camel project at Kaltukatjara, or Docker River, which still cannot get the funding to really get under way.

But as I travel and visit Aboriginal communities I find classes in primary schools of 23, 27 or 28 kids, who do not have English as a first language, with just one teacher. In Adelaide that would not be tolerated. In Adelaide we find the general rule is to have one teacher for every nine ESL students. So what chance do these Indigenous kids have? A private Indigenous college, Nyangajatara college, which takes students from an area where only one or two kids a year ever manage to get through secondary school, now has around 100 students but is struggling for funding. The college is not classed as an ordinary private school, so it cannot tap into
the hundreds and hundreds of millions of dollars poured into our top private colleges.

They are only eligible for money from the small Indigenous education pool. So, if kids at this college get money, some Indigenous kids somewhere else are going to miss out. That means these kids are still sleeping in dongas, the staff are still in caravans and they have been learning in borrowed prefab work huts. I do commend the Commonwealth for just funding three classrooms—my lobbying of Minister Nelson sent them $2½ million to get some accommodation. But this still is not enough. But we are told, ‘No, the cupboard is bare. They can only access Indigenous funding.’ We cannot blame ATSIC for the crisis in Indigenous health. It is years since they had health money. It is the states and territories that look after primary and secondary schools as well as health. The Commonwealth needs to put more money into the private sector in Indigenous education. (Time expired)

Senator SCULLION (Northern Territory) (4.23 p.m.)—I rise today to speak to this matter of urgency. I preface my remarks by thanking Senator Ridgeway for bringing this to the attention of the house and particularly for his appeal to respect this very important motion. The appeal was: ‘Let’s not politicise it. Let’s in this place give the respect that this sort of motion should be accorded.’ I am very pleased that on this side of this place it has been respected. I do not think anybody would be foolish enough to deny that the state of health in Indigenous Australians is much worse than that of other Australians. It would be a disservice to the health and allied workers who daily toil to improve the state of Indigenous health to say that nothing has been achieved. As a member of this place once said, anyone who thinks things have not improved in Indigenous communities was not around 20 years ago. I was in and around those communities 20 years ago, and things certainly are better than they were then—not in every area, but substantially across the board that would have to be the case.

As the Fred Hollows fact sheets point out, the state of Indigenous people is not actually getting worse but—and this is probably more important—the gap between the health of other Australians and Indigenous Australians is getting wider. This matter of urgency ends up by saying ‘that this crisis in Indigenous health be a priority in the upcoming federal budget’. I could not disagree with that. I am quite sure that this government is considering the budget, particularly those budget areas, in that context. We cannot believe that just throwing money at this problem is going to make a change. Somebody said to me the other day that the definition of lunacy is doing the same thing again and expecting something different to happen. Plenty of money has been thrown at this issue by a series of governments in the past. We need to do more than that.

With respect to health most Australians think, ‘If you’re ill, if you’re sick, you go to hospital and recover.’ It seems like a fairly basic process. We are still seeing the health issue in that context: we get ill, so we need access to services to prevent the downstream consequences that I am about to address. Many of the communities that I visit evidence no knowledge of even basic hygiene. That is down to a whole range of issues. Sometimes they do not even have running water. It is okay to say to them: ‘Why don’t you wash? Why don’t you have a shower?’ but it is pretty hard if they do not have a shower or access to those facilities. Quite often those facilities have been provided but the maintenance is not done.

It is important to recognise that sometimes people who turn up at these health centres have very simple sores and abscesses that could have been fixed with a bandaid and a
bit of Betadine but, because of their lack of knowledge of very basic first aid, they wait for something to happen, so the wound festers and then they go to the health clinic. These are very basic issues of education that we really need to stick to. Many of the communities—particularly in Northern Australia, because of the genealogy of the people that inhabit that area—appear to have a predilection to diabetes. It is particularly sad when you go to these communities and see that the only things these people can eat—young Indigenous Australians particularly—are Coca-Cola, chips or chicken. That is their only choice. We are trying to build an environment where they can somehow come out of the cycle of dietary and environmental conditions that places them in the worst possible demographic for diabetes. I have spoken to a number of the food suppliers and some of that is changing. ALPA and Independent Grocers have made a number of substantive changes in that area, and they have moved very fast to ensure that the food is not only available but available at a reasonable cost. It is the right of every young Australian, particularly, to have access to a reasonable diet at a reasonable cost.

School attendance is a very important issue for basic education. You can talk to young people on the street and say, ‘Put something on that cut,’ and they will look at you oddly, because they do not understand how germs get into your body. If you puncture your body you must do something about it, but you cannot get that basic education if you do not go to school. The issue of school attendance, and education principally, obviously has a great impact on health issues. Even those people who do go to school have to deal with chronic middle ear infection, which was mentioned a moment ago by the senator for the Northern Territory on the other side.

We have had some very good programs that focus not necessarily on getting more money but on ensuring we empower the community and community leaders to work very closely with the health workers to bring about good health outcomes. A classic is ‘strong women, strong babies, strong culture’. That was introduced by the previous CLP government in the Northern Territory and very wisely continued by the Labor government that is there now. That is a bipartisan approach to good policy. There is no politics in it. It is a smart thing to do and we will keep doing it. The evidence for that program was in part of the Fred Hollows Foundation’s fact sheet. The program actually reduced the number of low birth weight babies from 19.8 per cent in the early nineties to 11.3 per cent in 1994. It is a significant difference. The people who are operating in that program understand the outcome. It is not all about money; it is about community involvement. It is a very important program.

I can mention another program about diet, health and looking after the aged in our communities. We have a Meals on Wheels program in Ramingining. Every day sections of the younger community go out and shoot a buffalo or catch barramundi, crabs or long bums and bring them in for the old people, because they know and understand the importance of bush tucker. It is an awful lot better than the chicken, the hot dog or the Chiko roll you are going to get as the alternative. It is really important for maintaining health. The Commonwealth fund that absolutely excellent program. The Primary Health Care Access Program is another excellent program that has very good outcomes, and it is a step in the right direction.

I was with Senator Patterson in Kintore recently when we opened a magnificent health centre, brand-new and gleaming in the sun. That health centre will be full of people who are compassionate, well skilled and
dedicated to resolving those issues of health in the communities. But, if we keep relying on the infrastructure and funding outcome issues alone, we are not going to deal with the issue that has been brought to us today. I do not think there is any government program at any level or any community action which you can point to and say, ‘This is enough.’ We need to do much more. We are taking some steps in the right direction, but this issue cannot be put down to funding and infrastructure alone.

Senator McLUCAS (Queensland) (4.30 p.m.)—I rise to add my voice to the call for the government to recognise as a matter of urgency the need to address the emergency in Indigenous health in Australia. I want to focus my remarks this afternoon on the health emergency faced by Indigenous women and Indigenous children.

Australian Bureau of Statistics figures presented in Dr William Jonas’s Social justice report 2003, which was presented to the Senate only recently, paint a distressing picture. In the period from 1997 to 1999, for the general population life expectancy for women was 81.8 years. That grew for the general population to a life expectancy in 1999-2001 of 82.4 years. For Aboriginal and Torres Strait Islander women, though, the story is very different and very concerning. In 1997-99 the average life expectancy for Indigenous women was 63 years but in 1999-2001 that dropped to 62.8 years. That simple, single statistic should send shivers down the spines of us all. To have in 2004 a cohort of the Australian population with decreasing life expectancy is shameful and we have got to do something about it. The report went on to say:

Approximately thirty years ago, life expectancy rates for Indigenous peoples in Canada, New Zealand and the United States of America were similar to the rates for Aborigines and Torres Strait Islanders in Australia.

However, he says:

... Australia has fallen significantly behind in improving the life expectancy of Indigenous peoples. Although comparisons should be made with caution (because of the way different countries calculate life expectation) data suggests Aboriginal and Torres Strait Islander ... females live between 10.9 and 12.6 years less than Indigenous females in these countries.

The countries he refers to are Canada, New Zealand and the USA. So, while in those countries the life expectancy for Indigenous peoples has been improving, over the same period of time in Australia we have done nothing to improve life expectancy. With the same access to resources, the same access to technology and the same access to the same research, we have not been able to bridge that gap. It should be a matter of shame to us all that, for women and children of Aboriginal and Torres Strait Islander descent, we have not been able to match those results and reverse the statistical data.

The National Rural Health Alliance reports that, compared to the rate for the general Australian population, infant mortality is much higher for Indigenous infants. In the period from 1990-92, the annual death rate for Indigenous infants was 26.8 for males and 24.9 for females per thousand. This compares with 7.9 males and 6.2 females per thousand in the general population for the same period. Our Indigenous children are dying at almost three times the rate of non-Indigenous children. That simple statistic should tell us everything. It should tell us that something has to be done and has to be done now. The Aboriginal death rate for 15- to 24-year-olds is four times worse than that for the non-Indigenous community. They also report that the more remote the area in which an Australian infant lives, the worse their health status will be.

Statistics show that the reality faced by Indigenous people is an emergency and they
show that for women the situation is getting worse. I was shocked to see the change in mortality rates. Certainly we need to gain a greater understanding of why this is the case. The concern that has been expressed in this place today is shared by many other, if not all, professional bodies in the health care sector. The President of the AMA has spoken strongly about what we need to do. He said: Funding is part of the equation, access is the other.

He said initially:
All Australians should feel ashamed that one group of people in our community faces a health reality worse than many third world countries ...

The National Rural Health Alliance yearbook and annual report calls on the federal government, through the Prime Minister and his cabinet colleagues, to lead a national campaign to improve the health of Indigenous people. The Royal Australian College of Physicians in September 2003 released a comprehensive policy on Indigenous health, which I commend to everyone in the chamber. One thing that they have committed to do and have in fact done is develop a partnership with the Australian Indigenous Doctors Association to create a mentoring scheme for Aboriginal and Torres Strait Islander students seeking a career in health. I am pleased to advise the Senate that Mr Alan Sambono was appointed earlier this month as the project officer for that scheme.

As I said, the issues are to do with access but they are also to do with a range of other factors. In the inquiry into Medicare, the Aboriginal Medical Services Alliance Northern Territory said that access to primary health care was a significant indicator of the quality of health outcomes for Indigenous people. They went on to ask the question: Do Aboriginal people currently have good access to quality PHC services?

They stated:
Historically, Aboriginal people have had very poor levels of access to PHC services relative to non Aboriginal Australians. The major funding sources for PHC services for non-Aboriginal Australians are the Commonwealth’s MBS and the PBS programs ...

They went on to quote Professor Deeble’s data of 1998:
... for every $1 spent on non-Aboriginal people there is $0.41 spent on Aboriginal people and for the PBS the corresponding figure is $0.33.

Senator Patterson—That’s wrong.

Senator McLUCAS—Senator Patterson said Professor Deeble is wrong. Let us have the information, let us have the data and let us have the discussion. The message is clear. It is about access; it is about levels of funding. We are facing a crisis for Aboriginal and Torres Strait Islander people. It is not only about access but also about the culturally appropriate delivery of services and lifestyle issues. (Time expired)

Senator HEFFERNAN (New South Wales) (4.37 p.m.)—I congratulate Senator Ridgeway for bringing on the debate on this matter of urgency today. I condemn the racist slurs made earlier in the debate and I will leave it at that. Indigenous health is obviously about better education, better tucker, better housing and all the things that have been mentioned. No-one is going to dispute the fact that we have a lot of work to do for Aboriginal people in Australia. I am proud to say that I have never had an Indigenous person come into my office angry and go out angry. In fact, in 1996 in this place I said:

No less is the challenge imposed on this generation of Australians by the centuries of misunderstanding and neglect of our indigenous people. We must provide for the return to our indigenous people of their self-esteem: built up over thousands of years by their majesty mastery of traditional living, land custodial skills and timeless culture; broken down in 200 years by the inevitable exploratory nature of man, the intrusiveness
of his machines, the enticement of his money and the destructive onslaught of his social habits.

A paradigm shift is required and will only occur when provision is made for our indigenous people to progress, even in remote areas, from communal benefit to individual benefit; when access for all Australians to health, education and employment is not distorted by location or station in life; and when, regardless of race, creed and colour, we purge those leaders who believe all should be equal except the equalisers and who see the often generous funds of government as the opportunity for a feast on which to fatten their personal circumstances while neglecting the famine.

Unfortunately, when these predators turn onto the public purse a lot of Australians turn off.

There are a lot of good things happening; there are a lot more to be done. Recently David Liddiard from NASCA visited my office. He put a great case for some great things that are happening out in remote areas. I am hopeful that we will be able to assist him. He personally raises $1 million a year on his own to go out there into Indigenous communities. One time I was with Tracker Tilmouth at the Apatula Community at Finke and Tracker said, ‘Go down to the local store and you’ll see these kids have got terrible glaucoma and a lot of dialysis problems and renal failure.’ I went and kicked a footy in the paddock with the kids. I said to them, ‘What do you kids need most of all?’ They said, ‘We’d like a swimming pool.’ A swimming pool would be a great way to improve the health of kids in that region because it would clean the dust out of their eyes. If you go to a place like Yuendumu, where there are 900 people and half of them are school age kids, probably at best half of them go to school and they do not get fed. There is not a lot of light at the end of the tunnel for some of these kids. I have also been to remote communities where alcohol is a serious problem and where the women and kids live in warlike conditions. They are not game to let the kids go into the houses at night for fear of being abused.

I went to the hospital at Alice Springs and visited the ward for premature babies. There were all these little girls who looked like they were only old enough to be going to school but they were the mothers of all these little kids. I think the little ward accommodates seven kids but there were often up to 15 kids there. When the mothers and babies leave, the hospital staff do a fantastic job. They give them a little locked tucker box of food for the baby. What chance have that little mother and little baby got when you have to send them home with a locked tucker box so that someone else does not get at the tucker? There are a lot of complications. A lot of the people that live on the dry Todd River bed in Alice Springs have become a curiosity for tourists, which is shameful for all Australians. A lot of those people are there because they have nowhere else to stay while mum, dad or someone else is having renal dialysis. In the Northern Territory, shamefully, there are only three places, as far as I know, where you can get renal dialysis—Alice Springs, Darwin and Tennant Creek.

Senator Patterson—And Tiwi.

Senator HEFFERNAN—And Tiwi, is it? That is a failure for all Australians. You see another failure when you go to congress in Alice Springs and they tell you that a lot of the money that the Commonwealth sends to the Northern Territory government gets diverted. It does not end up where it belongs. These are complicated issues and it is not just about money. I applaud the Hollows Foundation for highlighting these issues. There are a lot of good things happening; there are a lot more to be done.

This government has done a lot of good things: access to Medicare and pharmaceutical benefits has improved, with expenditure on Aboriginal and Torres Strait Islanders...
having increased by 50 per cent since 1996. That is having a go. The number of Indigenous specific primary health care services funded by the government has increased from 108 to 152. I could read through endless statistics showing how things are on the improve, but we have a long way to go. As much as anything, these people need help with education and they need fostering and parenting skills so that the kids get fed before they go to school. There are a whole lot of things involved in health.

I applaud everyone involved in this debate and I plead for every Australian to be aware that we have a lot of work to do. As I said earlier, in 200 years we have destroyed this precious culture. We have broken down Indigenous people’s great skills and we have an obligation to put all those back in place. I am pleased to see from the statistics that we have 44 general medical practitioners—that is 50 per cent more than in 1996, so we are on to it. *(Time expired)*

**Senator RIDGEWAY** (New South Wales) *(4.44 p.m.)*—I despair at the level of debate in dealing with what are crucial issues in this nation, certainly in respect of dealing with the merit of the arguments as opposed to accusations of both wedge and reverse-wedge politics. This issue confronts all of us and we have an obligation to deal with a crisis which is happening in our backyard. The motion that has been put forward is a very simple and reasonable one. I seek the support of the Senate to show the leadership that is required to mitigate the circumstances of misery that exist in so many Indigenous communities across the country. It is no secret that Indigenous people in this country do not vote in such numbers to make a difference to any side of politics. We do not decide the outcome. It is also true that we do not garner that broader Australian respect and that we are often despised and seen in a poor light. I often wonder about the future of the young, given the harmful and negative images that are portrayed, and what they must think about their life circumstances and opportunities for their future. We sit on the edge of society, in the riverbeds and the ghettos throughout the country, perhaps sometimes through our own fault, but that is no reason to point the finger of blame or to try to find someone to cast that upon, to leave people to live or to die. I despair because I do not believe that these people have chosen the circumstances into which they are born.

There are other issues that we need to deal with and we cannot continue to hide behind the rhetoric, saying that we are doing great things and being able to spend more money when the figures themselves continue to give lie to the claim that things are getting better. It is not just about figures; we are talking about people. The right leadership is what is required, but there is also an obligation upon us. We are the ones who should be held to account if our policies and practices have made life harder and not easier for Indigenous people in this country. We should also hold ourselves in contempt if Aboriginal babies continue to die younger. Many of the people in my own community do not live to enjoy the fruits of retirement, let alone have the capacity to build some wealth to enjoy in the future. It requires a different approach and a change of heart.

Yesterday when I attended the launch of the Fred Hollows Foundation on putting the facts out there, it was said that Professor John Deeble estimated that an additional $300 million per year is urgently needed to achieve an equitable allocation of health care resources and to train the additional workforce that is required. We are talking about nothing more than $12 per Indigenous person in this country, the same amount of money over a year that is spent in a week on defence. The call that is being made is not unreasonable. If there are surpluses in this
year’s budget, if we have this crisis happening in our backyard and if our fellow Australians do not enjoy the same life opportunities and choices, we should commit surpluses to dealing with that emergency crisis.

Question agreed to.

PERSONAL EXPLANATIONS

Senator ROBERT RAY (Victoria) (4.48 p.m.)—I seek leave to make a brief personal explanation as I claim to have been misrepresented.

Leave granted.

Senator ROBERT RAY—Today at question time I directed an interjection at Senator Vanstone. I would like to withdraw that interjection. I understand I have caused her personal hurt. That was not my intention. I apologise if I have caused her personal hurt. I am a rather competitive senator and my only defence is that in 23 years in this chamber I have never, ever asked for a remark about myself to be withdrawn.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator CROSSIN (Northern Territory) (4.49 p.m.)—I present the fifth report of 2004 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 5 of 2004, dated 31 March 2004.

Ordered that the report be printed.

Treaties Committee

Report

Senator KIRK (South Australia) (4.49 p.m.)—On behalf of the Joint Standing Committee on Treaties, I present the 59th report of the committee entitled Treaties tabled in December 2003, together with the Hansard record of proceedings and minutes of proceedings. I move:

That the Senate take note of the report.

I seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The statement read as follows—

Report 59—Treaties tabled in December 2003

Marriage documentation—Italy

Withdrawal from the international foot and mouth disease vaccine bank

Maritime Pollution Convention (MARPOL 73/78) Annex VI—air pollution

UN Convention on Transnational Organized Crime, and two supplementary protocols on trafficking in persons and smuggling of migrants

The Agreement between Australia and Italy on civil registry documentation will make it easier in future for Australians to get married in Italy, by being able to produce documents which are acceptable to the Italian authorities, to notify that there are no impediments to the marriage taking place.

The proposed withdrawal from the International Foot and Mouth Disease Vaccine Bank supports Australia’s concerns about the quality of vaccines available from the Bank. After the advent of the ‘mad cow’ disease, it has been recognised by all parties to the agreement that new standards are required. Australia is in the process of making alternative arrangements, and all parties have agreed that the Bank should be closed.

Annex Six to the Maritime Pollution Convention deals with air pollution, recognised by the international shipping community as an emerging environmental issue. The Convention will set standards for emissions of dangerous pollutants from ships, an area where there are currently no enforceable standards. The new standards have been supported by the maritime industry.

The final three proposed treaty actions considered in this report are the UN Convention against Transnational Organized Crime, and two of its protocols, concerning People Trafficking and People Smuggling.

Transnational crime is of major concern to many countries in the world today, and the Committee agrees that by being party to this Convention,
Australia demonstrates its ongoing commitment to combat it. The Transnational Organised Crime Convention will provide a standardised approach to criminalisation and a mechanism for cooperation with a range of other countries in the prevention, detection and prosecution of transnational crime.

Similarly, adherence to the two protocols on people smuggling and people trafficking will demonstrate the importance Australia places in combating these repugnant, degrading crimes and set an example, in the hope that all countries proceed to address these serious issues. These protocols enhance the bilateral and regional cooperation we already have in the areas of people smuggling and people trafficking.

In conclusion, it is the view of the Committee that it is in the interest of Australia for all the treaties considered in Report 59 to be ratified and the Committee has made its recommendations accordingly.

Senator KIRK—I commend the report to the Senate.

Question agreed to.

Ministerial Discretion in Migration Matters Committee Report

Senator LUDWIG (Queensland) (4.50 p.m.)—I present the report of the Select Committee on Ministerial Discretion in Migration Matters, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator LUDWIG—I move:

That the Senate take note of the report.

This report on ministerial discretion in migration matters is the outcome of an inquiry that was established on 19 June 2003 following allegations raised in the parliament in May and June last year. The allegations were about the possible misuse of the discretionary powers by the former Minister for Immigration and Multicultural Affairs, Mr Ruddock. The accusations related to instances where the minister was alleged to have granted visas to individuals in exchange for cash donations to the Liberal Party by the individuals concerned or by those acting on their behalf. The central figure in the cash for visas scandal is a Mr Karim Kisrwani, a travel agent from Harris Park in Mr Ruddock’s former electorate of Parramatta.

Of the main allegations made about Mr Kisrwani one directly involved the exercise of ministerial discretion under section 417 of the Migration Act. Mr Kisrwani was alleged to have made a donation of $3,000 to Mr Ruddock’s re-election campaign on behalf of a Mr Bedwney Hbeiche, a beneficiary of the exercise of the then minister’s discretion powers. The background to this allegation is that Mr Hbeiche first applied for a protection visa in 1996 when he arrived in Australia. His application was refused by DIMIA, as was his subsequent appeal to the Refugee Review Tribunal.

There were then three separate requests for ministerial intervention under section 417. Mr Ruddock refused to intervene in relation to the first request. The second request was not referred to him by the department, apparently because it did not contain any new information.

On the third occasion, however, Mr Ruddock intervened and granted Mr Hbeiche a visa. Mr Ruddock stated in the House of Representatives that he intervened on the third request because he had received new information. That ‘new’ information was that Mr Hbeiche had three Australian citizen sisters who supported his wish to remain in this country. That ‘new’ information had been supplied previously in the original request made for ministerial discretion.

In the matter of the allegations concerning Mr Ruddock’s exercise of ministerial discretion, the Senate should be aware that Mr Kisrwani had a very high success rate in at-
tracting Mr Ruddock’s intervention. From 1999 to 2003, Mr Kisrwani made 55 requests for the exercise of discretion. Mr Ruddock intervened in 17 cases of the 36 that were finalised in that period, giving Mr Kisrwani a success rate of almost 50 per cent—an extraordinarily good result for a travel agent from Harris Park. This is in contrast to the 33 per cent rate of the most successful of all the parliamentarians who made requests on behalf of applicants for ministerial intervention.

The committee was keen to test the truth surrounding these serious allegations and sought from DIMIA and the minister for immigration detailed information on the cases in which Mr Kisrwani had some involvement. The committee was surprised that the department and Senator Vanstone, who is now the minister responsible, refused to provide that information, which presumably could have put the allegations to rest. The refusal was even more surprising given that case files have in the past been provided in confidence to Senate committees. The refusal can only add to the speculation that the former minister may have improperly exercised his discretionary powers under the Migration Act. The committee is concerned with Senator Vanstone’s refusal to provide the case files, documents, ministerial notebooks and other information held by the department, preventing it from addressing in full the inquiry’s terms of reference. The committee is left in no doubt that it was obstructed in carrying out the task requested by the Senate, which suggests a reluctance to expose the decision making process to close scrutiny.

Although the allegations raised in parliament were serious and required answers from the minister, the committee was empowered under its terms of reference to examine broader issues, such as the appropriateness of the ministerial discretion powers under sections 351 and 417 within the current migration system. The committee was also empowered to consider the operation of the discretionary powers by immigration ministers. Despite the minister’s disregard for the committee’s power to obtain these documents and information, the committee decided to report its findings and recommendations to the Senate and place on the public record information about the operation of the minister’s discretionary powers that is otherwise not available.

A key issue examined by the committee is whether the systems currently in place are adequate to ensure that the operation of the discretionary powers is transparent and open to scrutiny. The report identifies at least three areas of concern. First, the committee believes that DIMIA plays an important gatekeeping role in assessing possible intervention cases and preparing briefing materials for the minister. However, this decision making role does not generate adequate records or statistical data to enable effective external scrutiny of the way the powers are operating. The committee recommends that a system of internal and external audit be established to scrutinise the department’s decision making processes in this area.

Second, the committee finds that support from representatives, particularly community leaders, is important for getting applications onto the minister’s desk. Yet the committee is unable to determine the extent to which such representations influence the minister’s decisions because of the limited amount of information that is publicly available. To address this concern, the committee recommends improvements to the accountability and transparency of this aspect of the system to address the perception of bias and favouritism.

Third, the sole accountability mechanism with regard to the discretionary powers is a requirement that the minister table state-
ments in parliament on a six-monthly basis. However, section 417 tabling statements do not provide reasons for the minister’s decisions. The pro forma words used in the statements are not sufficient for parliamentary accountability. It appears that meaningful transparency and accountability in the ministerial intervention process stops at the minister’s office. To overcome this problem, the committee recommends that tabling statements provide actual reasons for intervention, as is required by the act, and indicate how the case was brought to the minister’s attention.

The committee concluded from its examination that there is a significant accountability black hole in the use and administration of the discretionary powers. If a minister can use the ministerial discretion powers without the possibility that parliament can scrutinise the decision making process, then an important check on the workings of executive government is missing, opening the way for corruption and the misuse of power. The areas of concern to the committee are not confined to the accountability of departmental and ministerial decision making. The committee also explores ministerial discretion from the perspective of those who request that the minister exercise the discretionary power.

Some of the most telling criticisms of the system relate to the use of the discretionary powers by the former immigration minister, Mr Ruddock. The committee heard that on many occasions Mr Ruddock used the intervention powers in ways not suggested by departmental staff, and on occasion would grant a visa class outside the range presented by the department. The committee is concerned that Minister Ruddock’s use of the discretionary powers, in the absence of a requirement to provide any explanation for a decision to intervene, appears to have added to the perception that direct access to him could assist a case and gain ministerial intervention.

Of equal concern to the committee is the comparatively large number of cases in which intervention was both sought and granted. Use of the minister’s discretionary powers has gradually become more frequent since they were inserted in the legislation, from 17 cases in 1992 to 483 cases in 2002-03, to 597 cases in three months from July to October 2003. In his last week as immigration minister, Mr Ruddock personally decided some 203 individual cases.

The sheer volume of cases reaching the minister’s desk for consideration raises two related issues. Can a minister possibly give equal consideration to so many cases, and is it appropriate that a minister’s time should be spent considering the details of thousands of individual cases rather than on overall policy development? The committee considers that the high volume of cases that Mr Ruddock dealt with in person indicates a systemic problem with the ministerial discretion powers. If ministerial intervention is necessary to ensure a fair or desirable outcome in so many cases, then this upward trend under ministers Ruddock and Vanstone suggests that the system has become unmanageable.

The committee considers that ministerial discretion should be a last resort to deal with cases that are truly exceptional or unforeseeable. This was the parliament’s intention when the power was originally introduced. The committee heard from a number of witnesses that reliance on ministerial discretion places Australia at risk of breaching its international legal obligations under the Convention against Torture, the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights, the ICCPR. The committee cannot accept assurances from the department that the discretionary powers are in fact sufficient to enable
Australia to meet its international obligations.

In closing, I would like to thank my colleagues on the committee for their efforts and their cooperation in producing this report. I would also like to thank all those who assisted the committee with its deliberations, including the committee secretariat: Mr Alistair Sands, Terry Brown, Peta Leemen, David Sullivan, Matt Keele and Di Warhurst. I commend this report to the Senate. I also advise that I have given a notice of motion in relation to an order for the production of documents today to seek those documents that were not provided by—(Time expired).

Senator SANTORO (Queensland) (5.00 p.m.)—It has been the contention of senators on this side of the chamber that the inquiry was always going to be a political exercise. Having listened to the comments made by Senator Ludwig, the chair of the committee, the tone and tenor of his comments certainly prove this particular point. It was always going to be a political witch hunt to bring down one of the most effective, efficient and honest ministers of the Howard government. The allegations made in the House of Representatives were put forward without a shred of evidence behind them. They were and still are scurrilous allegations without any foundation whatsoever. The position of government members is clearly set out in the government members’ report on pages 184 to 189 of the committee’s report. I hasten to add that there are really three reports here: the report of Labor members, a statement by Senator Bartlett and the report of government members. We are really dealing with three reports, if I can term it in that way.

The inquiry, we on this side contend, was set up to continue the witch hunt and to find the evidence, which of course was never produced in the other place. Reforming the system of ministerial discretion was never the main objective of the inquiry. It pains me to have to say that, but looking at the way the inquiry eventually developed—and now how it has finished—that is fairly obvious. In other words, hanging the former Minister for Immigration and Multicultural and Indigenous Affairs was the real motive, I would respectfully suggest, of senators on the other side.

The committee held seven public meetings in various centres over 38 hours and took 651 pages of evidence. Any reasonable person would conclude that by any measure it was a very extensive inquiry. Yet at the end of it all the inquiry could not come up with, uncover, elicit, cajole or deduce any evidence that would prove what in essence can be dubbed the ‘cash for visas’ allegations that were made shamelessly in the other place. In other words, the minister was not only found not guilty but was also, in our view, proven to be innocent. He was proven to be innocent of behaviour that existed nowhere other than in the scurrilous innuendos circulated by the Labor Party relating to his administration of a system of discretion in decision making that was first established and administered by a Labor government and Labor ministers. That needs to be stressed: it was established by a Labor government and Labor ministers and administered by Labor ministers.

It is a system under which Mr Ruddock still favoured ALP federal members in the exercise of his discretionary powers. Table 6.1 in the opposition senators’ report demonstrates this fact. Mr Laurie Ferguson, shadow minister for citizenship and multicultural affairs and a leading member of the ALP pack that was out to get Ruddock, has a 24 per cent success rate in achieving ministerial intervention; Mr Leo McLeay has a 25 per cent success rate in achieving ministerial intervention; Mr Anthony Albanese has a 28 per cent success rate; Mr Con Sciacca has a
29 per cent success rate in securing intervention; and Mr Anthony Byrne scores 30 per cent. Incidentally, Senator Bartlett top scores in the list, as published on page 89 of the report, with 33 per cent. We commend Senator Bartlett for his diligence in looking after people who want to be looked after by him.

It came out before the inquiry that people who had not even met the minister still enjoyed a very high success rate as a result of the exercise of the minister’s discretionary power. Some of the statistics that came before the committee showed that some people who had never met the minister had success rates of 50, 60 and 70 per cent. They had not met the minister or spoken to the minister, yet they still enjoyed success rates of that order with him. Mr Burgess of the Immigration Advice and Rights Centre told the committee:

I think there is a perception that if you know the minister, or you know someone who knows the minister, you will have a better chance. I do not know that that is necessarily the case, because we do not know the minister personally and we have a very high success rate.

That was from one of the key people to give evidence to the committee. Many witnesses both from within and outside the department gave evidence that Mr Ruddock was attentive to the ministerial discretion workload. The reason he gets through so many cases is that he is one of the most competent, intuitive and proficient ministers in the government. Ms Marion Le said she had a great deal of respect for Mr Ruddock’s knowledge of immigration law, and suggested that the system only worked because of the depth of his knowledge of the way the system worked and of the law. Another witness, Mr Lombard, said the system only worked ‘because the minister is incredibly assiduous in the amount of work he does’.

The select committee produced 21 recommendations, 14 of which are either unworkable or designed to extend still further the delaying mechanisms able to be employed by unsuccessful visa applicants. I should stress at this point that the government members of the committee actually support seven of those recommendations. Labor used the select committee as its ‘get Ruddock’ committee. The shadow minister for population and immigration, Nicola Roxon, and shadow minister for citizenship and multicultural affairs, Laurie Ferguson, were on a fishing expedition, trawling for evidence that Mr Ruddock misused the system. I recommend that honourable senators have a look at Ms Roxon’s letter and translation of the Arabic language newspaper advertisement placed by Mr Ferguson. Between May and June 2003 the opposition raised in the parliament a number of allegations about Mr Karim Kisrwani, including that he was the central figure in the cash for visas scandal. We again heard Senator Ludwig refer to Mr Kisrwani, who in the end became quite a mythical figure.

The opposition alleged, amongst other things, that Mr Kisrwani received $220,000 from Mr Dante Tan to use his influence with Minister Ruddock to have his visa restored. Specifically, two months after Mr Tan’s visa was cancelled on 5 September 2001, Mr Kisrwani contacted the minister’s office to inquire about the status of Mr Tan’s visa. After Mr Tan lodged an appeal to the Administrative Review Tribunal, the immigration department withdrew from the case after consulting with the minister on the question of costs. In a further attempt to impugn wrongdoing by Minister Ruddock, the opposition alleged that $50,000 worth of stamps were given to the minister by Jim Foo—an illegal immigrant who arrived in Australia in 1994 on a business visa that he overstayed—in an attempt to receive favours from the minister. These specific allegations, as honourable senators would be aware, have been
the subject of an investigation by the Australian Federal Police over a number of months. During the inquiry much was made of these allegations. The AFP advised the committee on 30 March 2004—yesterday—that its investigations into the above allegations are complete and that no criminality has been identified against any of the named persons. It was another witch-hunt—and people like Kiswani and Dante Tan have been cleared by the Australian Federal Police of any criminality.

Having worked out that it was not going to get Ruddock, Labor tried to snare the new Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone, by implying that she was trying to hide embarrassing material by refusing a committee request for the provision of notebooks used by departmental liaison officers and a large number of case files. I recommend that senators have a close look at Senator Vanstone’s letter to Senator Ludwig of 2 March 2004 for a very good explanation of why this request was refused. If the request had to be satisfied, it would practically bring the department to a standstill in terms of the administrative workload; there were also some very significant privacy issues and potential breaches of privacy that would have arisen in providing the notebooks holus-bolus as required by some members of the committee, despite the fact that the minister still advised that she was very keen to make available to the committee details in the notebooks that were relevant to the committee’s inquiries.

Government members of the committee dismiss unconditionally all innuendos of impropriety against Mr Ruddock, and their report can be read in the committee’s report. There was some innuendo also contained in Senator Ludwig’s statement to this place today. The statement was just a continuation of the slurs and innuendo that have been pushed by people opposite. To those people listening, particularly those who have a genuine interest in this issue, I also commend the additional comments by Senator Andrew Bartlett in terms of the minister’s honesty and integrity. I commend Senator Bartlett for having the insight and courage to put those comments on the record despite an enormous amount of pressure—I am not saying direct pressure but pressure nonetheless—by other members of the committee to concur with the suggestion that somehow the former minister for immigration, Philip Ruddock, had done something wrong.

Labor claims that ministerial intervention powers in visa cases are ‘open to real or perceived distortion, political influence and corruption at the highest levels of public office’ because the powers are ‘non-compellable, non-reviewable and non-delegable’. The powers are meant to be precisely that so that a visa application can, at the very end of the process, achieve finality. If all the recommendations of the select committee were implemented, a further three or four levels of review would be added to the process. This would extend the decision-making process—possibly by several years—and deny the government of the day the capacity to manage the number of people entering and remaining in Australia. In conclusion, I would like to add my thanks to the members of the committee secretariat and to all senators and members of the committee. (Time expired)

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (5.10 p.m.)—Today demonstrates to me some of the immense frustrations in the way the parliamentary process works because I believe this committee report on ministerial discretion in migration matters contains a lot of very important information about a very important public policy issue that reflects and impacts on many people in absolutely critical ways, yet I imagine the vast bulk of coverage in the media about what has happened in the
parliament today will be about a bunch of name-calling down in the House of Representatives. I do not criticise the media for that, I might hasten to add, as that is simply the way parliament and politics work, but it is still very frustrating and very unfortunate because, whilst the finger pointing and schoolyard name-calling happen in the House of Representatives, all eyes are diverted to that away from the very important issues of public policy detailed in this report. For starters, I should point to the areas where there is agreement, because there is agreement across all members of the committee—Labor, Liberal and Democrat—that there is room for improvement. The Liberal members of the committee have supported some of the recommendations—nowhere near enough, in my view, but the reality of politics is also that, despite some of their individual views, they were never going to be able to agree to some of them—which I think is a positive sign.

I would urge people to look at the recommendations of the report. I support every one of these recommendations. They are recommendations adopted by the majority of the committee, and I support them all wholeheartedly. There are some that are more important than others and, hopefully, I will get to those when I get time but I must address the issue of Minister Ruddock first. This committee of inquiry was called the Select Committee on Ministerial Discretion in Migration Matters. In shorthand it was known as the cash for visas inquiry. That is because the political genesis of the inquiry was concerns and allegations raised against the former minister for immigration, Minister Ruddock. I would have to say that it was appropriate for those concerns to be raised and appropriate for the Senate to investigate them. That is why the Democrats supported initiating this inquiry. The circumstantial evidence surrounding the issue and the evidence in relation to donations—evidence that would not even be in the public arena were it not for previous Democrat initiatives in the area of accountability of political donations—all led to the need to ask questions and get to the bottom of it.

I do agree that the minister and the current minister should be condemned for obstructing the committee much more than is acceptable in getting access to some of the files. Having been part of a previous inquiry three or four years ago that Senator Ludwig was also part of, an inquiry that touched in part on ministerial discretion, I know that we had much more access back then than we did this time around. That is very unfortunate; I do not believe that it was likely to dig up any evidence that would genuinely suggest problems in relation to Mr Ruddock’s behaviour but it would have shown much more specifically what the committee was able to establish anyway: there is a real, overall, systemic problem with the system of ministerial discretion.

The real problem, and what the vast majority of this report is about, is the problem of how the ministerial discretion power has evolved—its vast extent now under the Migration Act, how widespread it is, how common its use is—in an area that should be for exceptional circumstances. So, regardless of who is immigration minister—the previous minister, the current one or a Labor minister in a future Labor government—the real problems are that the law gives them far too much power and gives it specifically to that minister and nobody else so that they cannot delegate it at all, and that its exercise is across a wide range with no scope for appeal and not even any real scope for proper oversight or accountability. That is where the problem lies, and because of that problem any minister is open to the sorts of allegations that were made—because there is no transparency and there is a very great degree
of uncertainty about how the system works and why some people are successful in having the minister exercise discretion while other people are not.

Senator Santoro mentioned table 6.1 on page 89. As he mentioned, out of all of the federal parliamentarians I had the highest success rate in requesting the minister to intervene and finding that he did. I had no idea that that was the case. Despite that, I could give you some indication but I could not give you a clear indication about why some of them were successful and others were not.

Senator Santoro—They were diligently argued; that’s why.

Senator BARTLETT—Whether it was because of my brilliantly argued cases—or perhaps it was my personal charm; who knows? That should not be the case. Whether or not someone gets a good decision from the minister should not be based on the charm of a parliamentarian or even the fact that they know a parliamentarian or a parliamentarian is able to argue for them.

The ACTING DEPUTY PRESIDENT (Senator Bolkus)—Senator Bartlett, you could be in danger of misleading the Senate here!

Senator BARTLETT—I will take your caution, Mr Acting Deputy President. We do not know why some are successful; that was pretty clear from the evidence. We had a lot of people giving evidence who were involved in this area of activity and we got a huge range of opinions. Some said, ‘It’s really helpful if you know somebody’. Others said, ‘It doesn’t make any difference at all.’ I would not have a clue. That is not good enough. But, clearly, the fact that I am more successful than any other MP, at least in a statistical sense, shows that you do not have to give donations to the Liberal Party or be a member of the Liberal Party to succeed. I am not quite sure what you do need to do, and that is the problem.

I have to say that no evidence was presented to back up those allegations or the circumstantial evidence for them. I think I can credibly say that nobody in the Senate has been more critical more often of Minister Ruddock and his policies, his laws and many of his statements than I have. So I certainly do not feel that it can be suggested that I would pull any punches in relation to him, and I saw no evidence presented. I base that not just on the evidence, or lack of it, that was presented to the inquiry but also on my own experience with many cases—as reflected in that table—my own contact with many people in the community and my own dealings with Minister Ruddock, his office and his staff. There are lots of problems with this system but I do not believe, and I have not seen any evidence to show, that any of them even remotely relate to cash for visas.

I therefore also have to say that I saw nothing that gave any weight to any of the claims against Mr Kiswani, whose name was also bandied about the place. I do not know the guy. But if you know the minister, if you are going to a function that the minister is at and you know people who have a difficult case or are seeking ministerial intervention, then, frankly, you should try to get the minister’s ear. It is not an ideal system. That is why the recommendations about the problems with the system are so important. I see that Senator Ray has come into the chamber. The report quotes him from when he was Minister for Immigration, Local Government and Ethnic Affairs and he pointed out some of the problems with discretion. I think he has been proven right. I do not believe discretion should be eliminated altogether. The committee does not recommend that but it does acknowledge that it has got way out of control. The figures in the report about the number of requests show
that back in 1996 there were 814 and last financial year there were 6,000.

I urge people to read an article in the Age of 21 February by Michael Gordon and Russell Skelton which gives a bit of an idea about how it works—Minister Vanstone saying, ‘See these orange files,’ pointing to a table stacked with dozens of orange folders, each containing requests for ministerial intervention. It is ridiculous for a minister to have to go to that level of micromanagement—and they have to; the minister is the only one who can use that discretion—or to think that this minister has time to go through dozens of files, 6,000 requests. This is a minister who is also Indigenous affairs minister, I might add, and we have just had a debate about the huge problems in that area. The minister does not have time to sit around doing that.

The system has developed and evolved in a way that is clearly flawed, and that is why the recommendations are important. Despite that, we have the government pushing through another bill, the Migration Amendment (Judicial Review) Bill 2004, which has just gone through the Reps and come into the Senate, that again seeks to restrict access to the courts. All that will mean is more requests to the minister. It is a bottomless pit and it is getting worse. That is why these recommendations are important. I encourage people to read them.

I thank the committee secretariat. I also thank my staff for their work, in particular Marianne Dickie, who has done a lot of work on this and many other migration areas and is a key reason why my success rate is so high. I recognise the value of that. I recognise the contribution of all of those people in the community who contributed to this inquiry. The key recommendation is that we need to codify an area, particularly relating to protection visas, where people do not fit into the neat category of refugee but still have a clear humanitarian case. That area could be codified into something like a complementary protection visa. There is a recommendation in relation to that, and I urge the government to look at it. (Time expired)

Senator WONG (South Australia) (5.20 p.m.)—In the report that has been tabled today we have yet another example of a government that will not come clean. This is a government that refuses to come clean and that regularly and consistently seeks to hide the truth from the Australian people. It is a government that dissembles and obfuscates and a government that on many occasions misuses its authority within the Public Service.

I know that Senator Santoro seemed to assert that there were three reports of this committee. As I understand it, Senator Bartlett’s report is a supplementary report, but he had already acknowledged his support—not in total—for the report of the committee and support for all the recommendations. The majority report of this committee is a catalogue of government obstruction. It is a litany of obstruction by a government that has not wanted to allow the work of the committee to proceed and that has not wanted to open up its books in order for serious and significant allegations in relation to cash for visas to be answered. As a result of the obstruction by the current minister of the work of this committee, a cloud of suspicion remains over the former minister for immigration, now the Attorney-General. There are still, as a result of this committee’s inquiries, a range of unanswered questions—questions that the committee, as we said in our report, have been unable to answer because we have not had access to the information, to the files and documents which were required in order for the committee to properly do its work.
Senator Santoro and other government senators on the committee can sit on the other side of the chamber and say, ‘These allegations were baseless.’ If they were baseless then why did you not give the committee the documents? Why did you go against the procedure followed in a previous committee inquiry into this area where files were provided? Why did you change the precedent? Why did you have to cover it up if you had nothing to hide? You have already heard Senator Bartlett and also Senator Ludwig comment on the change in behaviour in relation to the provision of information by DIMIA between the last inquiry in which they were involved and this one. I say to government senators and to the minister: if there was nothing to hide, why was the information not provided?

There remain a number of unanswered questions. One of those is: why was Mr Bedweny Hbeiche provided with a visa in January 2002 when he had previously had that visa declined and when the information in the evidence before the committee was that there was no new evidence before Minister Ruddock? Contrary to what the minister said in the other place, there was no new evidence regarding his application between the first refusal and the subsequent granting of the visa. We also know that Mr Kisrwani—it has certainly been asserted, and I do not think it has been denied—had made donations to the member for Parramatta’s election campaign. Another unanswered question is: why is it that Mr Kisrwani enjoyed such a high success rate? It is no good for Senator Santoro to come in here and say, ‘Well, a few members of parliament had reasonable success rates.’ A member of parliament is very different from a travel agent who is not a registered migration agent. Yet that unregistered migration agent seemed to have an extraordinary success rate—better than that of quite a number of refugee advocacy groups. He is a man who appears to have enjoyed a close relationship with the minister.

Evidence was received by the committee from the departmental liaison officer that Mr Kisrwani would ring the minister’s office a couple of times a week. When we asked for information regarding the dealings between Mr Kisrwani and the minister’s office, we were told, ‘You can’t have that.’ Minister Vanstone says, ‘I’m not going to provide you with the notebook,’ about which evidence was given to the committee, created by Mr Peter Knobel, who worked as the departmental liaison officer, which recorded various notations about his interactions with Mr Kisrwani and others. One would have thought that, when you are wanting to actually clear the air and get to the bottom of some of the problems with ministerial discretion, you would make this available. But, no, the minister refused to do so. She and her department, at her direction, refused to provide key information to this committee to enable us to do our job. Hence in the majority report the committee found that we were obstructed in carrying out the task requested of us by the Senate.

There is a further question which remains unanswered: on what basis did Minister Ruddock intervene in cases where his own department had determined, on the basis of his guidelines, that the matter fell outside the range of matters that were properly the subject of his discretion? As we know, the minister issued a number of guidelines and said, ‘Look, these are the matters I’m going to look at.’ The evidence we were given was that if the department did not consider that a particular case conformed to the guidelines then the matter would be placed on a schedule. Yet in 105 cases between 2000 and 2003 the minister requested a full submission on cases that his department had already assessed as falling outside the guidelines. No
explanation has been given for that. No information regarding those cases has been provided. We are still left wondering why it is that a minister would override his own instructions to his department and demand a full submission on a case that was assessed as outside the guidelines. Was it because someone called him or was it for a meritorious reason? It may have been for a meritorious reason, but we do not know because that information was not provided and no explanation has been given for the large number of cases in the last three years where this has occurred.

The difficulty with the position of the department and the minister in refusing to provide information is that their claim that this was all too hard to provide simply does not stack up. They had previously provided similar information to Senate committees inquiring into this area. In relation to the issue of privacy, there were discussions, as I understand it, between the committee and the department around how that would be dealt with so as to ensure that people’s privacy was not affected. In fact this committee bent over backwards to try and lessen the amount of information we requested so as to ensure that the workload required of the department to provide it was not too great. What occurred instead was that Minister Vanstone said, ‘No, I’m not going to provide it and I’m not going to allow the department to provide it.’ An example of how easy some of the evidence not provided would have been to get was the evidence in relation to the specific questions put by the then shadow minister to the then minister of 17 or 18 cases in which Mr Kisrwani had some involvement. I know about this because I actually put these questions to the department. They were specific questions around process and outcome.

In fact, if you look at the correspondence of the then minister, Mr Ruddock, to Ms Gillard in answer to the question which she put on 5 June, virtually all the information I requested would have had to have been provided to the minister in order for him to have provided this response truthfully—that is, I asked the same questions that must have been answered in order for Minister Ruddock to provide his response to the shadow minister, Ms Gillard, and he could do that in 11 days. So where is the massive workload? Why is it that this information could not be provided to the committee? The public is left wondering why and the Senate is left again with an example of a government that refuses to cooperate with a Senate inquiry, that obstructs a Senate committee in the proper conduct of its investigations and leaves as many questions as it gives answers.

I was going to briefly speak about the issue of complementary protection but I do not know that I will have time. Suffice to say that this ministerial discretion is our answer to a number of serious international obligations we have under international conventions. The department never audits to ensure that we have complied. I would commend to the government and to anyone listening the recommendations of the committee in relation to complementary protection. They are essential as a first step to ensuring that Australia meets its obligations pursuant to a range of international conventions. (Time expired)

Senator HUMPHRIES (Australian Capital Territory) (5.30 p.m.)—I have the feeling after listening to Senator Wong that I must have been on a different inquiry, because the inquiry I was on did not find any substance for the allegations that were made against Minister Ruddock. It had extensive hearings, it took a large number of submissions and it provided for extensive cross-examination of witnesses who came before it, particularly from Senator Wong herself. Perry Mason might be dead but Senator Wong gave a lot of witnesses a very good shake during the
inquiry. Not one of the allegations made by the Labor Party under privilege in this parliament was found to have any foundation whatsoever—not one.

The fact is that some serious allegations were made against Minister Ruddock in that guise: allegations that he had granted visas after donations had been made to the Liberal Party, that persons with influence with the minister had secured visas for clients in inappropriate circumstances, that large sums of money had been paid inappropriately to persons close to the minister—all very serious allegations, all made under the protection of parliamentary privilege and all referred to the select committee. You might have assumed that if members of parliament were prepared to raise those sorts of allegations on the floor of parliament they would have reasonably solid information from people to support those claims. Yet, as the inquiry progressed, it became clear that that evidence was simply not there. It was not put to the committee, either orally or in writing. Those prepared to whisper into the opposition’s ears were apparently not prepared to come out of the shadows to put their evidence on the table for the rest of the world to examine.

Many witnesses, it is true, did come forward, some of them palpably hostile to the government and to the minister in particular. Those witnesses were cross-examined by Labor senators for extended periods. None—not one—of those people was able to offer any direct or credible evidence to support the outrageous claims made by Labor members of parliament against Minister Ruddock in this place and in the other place. The question needs to be asked: if there were no witnesses, if there was no evidence, why were the claims made in the first place? What was the Labor Party’s basis for attacking the reputation of this fine and longstanding member of the Howard government?

It was clear after the inquiry began that Labor was in considerable trouble with these allegations. We saw the evidence of that in first Nicola Roxon and then Laurie Ferguson casting a net out into the community—in the case of Nicola Roxon, to migration agents; in the case of Laurie Ferguson, in an ad in an Arabic language newspaper—saying: ‘If anyone has any information about the exercise of these powers by the minister for immigration, please come and tell us about it. We need to know. Don’t talk to the committee; talk to us.’ That is what they said. Apparently no-one came forward. Apparently no-one did have any information because, at the end of the inquiry, no such evidence was brought to the committee. They never had the evidence to make these allegations. The allegations were untrue; they were without foundation. Several witnesses, even critics of the minister, were prepared to pour cold water on the suggestions that this minister was corrupt. One witness summarised the vein of thought by describing Mr Ruddock as ‘a very upright man, a very principled man’.

The mission of Labor senators in this inquiry has been a failure. They set out to destroy the reputation of a key member of the Howard government and they failed. They went hunting marlin and they came home with minnows. Lots of people, it is true, were prepared to say to the committee that they had an impression that if you established a relationship with the minister or you belonged to a particular community that the minister favoured then you got a head start in applications for visas. The answer to that allegation I think comes best from the Commonwealth Ombudsman, who gave evidence before the committee. He had this to say:

One great strength of our political system is that members of parliament—ministers included—are members of the community and move broadly through the community ... It is a strength of the system that a minister, for exam-
ple, can go to a particular ethnic community function or to some other function and people can speak to him or her and attract his or her attention. But that inevitably leads to the allegation that the minister has favoured the community that he or she has just visited as against the community that did not issue an invitation to the minister. One can see that there is an element of partiality or favouritism but, as I said, on balance I think we regard that as one of the strengths of our system.

That is, I think, true. The irony in this situation, as Senator Santoro pointed out, is that the discretion which is in issue here, which has been in a sense impugned by what some senators opposite have had to say, was the creation of a Labor government back in 1989. And the power that was created in 1989 has been exercised extensively in the years since then by Labor ministers and was exercised up until 1996, as you yourself would know, Mr Acting Deputy President Bolkus.

No evidence was advanced to explain why an odour of corruption should emanate from the exercise of the powers in the hands of a Liberal minister and not in the hands of a Labor minister. In fact, I suspect that such odours or rumours circulate at all times in these circumstances, for the reasons that the Commonwealth Ombudsman indicated; and they are without foundation in many cases, for the reasons the Commonwealth Ombudsman indicated.

There was a suggestion that somehow the exercise of these sorts of powers by a minister inherently are corrupt. I think that raises a very important question: if the exercise of the powers by Minister Ruddock, who was the person who was chiefly the target in this exercise, was considered to be corrupt, why then did so many Labor members of parliament line up to ask this supposedly corrupt minister to exercise his powers in favour of members of their electorates? The list that has been referred to is on page 89 of the report. Nine of the top 10 parliamentarians beating a path to this supposedly corrupt minister’s door were non-Liberal members of this parliament—eight Labor members and one Democrat member. If they thought his judgment was to be secured by other sorts of blandishments than reason, why did they go to see him?

Senator Bartlett rightly makes the comparison between the success rate of, for example, Senator Bartlett, at 33 per cent of the applications to exercise ministerial discretion, with that of Mr Kisrwan, which was only 31 per cent. If Senator Bartlett, who is patently not corrupt, was able to secure a higher success rate than somebody who supposedly was using corrupt means to influence the minister, what does that say about those who lined up to ask the minister to exercise his power?

There has been criticism by those opposite of the government’s responses to requests by the committee for access to documents. The government has been accused of engaging in obstruction of the committee’s work. The fact is that Labor members of the committee went on a massive fishing exercise in this inquiry. They asked for very large amounts of information to be given to the committee for it to basically trawl through to obtain information that might in some way help substantiate the allegations which had been made—allegations which we now know were very vague and did not have strong underpinnings in anything that particularly was in the hands of the Labor opposition. In other words, they heard general comments and they were making general allegations without really having any evidence to underpin them. The minister concerned, Minister Vanstone, rightly said: ‘I am not going to deliver all this information to you for you to trawl through. There are issues of privacy. There are issues of process.’ I suspect that
any minister in any circumstance under any government would say the same thing.

I will return to discuss issues arising from this inquiry—because there is much more to say—in an adjournment debate. I will simply say now that this exercise was an exercise in failure from the point of view of Labor members. They attempted to take the scalp of Minister Ruddock and they came away with not so much as a lock of his hair, because he had patently exercised his powers under the Migration Act with dignity and with fairness. The fact that the committee could not find otherwise is strong evidence of that. (Time expired)

Senator MACKAY (Tasmania) (5.41 p.m.)—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**DOCUMENTS**

Auditor-General’s Reports

**Report No. 38 of 2003-04**

The ACTING DEPUTY PRESIDENT (Senator Bolkus)—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 38 of 2003-04—Performance Audit—Corporate Governance in the Australian Broadcasting Corporation: Follow-up Audit.

Senator MACKAY (Tasmania) (5.41 p.m.)—by leave—I move:

That the Senate take note of the document.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**PARLIAMENTARY ZONE**

Proposal for Works

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.42 p.m.)—In accordance with the provisions of the Parliament Act 1974, I present a proposal for works within the Parliamentary Zone, together with supporting documentation, relating to the design and content of the Centenary of Women’s Suffrage commemorative fountain at the Old Parliament House gardens. I seek leave to give a notice of motion in relation to the proposal.

Leave granted.

Senator TROETH—I give notice that, on the next day of sitting, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the design and content of the Centenary of Women’s Suffrage commemorative fountain at the Old Parliament House gardens.

**DELEGATION REPORTS**

Parliamentary Delegation to the Republic of Indonesia and Independent State of Papua New Guinea

Senator BRANDIS (Queensland) (5.43 p.m.)—by leave—At the request of Senator Lightfoot, I present the report of the Australian parliamentary delegation to the Republic of Indonesia and Independent State of Papua New Guinea, which took place from 7 to 19 December 2003, and I seek leave to incorporate a tabling statement by Senator Lightfoot in Hansard.

Leave granted.

The statement read as follows—

The delegation was led by the Deputy Speaker of the House of Representatives, the Hon Ian Causley MP, Member for Page in New South Wales. Other members of the delegation were Senator Robert Ray; and Mr Harry Jenkins MP, Member for Scullin in Victoria.

I would also like to record my thanks and appreciation for the excellent assistance provided by the staff of the Australian Embassy in Indonesia and the Australian High Commission in Papua New Guinea throughout the delegation’s visit.
Indonesia and Papua New Guinea are exceptionally important countries for Australia and the Delegation set itself a comprehensive set of aims and objectives to accomplish, including:

- To maintain and strengthen links between the Australian Parliament and the Parliaments of Indonesia and Papua New Guinea.
- To observe the economic situation in the two countries, including progress on structural economic reform.
- To gather views and opinions on the security situation in Indonesia and Papua New Guinea and possibilities for enhancing further cooperation with Australia.
- Observe the conduct of politics in Indonesia and Papua New Guinea.

The visit to the Republic of Indonesia was highly successful and the delegation confidently believes that the aims and objectives of the visit have been met. During its busy schedule of meetings the delegation had the opportunity to explore a number of important issues with the political leaders of Indonesia and members of the Indonesian Parliament, business leaders and economic experts.

The visit was beneficial in increasing the understanding of the political and economic challenges facing the country and the many opportunities that are available to both countries. The visit strengthened Indonesia and Australia’s already strong relationship and created opportunities for it to develop further.

The aim of the delegation to maintain and strengthen links between the Australian Parliament and the Parliament of Indonesia was met when the Leader of the delegation, presented the Speaker of the House of Representatives (DPR), Akbar Tandjung, and People’s Consultative Assembly (MPR) Chairman, Prof Dr Amien Rais with official invitations to nominate an Indonesian parliamentary delegation to visit Australia. I was pleased to be advised that plans for that visit are now underway.

In addition, delegates support the continued engagement of the Australian Parliament with the Indonesian Parliament, and has recommended the development of an MP partnering scheme, possibly managed through the Inter-Parliamentary Union, whereby individual MPs from both parliaments would agree to maintain contact with, and offer support to each other, on a personal basis.

The relationship between Australia and Indonesia is a wide-ranging one encompassing political, trade, people-to-people links and cultural exchanges. The breadth of the relationship is one of its strongest attributes, with strong education and tourist links supporting an increased understanding of both countries. Over 17,000 Indonesian students are currently studying in Australia, making them one of the largest groups of foreign students in Australia.

The Delegation’s program provided for a number of opportunities to meet Australians working and studying in Indonesia, as well as Indonesian alumni from Australian universities and Indonesians with Australian business interests. These meetings demonstrated the depth and strength of people-to-people links between the two countries and the extent of Australia’s engagement with Indonesia.

Based on these meetings, the delegation urges the Australian Government to consider the continuation of Australia’s tertiary scholarship program with a view to increasing the number of scholarships available.

Whilst we were in Indonesia, it was interesting also to be briefed on Indonesia’s preparations for the upcoming general and presidential elections and on recent constitutional changes. Indeed, in meeting with the Vice-President, HE Hamzah Haz, the Vice-President advised delegates that whilst there were 48 registered political parties in 1999, there are now more than 200 registered parties. The Vice-President advised delegates that Indonesian people were in favour of democratic processes and suggested that the votes of the rural population may be surprising.

Delegates were also able to witness the advancements made by Indonesia since the economic crisis in 1997 and given that 2004 marked the end of the IMF structural adjustment program, delegates encouraged Indonesia to continue its progress toward economic reform and advised of Australia’s willingness to assist in this regard. In
fact, in its report, the delegation has urged the Australian Government to discuss with Indonesia, options for providing further governance assistance to institutions in order to facilitate investment in Indonesia.

It is important to note for the Parliament that when the delegation arrived, there was much discussion in the Indonesian media of Australia’s announcement to cooperate with the United States of America in the development of a missile defence system. There appeared to be some confusion over the announcement and the suggestion was made that Australia intended to develop an offensive system with the United States. In discussing these issues, delegates reassured Indonesia that Australia had agreed to cooperate with the United States of America in the development of a missile defence system and that Australia’s alliance with the United States was not contrary to Indonesian interests.

Based on these misconceptions, delegates have recommended that the Australian Government consider informing the relevant members of the Indonesian Government prior to future major defence announcements.

Another very important theme in the Delegation’s meetings, both in Jakarta and Yogyakarta, was the role of Islam and Islamic institutions in both countries. The Delegation met with Professor Dr Syafi’i Ma’arif, Chairman of Muhammadiyah, who had returned from an Australian Government-funded visit to Australia the previous week, as well as representatives of Indonesia’s largest Muslim organisation, Nahdlatul Ulama (NU), Islamic think tanks and the Rector of the State of Islamic University in Jakarta, Azyumardi Azra. Delegates reassured Indonesia that Australians are very tolerant and accepting of all religions, including Islam and informed the Indonesians that Australia has a large Islamic population and preservation of the culture is supported by government funding to Islamic schools.

Similarly, the delegation’s bilateral visit to Papua New Guinea was also a success. Discussions in Port Moresby largely focused on the newly agreed Enhanced Cooperation Package, whereas, discussions with provincial governors and administrators centred around the lack of basic services, law and order issues and, the importance to the economy of improved road maintenance.

Highlights of the visit included visits to traditional Eastern Highlands villages, and calls on the Bitapaka War Cemetery and Volcanological Observatory Project in East New Britain.

Geographic proximity and historical links have given Papua New Guinea a special place in Australia’s foreign relations. The strength and depth of this relationship is evidenced by the signing of an enhanced package of cooperation between Australia and PNG which is designed to help PNG address its key challenges. In a new era of the partnership, Australians will work side-by-side with Papua New Guineans in the areas of policing, law and justice and economic and public sector management. It is not surprising then, that this announcement prompted much media comment in PNG and that during the delegation’s visit, the majority of meetings held with the delegation, the package and its operation was discussed.

The aim of the delegation to maintain and strengthen links between the Australian Parliament and the Parliament of Papua New Guinea was met when the Leader of the delegation, presented the A/g Speaker of the House of Representatives, the Hon Jefferey Nape MP, with an official invitation reiterating Australia’s desire for Papua New Guinea to nominate a parliamentary delegation to visit Australia. Delegates were very pleased to be advised that the Papua New Guinean Delegation is visiting the Australian Parliament this week.

Delegates witnessed enormous enthusiasm from all members of parliament that met with the delegation to tackle the many challenges facing Papua New Guinea. Delegates believe that such enthusiasm should be encouraged and supported.

Similar to the delegation’s recommendation for Indonesia, the delegation supports the development of an MP partnering scheme, possibly managed through the Inter-Parliamentary Union, whereby individual MPs from both parliaments would agree to maintain contact with, and offer support to each other, on a personal basis.

The PNG economy is currently experiencing difficult times. PNG’s economy is dual in nature,
including a ‘modern’ formal economy and a large informal economy where subsistence farming accounts for the bulk of economic activity. The formal sector provides a rather narrow employment base, consisting of workers engaged in mineral production, a relatively small manufacturing sector, public sector employees and service industries including finance, construction, transportation and utilities.

The delegation received a briefing from representatives of the Coffee Industry Corporation on PNG’s second largest agricultural export, coffee. The delegation was told that coffee is a grassroots economic activity for people to participating in but that government investment was needed for the larger coffee producers. Delegates were also informed that there are a number of difficulties facing Eastern Highlands coffee growers in relation to getting their produce to market. For example, feeder roads in the province are in very poor condition and air freight is very expensive.

The delegation was also pleased to meet with managers of New Britain Palm Oil Ltd (NBPOL) and tour one of NBPOL oil palm estate, a cattle yard and a newly-commissioned oil palm refinery. The company is the leading palm oil producer in Papua New Guinea and the largest private sector employer. Palm oil has recently overtaken coffee as PNG’s leading export.

Delegates were briefed on NBPOIL’s environmental management of oil palm plantations in West New Britain, and saw first-hand the contribution NBPOIL has made towards improving the quality of life for a large percentage of people in the province by providing housing, education, basic services such as water, sewerage and health and infrastructure maintenance.

Reflecting the strong ties between Australia and Papua New Guinea, the development cooperation program between our two countries is by far the largest of any of Australia’s bilateral aid programs. The delegation visited the headquarters of the internationally-renowned Institute of Medical Research (IMR) in Goroka, as well as the Court Users Forum, a successful project that falls under the Law and Justice Sector Program.

One of the highlights for the delegation was visiting these very remote villages. The delegation was interested to hear that these villages had not been visited by any government officials—either from Australia or PNG—for over 30 years. The villagers, dressed in traditional dress, extended a very generous and warm welcome us, presenting us with billums, leis and spears.

We were invited into the villager’s homes to observe their basic lifestyle. These villages do not have access to basic services such as electricity or clean water and they were only accessible by 4WD vehicles. Visiting these villages demonstrated the great disparity in Papua New Guinea between the capital, Port Moresby and the provincial areas which are home to approximately 90 per cent of PNG’s population.

It was evident to the delegation that there are very few funds available for the development and provision of many basic services to rural areas in Papua New Guinea. The delegation accepts that AusAID provides significant funding to Papua New Guinea and considers the delivery of that assistance to be effective. However, the delegation’s visit, particularly the visit to these villages, highlighted a need for ‘grassroots’ or provincial funding. It would provide for basic services and the development of small-scale businesses to generate employment and income.

To this end, the delegation recommends the Australian Government investigate options for the ‘grassroots’ delivery of development assistance and suggests that an expansion of the PNG Incentive Fund may be one vehicle through which to do this.

Toward the end of the visit, Mr Deputy Speaker laid a wreath at the Bitapaka War Cemetery in East New Britain, commemorating the Australian troops who participated in World War I and World War II and to pay homage to the Australians who lost their lives. It was most important for us and a very significant event for delegates.

Senator ROBERT RAY (Victoria) (5.43 p.m.)—I seek leave to move a motion in relation to the document.

Leave granted.

Senator ROBERT RAY—I move:

That the Senate take note of the document.

Let me first of all just put on the record our thanks to the delegation secretary, Ms Saxon
Patience, for all the work she put in on this particular delegation. I would also like to extend my thanks to our embassy in Jakarta for the enormous amount of hard work they put in to make this a very smooth, productive and rewarding visit. However, I must say, having not been to Indonesia for over eight years, that some of the attitudes expressed about Australia in Indonesia quite shocked me.

I had not been to Indonesia since December 1995, and I found that on a number of major issues there were considerable misunderstandings of the Australian position. We often heard the words ‘deputy sheriff of the region’, and we endeavoured greatly to say that that was not the role that the Australian government perceived or played within the region. On a whole range of other issues we found that Australia’s position was misunderstood. On many occasions when we took our interlocutors through these subjects, I think we convinced them that their view and perception of Australia was not necessarily in accord with the facts of the matter. I might add that I do believe that if you are on a delegation your job is never to criticise your own country, and I think the whole delegation managed to abide by that.

But there was one issue on which I could not assist the delegation leader or Senator Lightfoot, and that was when we were asked questions about our involvement in the US missile defence system. This has greatly spooked, and is greatly misunderstood by, many people in Indonesia, many of whom seek to regard this as an offensive system. Whilst it is a defensive system, it can have escalation implications that make it an offensive system. I can see that. But absolutely no proper explanation has been given—or at least received in Indonesia—as to our involvement. This is passing strange, because it has been the normal practice of both Labor and Liberal governments to give the government in Jakarta some heads up on any dramatic changes to defence and foreign policy. In other words, before a strategic review is finalised and published, before a white paper is finalised, there are often briefings of countries in our region to let them know basically where we stand. That gives them an early heads up so that they do not either overreact or misinterpret the situation. In this case, it was not done. In this case, Australia’s signing-up to the missile defence system came as a complete surprise and is still misunderstood there.

We can all speculate on why this was not done. I suppose the most obvious explanation is that the government released its attitude to this particular thing prematurely merely to ambush the Leader of the Opposition. I have never heard that denied, although I cannot assert that it is absolutely true. But it seems to fit the pattern that, in order to raise an issue in which political gain may accrue, these matters were prematurely disclosed to the parliament of Australia and to the Australian public without the normal precaution of briefing a range of regional governments as to this change in defence posture. If that is the case, this government has put its own political self-interest ahead of the nation’s self-interest.

It is not much use dwelling on what has happened in the past; we cannot rectify that in the sense of when the announcement was made. But I think that one of the recommendations on page 17 of the delegation report, which I will quote from, is quite timely. I must also say that I understand that the Joint Standing Foreign Affairs, Defence and Trade Committee sent a delegation to Indonesia at around the same time as the one I was on, and they found very similar concerns expressed in Indonesia about our signing-up for the missile defence system. On page 17 this report says, in part:
• It was evident to delegates that there were many misconceptions surrounding Australia’s announcement to participate in the development of a missile defence system which created a sense of apprehension on the part of Indonesia. The delegation recommends that the Australian Government inform the relevant members of the Indonesian Government prior to future major defence announcements.

That is the message from our delegation. I think it is the same message that the Defence Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade will bring back. I hope the government listens to it, because I think it is most important. It has been the tradition that we have done it in that particular way. I hope that the missile defence announcement was merely an aberration and that it does not fit the government’s behaviour. If it was done for political expediency and ambush, I think the government is to be condemned for that, because you have to take the long view in these defence and foreign affairs issues.

In conclusion, I must say it was a little disappointing that two of the delegates had to drop out of the delegation at the last minute. But I would like to pay tribute to Mr Ian Causley for the excellent job he did in leading the delegation; to Mr Harry Jenkins, who also was a major contributor; and to Senator Lightfoot, who was a very active participant in the delegation. We did get very good access and we saw a whole range of people. We enhanced our knowledge and in turn, hopefully, the knowledge of the parliament. One thing that did come out of the visit was a view from the Indonesian parliament that these reciprocal visits are great for eliminating misconceptions between the two countries. I encourage such visits to continue into the future.

Question agreed to.

MIGRATION AMENDMENT (JUDICIAL REVIEW) BILL 2004

First Reading

Bill received from the House of Representatives.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.51 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 TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.51 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—

MIGRATION AMENDMENT (JUDICIAL REVIEW) BILL 2004

The Migration Amendment (Judicial Review) Bill 2004 reinstates the original intended operation of several procedural provisions relating to judicial review of migration decisions.

The government has grave concerns about the growing number of unmeritorious judicial review applications being made. These have led to increasing costs and delays in the judicial review process. Increased delays have encouraged many applicants to litigate to the maximum regardless of any legal merits. This is solely to delay their departure from Australia.

These concerns need to be addressed urgently. The opposition also shares these concerns and has been exploring ways to streamline judicial review of migration matters.

The government believes that the restoration of these procedural provisions for judicial review of
migration matters will reduce the number of migration judicial review applications by approximately 25% - 30%. This would also reduce the government’s litigation costs by about $5 to $7 million dollars per year. This dividend could be used to assist persons in greater need, such as refugees who are being resettled in Australia as part of our offshore humanitarian program.

The statistics speak for themselves. In 1995-96 there were 596 judicial review applications before the Commonwealth courts, compared with approximately 6,900 in 2002-03. As a consequence, the litigation expenditure for my department exceeded $19 million in 2002-03.

The amendments being made by this bill to the Migration Act 1958 follow the completion of the Attorney General’s recent Migration Litigation Review. These changes are straightforward and will have a significant impact on reducing the large numbers of unmeritorious migration-related judicial review applications. The government will be announcing its response to other matters in the review shortly.

The amendments will restore the following key procedural elements of the Migration Judicial Review Scheme:
• Time limits on judicial review applications;
• Only the High Court, the Federal Court and the Federal Magistrates Court will be able to hear judicial review of migration applications; and
• An applicant will not be able to seek judicial review if merits review of the primary decision is available.

In restricting the time limits within which judicial review applications are to be made, the government has a duty to provide a discretion for the courts to extend those limits beyond the 28 day period, for a further period of up to 56 days, where that is in the interests of the administration of justice.

I emphasise that these amendments will not impact on the existing grounds for judicial review or change the basis of the lawfulness of a decision—they are only procedural in nature.

The judicial review requirements being restored by the bill were first introduced into, and passed by, the parliament in 1992. They were amended to operate in relation to “privative clause decisions” in judicial review amendments that were passed in September 2001.

The intention of the privative clause was to restrict judicial review grounds to only a few specified errors.

The constitutionality of the privative clause was challenged in the High Court in Plaintiff s157/2002 v Commonwealth of Australia [2003] (s157). While the privative clause was found to be constitutional, it did not protect decisions which contained a jurisdictional error.

This has meant that a “privative clause decision” is only one that does not contain a jurisdictional error. These procedural provisions have no practical effect as a court must undertake a full review of the claims challenged to determine if those restrictions apply.

The existing time limits, exclusive jurisdiction and restrictions on judicial review only apply to a “privative clause decision”.

As a result courts have to undertake complete judicial review of all migration decisions, regardless of the amount of time that has passed, to determine the lawfulness of the decision. Approximately 40% of all current applications are being made outside the time limits specified in the existing provisions, with some being lodged up to 6 years after the original visa decision under challenge.

The bill will amend the definition of “privative clause decision” in the act so that it includes a “purported decision”. This means that procedural requirements in relation to time limits within which applications can be made, will apply to all actions taken under the Migration Act.

The definition of “privative clause decision” for the purpose of section 474, which has been interpreted as setting the judicial review grounds for migration matters, is specifically excluded from the broader “privative clause decision” definition in section 5. This means that the grounds of judicial review are not affected by these amendments.

The objective of the original reforms was to ensure certainty and efficiency in resolving migra-
tion review applications. This bill reinstates that original intention.

By strengthening the procedural amendments the government is removing the incentive for an applicant to pursue litigation as an end in itself. Upholding the time limits will ensure that applicants will no longer be able to delay indefinitely the final determination of their migration matters. Given the importance of the amendments, and demonstrating the government’s urgent commitment to implement effective reforms to the migration litigation system, the government intends that the bill will be proclaimed to commence as soon as possible after royal assent.

I commend the bill to the chamber.

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.

INTELLIGENCE SERVICES AMENDMENT BILL 2003

First Reading

Bill received from the House of Representatives.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.52 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 TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.52 p.m.)—

I table the government’s response to the report of the Parliamentary Joint Committee on ASIO, ASIS and DSD on the bill and a revised explanatory memorandum relating to the bill. 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—

The Intelligence Services Amendment Bill 2003, seeks to amend the Intelligence Services Act 2001 to allow the Australian Secret Intelligence Service (‘ASIS’) to undertake its functions more effectively, while maintaining appropriate legislative limitations on the functions of the agency.

In 2001 the Government introduced the Intelligence Services Bill 2001 to Parliament. It represented an historic step forward in enhancing the accountability of particular agencies dealing with intelligence and security matters.

The Intelligence Services Act 2001 relates to three agencies within the Australian Intelligence Community—ASIS, the Defence Signals Directorate (‘DSD’) and the Australian Security Intelligence Organisation (‘ASIO’).

The Act placed ASIS on a statutory footing for the first time and details its functions, lines of authority and accountability, including under extensive oversight mechanisms including through the establishment of the Parliamentary Joint Committee on ASIO, ASIS and DSD.

The Act has provided increased assurance to the public in regard to the control and conduct of these agencies. Its successful first two years of operation vindicates the watershed decision by this government to bring it forward.

The passing into law of the Act came at a crucial time, with the growing threats from terrorism and proliferation of weapons of mass destruction making the already critically important work of the intelligence agencies even more necessary in a global security environment undergoing fundamental change.

More than ever, Australia has needed quality intelligence to protect its interests, and competent and effective intelligence agencies to collect and deliver that intelligence, and to work closely with other agencies in the fight against terrorism and other trans-national crime.

ASIS is highly focused on its core function, to protect and promote Australia’s vital interests
through the provision of unique foreign intelligence services as directed by Government.

In the face of complex intelligence challenges since the Act came into force in 2001, ASIS has maintained and enhanced its performance of its functions. Its work is essential in developing our approach to key foreign relations and national security issues, and in conjunction with the work of ASIO, DSD and other intelligence and security agencies, goes to the heart of the protection and promotion of Australia’s national interests.

ASIS is a cost effective organisation and it is responsive to Australia’s needs. Its continued high-level performance will be a necessary part of the whole-of-government effort required to combat terrorism and the other intelligence and security challenges which confront us.

In placing ASIS on a statutory footing, Parliament gave ASIS the necessary authority to protect the secrecy of its information and the identity of its staff members. It also established a framework within which ASIS must operate, detailing arrangements for ministerial control and extensive accountability and oversight mechanisms, which work in conjunction with the oversight of the Office of the Inspector-General of Intelligence and Security.

The Act outlines the functions of ASIS. Those functions are to - obtain and communicate intelligence about the capabilities, intentions or activities of people or organisations outside Australia in accordance with the Government requirements; to conduct counter-intelligence activities to maintain its own security, and that of Australia, in conjunction with other relevant Australian agencies; and to liaise with other intelligence or security services of other authorities of other countries. The Act also provides the Government of the day with the ability to direct ASIS to perform other strictly defined tasks.

ASIS is the only agency which will be affected by the proposed amendment, and its functions under the Act would remain unchanged.

At the time the Act commenced operation, it was expressly stated that ASIS was not to conduct paramilitary activities, and in the planning and performance of its functions, was not allowed to undertake activities involving violence against the person or the use of weapons.

Since that time, however, the aftermath of the tragic events of 11 September 2001, and the Bali bombing on 12 October 2002, have contributed to a fundamental change in the environments in which ASIS must work. These changes could not have been predicted at the time the Act was prepared. As a result, this Amendment Bill is now required to allow ASIS to provide more adequately for the protection of its staff members and agents, and to enable it to work more closely with other agencies. It is important to note, however, the Bill retains the restraint on ASIS undertaking in its own right activities involving the use of force, including use of weapons, other than for the limited purposes of protection. ASIS will continue to conduct its activities in a non-violent way.

ASIS is presently empowered to cooperate with Commonwealth, and State authorities, and foreign authorities with the approval of the responsible Minister, the Minister for Foreign Affairs, in order to perform its functions or to facilitate the performance of its functions.

Given the requirement to have a coordinated whole-of-government, regional and global response to terrorism and other trans-national crime, this cooperation is essential. Currently the Act can prevent the agency from effectively cooperating with other authorities who might use force as a legitimate part of their functions.

The amendment addresses this issue.

That is not to say ASIS should itself be able to use force as part of its functions. The Amendment would retain the limitation on ASIS itself initiating or carrying out activities involving paramilitary activities, violence against the person or the use of weapons. It would only allow ASIS to be involved in the planning or undertaking of such activities legitimately carried out by other organisations, provided ASIS’s staff members and agents did not themselves undertake those activities.

This would, for example, allow ASIS to provide operational advice or support for a legitimate activity which might involve the use of force. The
actual use of force being planned for, however, could not be carried out by ASIS personnel.

The Bill does not change the requirement that for ASIS to cooperate with a foreign organisation, there is first a need for a written approval from the responsible Minister. Under the Bill, an approval under section 13(1)(c) of the Intelligence Services Act 2001 will not enable ASIS to cooperate with an authority of another country in relation to the planning or undertaking of activities covered by the amended section 6(4)(a) to (c) of the Act unless, before giving the approval, the Minister for Foreign Affairs has consulted with the Prime Minister and the Attorney-General. That approval would continue to be available for scrutiny by the Inspector-General of Intelligence and Security.

The environments in which ASIS must work, and the issues on which it must work, have, in some cases made working for ASIS far more dangerous in the last two years. Sending ASIS personnel into situations without adequate protection is a problem ASIS has faced, and may face more frequently until the Bill is passed into law.

Importantly, the Bill provides a mechanism to allow for the protection of ASIS personnel in the conduct of their legitimate functions under the Act. The Bill would allow for ASIS staff members and agents to be provided with close personal protection by a cooperating agency, when conducting activities as part of their ASIS function.

The Bill would also allow an ASIS staff member or agent to use a weapon under strict conditions, which would require that it be used only to protect ASIS staff members, agents, and those who cooperate with ASIS under section 13 of the Act. The Bill would only allow the use of weapons or self-defence techniques outside Australia, and they would not be used for any purpose other than protection. The only exception to the use of weapons inside Australia would be for training purposes. The Government emphasises that the use of weapons and self-defence techniques are only to protect the life and safety of people carrying out agency functions. The exceptions to the use of weapons and force do not expand agency functions and do not change the fact that ASIS is required to carry out its functions in a non-violent way.

Currently ASIS is not able to provide weapons or training in the use of weapons to staff members or agents. The Amendment specifies that ASIS is not prevented from providing weapons, training in the use of weapons or self-defence training. Provision of weapons is limited in the Bill to ASIS staff members and agents, including those providing training for other staff members or agents.

The legislative oversight regime requires that weapons or training may be provided only in accordance with a Ministerial approval from the responsible Minister. The approval would set out the purpose of the provision of a weapon, or training in the use of a weapon or in self-defence techniques, to a specified staff member or agent of ASIS; or, the holder of a specified position in ASIS. The Bill also requires the approval for the provision of the weapon or training to set out any conditions that must be complied with in relation to the provision of the weapon or training, including the kind or class of weapon involved. All such approvals would be passed to the Inspector-General of Intelligence and Security, who will report on the broad nature of the approvals in his annual report to Parliament.

The Bill also requires that where a weapon is discharged in the protection of a staff member or agent, or a person cooperating with ASIS, the Director-General must, as soon as practicable, give to IGIS a written report of the discharge which explains the circumstances in which the discharge occurred.

The Bill requires the Director-General to issue guidelines on the use of weapons and self-defence techniques. These guidelines will be approved by the National Security Committee of Cabinet and a copy of the guidelines would be provided to the Inspector-General of Intelligence and Security.

In addition, the Director-General of ASIS will issue classified internal protocols—separate to the Guidelines on the use of weapons and self-defence techniques already required by the amendment—on the conduct of cooperation with foreign authorities where that cooperation could include planning or undertaking activities covered by the amended section 6(4)(a) to (c) of the Act. These protocols will proscribe the involvement of
ASIS in any activity intended to lead to an assassination. A copy of these protocols will be provided to the Inspector-General of Intelligence and Security.

The Bill would exempt ASIS staff members and agents from requirements under State and Territory laws, to obtain a licence or permission when acting in accordance with the Bill, or registering a weapon provided in accordance with the Bill.

This exemption does not in any way allow for the use of a weapon inside Australia other than for training purposes. Rather, it is designed to ensure that inappropriate communication or publication of information about ASIS or ASIS staff does not occur. This is consistent with the intent of sections 39 and 41 of the Act, which prohibit the identification of a staff member or agent of ASIS (other than the Director-General of ASIS) and provide protection for information produced by or on behalf of ASIS in connection with its functions.

The Bill was referred to the Parliamentary Joint Committee on ASIO, ASIS and DSD for consideration. The Committee produced a unanimous report after considering this important Bill in detail. This report was tabled in the Senate on 11 March 2004.

The Government commends the Committee's report and records its appreciation for the work of the Committee and the Secretariat as well as those who participated in the private hearings held by the Committee.

The report contains nine recommendations. The recommendations do not propose any expansion or significant change to the activities ASIS could undertake with the amendments in the Bill, but relate mainly to strengthened oversight and accountability mechanisms.

The Government accepted recommendations four, five, six, eight and nine as proposed, and recommendations one, two, three and seven with some slight differences in approach.

The Bill has been amended to reflect the Government’s response to the Committee’s report and the proposed amendments to the Bill.

In summary, the functions performed by ASIS are essential and highly valued, and in the current environment have perhaps never been more important to Australia. This Bill strikes a balance between the need to allow ASIS to protect its people adequately and cooperate with other agencies effectively, and the need to maintain ASIS as an organisation which carries out its own functions in a non-violent way.

Debate (on motion by Senator Mackay) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT BILL (No. 2) 2003

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 2) 2003, acquainting the Senate that the House has disagreed to the amendments made by the Senate but has made amendments in place thereof, and requesting the concurrence of the Senate in the House amendments.

Ordered that consideration of the message in Committee of the Whole be made an order of the day for a later hour.

MILITARY REHABILITATION AND COMPENSATION (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2003

Consideration of House of Representatives Message

Message received from the House of Representatives acquainting the Senate that it had agreed to the amendments requested by the Senate to the bill.

Third Reading

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.54 p.m.)—I move:

That this bill be now read a third time.
Question agreed to.

Bill read a third time.

**MILITARY REHABILITATION AND COMPENSATION BILL 2003**

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Military Rehabilitation and Compensation Bill 2003, and acquainting the Senate that the House has made amendments (2) to (8) requested by the Senate, and has made not made amendment (1) requested by Senate.

Ordered that consideration of the message in Committee of the Whole be made an order of the day for a later hour.

**FAMILY ASSISTANCE LEGISLATION AMENDMENT (EXTENSION OF TIME LIMITS) BILL 2003**

Consideration of House of Representatives Message

Consideration resumed from 30 March.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.55 p.m.)—I move:

That the committee does not further press its request for amendments not made by the House of Representatives.

(Quorum formed)

**Senator HARRADINE** (Tasmania) (5.59 p.m.)—I will finalise what I was saying beforehand. We were talking about the issue of a statement which could have been regarded as a threat. I think there were discussions taking place before we broke for lunch. The actual indication from the minister’s office was that, should the bill not get through, the minister would be alerting the public to those ‘individuals’ who blocked its passage. We are here to examine matters on their merits. That is how I always consider matters—without adverting to threats, implied or real.

**Senator PATTERSON** (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (6.00 p.m.)—I did say to Senator Harradine that people were writing to me asking me why they could not get their top-up. I said that I would have to answer the question by saying that we had legislation before the Senate and there were amendments we could not accept, and I would have to indicate the people who opposed it—whether they were Independents, opposition or whatever, as has happened before.

I have said to Senator Harradine privately that one of my staff might have been a bit overzealous in the way he expressed that and I apologised personally for that. It was not said the way I would have had it said. But I do think it is appropriate. It has happened before that you say, ‘We would have liked to do this but, given the fact that X, Y and Z opposed it, the legislation did not get through.’ That was the only intention of that. We had to make it very clear that we could not accept those amendments and that that would be the reason why the bill would go down. I have apologised. I will apologise to Senator Harradine publicly here in the chamber. It was not meant in any way to be a threat other than to say that that is what I would have to do to explain it to people who were writing to me asking why they could not get the top-up. Having said that, I do not think there is anything more I need to say.

**Senator MURPHY** (Tasmania) (6.02 p.m.)—I make this point to the minister: in
the course of any process in this place where
the government is trying to push through
legislation, I do not think it is appropriate to
take any course of action like that which has
been taken in the context that has been put to
Senator Harradine. We all have a responsibil-
ity to seek certain outcomes and we do not
always agree. There have been a number of
occasions where the government has brought
forward what it thinks is the correct position
and it has ultimately been amended. This is
no different a case. I think to go down the
road—whether it is a threat or not, implied or
otherwise—of suggesting that, if certain
people do not support the government’s leg-
islation, they will be named—

Senator Patterson—That was not the in-
tention.

Senator MURPHY—I understand from
Senator Harradine—and I do not want to
misrepresent what I thought I heard him
read—that somebody, whether it was you or
somebody else, would be informing mem-
bers of the public, in particular those families
who would in your eyes be likely to not re-
ceive a certain payment, of the names of the
people responsible. I would just suggest to
you, Minister, that that is not the way the
business of this place ought to be conducted.
I would hope that some people might be big
enough to take a different approach and
maybe even indicate an apology to that ef-
fect.

Senator Carr—She has already done
that.

Senator Patterson—I have already done
that.

Senator MURPHY—I am sorry; I missed
that. I appreciate the fact that you did that,
because I was going to say this: things may
get very tough in this place if that is the way
we are going to conduct business.

Senator PATTERSON (Victoria—
Minister for Family and Community Ser-
VICES and Minister Assisting the Prime Min-
ister for the Status of Women) (6.04 p.m.)—
Senator Murphy was not here before and I
will say this just for his benefit. I was saying
that people write in and say, ‘‘Why has this
not gone through?’’ We then say that there
were amendments that we could not ac-
cept—and people make the judgment about
whether we should accept them or not—and
we would have to say that the opposition or
whatever opposed it. We have done that with
a lot of other bills that have gone through;
we have said that the minor parties did not
support certain bills. I did say that I thought
one of my staff sent an email that was a little
zealous. I apologised privately to Senator
Harradine and I have apologised here in the
chamber. It is not my style, as I think you all
know. I just wanted to put that on record for
Senator Murphy.

Question agreed to.
Resolution reported; report adopted.

Third Reading

Senator PATTERSON (Victoria—
Minister for Family and Community Ser-
VICES and Minister Assisting the Prime Min-
ister for the Status of Women) (6.06 p.m.)—
I
move:

That this bill be now read a third time.
Question agreed to.

Bill read a third time.

HIGHER EDUCATION LEGISLATION
AMENDMENT BILL 2004

In Committee

Consideration resumed from 30 March.

Senator CARR (Victoria) (6.07 p.m.)—
Last night Senator Vanstone made some
comments to the chamber after I incorpo-
rated a speech in the second reading debate
on the Higher Education Legislation Amend-
ment Bill 2004. I understand that the Opposi-
tion Whip raised the matter this morning in
the chamber. I draw to the minister’s attention that it is unusual for me to incorporate education speeches. I enjoy the prospect of failing this pathetic government on education, a practice I developed when you were education minister, Senator Vanstone. I learnt that there was much to say about the government’s failings in this area. But we were requested by the government managers and by our own whips to facilitate the progress of the chamber given the particular time of the year. As a consequence, I supported that call.

Senator Mackay interjecting—

Senator CARR—It was a difficult decision—that is true. I did support the call and I found when I read the Hansard this morning that Senator Vanstone had made some statements which I find extraordinary given the circumstances of the proceedings last night. I am wondering whether she is now prepared to respond to the Opposition Whip’s request this morning to give us an explanation of her remarks or perhaps to indicate to us whether or not she still maintains that attitude.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (6.08 p.m.)—Madam Chair, this debate is about higher ed. It is not about something I said last night but, if people’s egos are so frail that they cannot stand a simple admission by a senator that she does not generally approve of the practice of incorporating second reads, then something is very wrong. Something is wrong if you cannot come into this place and put your view. I said, as recorded in the Hansard last night—I have not checked the Hansard but I think you were here—that I fully accept that the speeches were not being incorporated because people did not want to bother making them; they were being incorporated probably to accede to a request and to be helpful to the government. That record stands as an acknowledgment of exactly what you have said. Exactly what you said is what I said last night.

Senator MACKAY (Tasmania) (6.09 p.m.)—I thank the minister. I am not quite sure whether that constitutes an apology or an explanation but this is not a trivial matter, Minister. The reality is that we, to reiterate what I said this morning, were exhorted by the government manager to incorporate where possible. I had to do some fast-talking to convince Senator Carr to incorporate his speech, because he normally, as he says, pays very assiduous respect to matters of education. It was not just Senator Carr who incorporated his speech. All the parties incorporated their speeches, and it was an agreement around the chamber. When I read the comments this morning in Hansard, which I do not have in front of me although Senator Carr may, you said it—

Senator Carr—‘diminishes the standing of the parliament’.

Senator MACKAY—Diminishing the standing of the parliament—that is actually what we took umbrage to. You may regard that as a frailty of ego. It is not. We were asked to do this by the government and we did it. After discussions with Senator Faulkner, we have requested a clarification be given or at least an admission be made that it was a personal view although you cannot have a personal view, I would submit, that is in direct contradiction to that of the people who manage the chamber. We have a proposition—which I think you may have fulfilled, albeit somewhat ungraciously—that until this explanation was provided we would not grant leave for the incorporation of speeches. It is not really up to me to decide whether that explanation fulfils that criterion or not but I do want to assert here that it is not a trivial matter, that it is not a matter of frailty.
of ego; it is a matter of trying to run the chamber in a cooperative way.

Comments like that, Minister Vanstone, simply do not assist those of us who are responsible for running the chamber at this time of year. We have before us a proposition from the government manager that there is no time limit as to when we finish sitting tomorrow. We could be here at four o’clock in the morning. I think it is more likely that we will come back on Friday. Our position will probably be that we should sit until 11 o’clock tomorrow night and then come back on Friday, which may cause you some problems, I understand. In respect of your explanation, I do not know whether you wish to be slightly more gracious, but I will seek advice from my leader as to whether your explanation fulfils the criterion.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (6.12 p.m.)—I am unaware of the request to which you refer. The remarks I have just made to Senator Carr are freely and willingly made as a direct response to what Senator Carr just said. If you have made some other request, I am unaware of it. I think it is clear from the Hansard last night—and if you read it fairly you will see this—that my statement is a statement of my opinion with respect to that practice, but it is also an acknowledgment that you were asked to do this. I cannot see what else you can ask for. If what you are seeking is an acknowledgment that it was not your idea and that you were asked to do it, I think that is contained in my remarks last night. I will say it again now; it is not denied.

Senator CARR (Victoria) (6.13 p.m.)—I move opposition amendment (3) on sheet 4203:

(3) Schedule 3, page 12 (after line 28), after item 9, insert:

9A Section 36-35
Repeal the section, substitute:

- 36-35 Percentage of Commonwealth supported places to be provided by Table A providers

(1) A Table A provider must ensure that, in any year, the number of Commonwealth supported places provided by the provider accounts for 100% of the total number of places that the provider provides in each undergraduate course of study.

(2) For the purposes of calculating the proportion of Commonwealth supported places in subsection (1), international students and students who are not Commonwealth supported students and were enrolled before 2005 are to be disregarded.

(3) For the purpose of applying subsection (1) in relation to a course of study, disregard any enrolment in work experience in industry or in an employer reserved place in that course.

The minister has indicated that this was a case of us not being bothered to make our contributions to the chamber. One thing I can assure you of, Minister, is that I am very bothered about this government’s education policies. If the government takes the view that incorporating speeches late at night on the third last day of a session is a reflection of our lack of interest, I can advise you that it is misled. There are probably another 10 or 15 bills to go tomorrow and this is not the sort of action, I would have thought, that any of the government managers would want to encourage.

I took the view with this particular bill that the government made some fundamental errors. Fundamental problems have emerged as a result of the shoddy work done last year. We had the extraordinary situation where a university like Notre Dame was going to be
seriously disadvantaged by the incompetence of this government. These were measures which we pointed out last year would occur, but because of the sordid arrangements entered into by the government with Independent senators here a proposition was carried as a result of that backroom deal that no amendments would be considered to the government’s higher education package last year. There was to be no consideration whatsoever of any improvements to the government’s legislation. No attempt would be made whatsoever or allowed whatever to correct the errors of the government’s draftsmen. It was inevitable that circumstances would arise within three months of the higher education package being carried by this chamber that the government would be back in this chamber seeking our indulgence to redress those errors.

That is essentially what has happened here. The government has a series of amendments here which they claim are technical and which they claim are merely incidental but which of course are not incidental. They are of great importance to a number of institutions because they highlight the fact that the government had acted incorrectly and, if those errors had not been corrected, those institutions would be seriously disadvantaged.

There were other amendments that this government sought in terms of access to large sums of government money, which result from the government imposing upon universities terms and conditions which were unheard of in the higher education system in this country. They allowed for a higher level of ministerial direction of universities, which fundamentally undermined the traditional values we had come to expect in this country about the independence of universities. This of course meant that the government were asking universities to act in a way which was inconsistent with state acts of parliament.

That is a consequence directly, once again, of the government’s haste to put together a very shoddy arrangement. It is a consequence of the government’s failure to understand the implications of that package.

That is essentially what the discussion was about and I am pleased that the minister has provided us with an opportunity to once again draw that to the public’s attention, and I will continue to do so. I look forward to the election campaign, when this will become a major question. Minister, I believe that the public will see it in the same way that I have argued today. I believe that the Labor Party’s position will lead to a need for us to return to these issues and to undertake a fundamental rewriting of this legislation to remove from the statute books provisions which are seeing a massive increase in the level of burden being placed upon students by the fee regime being imposed and by a level of intervention in the operations of universities which, as I have said, is unprecedented in the history of higher education in this country.

So, Minister, I look forward to the election because I expect that you will be on this side of the chamber then. I look forward to your views then. I think that you will come to the view once again of the glories of opposition and I am sure that you will appreciate only too well that when a request is made at the end of the parliamentary session that matters be incorporated into Hansard you will have to face that dilemma. I look forward to the resolution.

Question negatived.

Bill agreed to.

Third Reading

Senator VANSTONE (South Australia— Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assist-
22516 SENATE Wednesday, 31 March 2004

MILITARY REHABILITATION AND COMPENSATION BILL 2003

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Military Rehabilitation and Compensation Bill 2003, acquainting the Senate that the House has made amendments (2) to (8) requested by the Senate, and has made not made amendment (1) requested by Senate.

Ordered that the message be considered in Committee of the Whole immediately.

Senator V ANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (6.20 p.m.)—I move:

That the committee does not press its request for amendment no. 1 not made by the House of Representatives.

Senator Carr—Madam Temporary Chair, I raise a point of order. I understood that the Clerk just called the textile bill. Are you not calling the textile bill? Has there been an explanation given to the opposition?

The TEMPORARY CHAIRMAN (Senator Kirk)—That is not a point of order. The government has determined that we will be moving to this other bill.

Senator MACKAY (Tasmania) (6.20 p.m.)—I would like to make a short statement to assist Senator Carr. The opposition has just been recently notified of this. That is fine. I understand that dealing with this message will be very quick. We are waiting on our spokesperson. (Quorum formed)

Senator MARK BISHOP (Western Australia) (6.24 p.m.)—For the record, when the amendment was first before this chamber, the opposition took a particular position favouring the amendment moved by the Democrats. It has gone down to the House and been rejected. The opposition simply wishes to restate its position for the record but we will not be pressing our position on the amendment.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (6.24 p.m.)—The Democrats are disappointed that this amendment has not been accepted. It will not be insisted on. We recognise the reasons why but it still means that the discrimination continues. The one time the Democrats even vaguely suggested that there would be a difficulty in not insisting on something we got pilloried from one end of the country to the other by certain people, including some in other parties and people in the gay press. I will like to see similar attitudes every time the decision is made by others not to insist. Having said that, we have a lot of business to get through.

Senator HARRADINE (Tasmania) (6.25 p.m.)—I will be supporting the motion as put forward by the minister. I am pleased to say that this will not become part of the legislation. Ultimately what it would do if it became part of the legislation is undermine the institution of marriage, which is so important and of such benefit to society.

Question agreed to. Resolution reported; report adopted.

Third Reading

Bill passed through its remaining stages without amendment or debate.

TEXTILE, CLOTHING AND FOOTWEAR STRATEGIC
INVESTMENT PROGRAM AMENDMENT BILL 2004
Second Reading

Debate resumed from 10 March, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator CARR (Victoria) (6.27 p.m.)—I rise tonight to speak on the Textile, Clothing and Footwear Strategic Investment Program Amendment Bill 2004. I move the second reading amendment that has been circulated in my name:

At the end of the motion, add “but the Senate recognises the importance of innovation in the TCF sector and the need for policies that stimulate long-term growth and economic prosperity.

The ACTING DEPUTY PRESIDENT (Senator Kirk)—Senator Carr, your amendment has not been circulated.

Senator CARR—It should have been. It was prepared some time ago and the request made. If it has not been circulated, I ask that it be circulated. It is such a succinct and precise statement of the problem with this bill that I am sure the chamber will have no trouble accepting those sentiments. It is necessary to highlight the difficulties that are emerging in the TCF industry. I have just been advised that there is a problem here. The chamber assistants have said that they had it ready to distribute but the government changed its mind and it was not able to be distributed. This is yet another example of the poor management of this chamber by the government.

The point of this second reading amendment is to highlight the need for the government to acknowledge the need for a change in policy and the need to emphasise that the TCF sector has an important role to play in this country. It has a very bright future if a policy setting which concentrates on innovation and which is committed to the long-term growth and economic prosperity of that sector is developed.

The bill provides for increased access for the leather and technical textiles sector to the strategic investment program in the final two years of the program. We will be supporting this bill for two reasons. Firstly, the program is currently underspent and any underspend should, in our view, be directed to the TCF industry. Secondly, there are parts of the TCF industry that will not be eligible for assistance under the government’s proposed post-2005 TCF assistance package. The post-2005 assistance arrangements for the TCF sector are vital in assisting further restructuring of the TCF industries. The future of this important Australian industry rests with its ability to innovate, to invest in research and development and to unlock the creative potential of its employees. This will lead, in our judgment, to a higher level of quality exports. Exports will be the basis on which we can develop and protect this industry and ensure its long-term sustainable growth.

It is appropriate at this point to consider some other aspects of the post-2005 assistance package. We have strong differences with the government over different ways in which the TCF industry can be assisted to meet the challenges it will face in the future. We take the view that there should be no further tariff cuts without a comprehensive review of the TCF industries. We take the view that there should be a proper inquiry into the effects of reductions in tariffs up to 2010 and that that should occur before further tariff cuts are undertaken. It is a pretty straightforward and sensible approach. I would have thought, to have an inquiry into the effects of changes before the changes occur where possible. We say that on this occasion, that is clearly possible.

We are not in the business of seeking to wind the clock back. We are not about freez-
ing tariffs indefinitely. We are not about pretending that the world has not changed. We are ensuring that this industry does have a future and that proper investigations of alternative strategies are pursued to maximise the opportunities for the owners of businesses in the TCF sector and for people employed in those businesses. If you look at the situation post 2007 we have to examine whether or not further tariff cuts are in the industry’s long-term interests. What strikes me here is that there is a strong contrast with the approach the government is taking on this issue. This government is blinded by an ideological obsession with pursuing tariff cuts at any cost. This government is about abandoning its responsibilities to examine the social and economic implications of its policies.

It is important that we look at what the Productivity Commission is saying. This is a body that has argued for a very long time that tariff cuts are of great benefit. But in the last report on TCF issues it was able to put a case that simply rests on the proposition that it is not able to demonstrate that further tariff reductions will generate a net national benefit. When the Productivity Commission itself cannot demonstrate a benefit, we are entitled to look a bit more deeply into what the government is proposing. The government is trying to suggest that the Labor Party are essentially old world and protectionist, that we are about interventions for their own sake. Nothing could be further from the truth. We are about ensuring that this country has a good policy framework, that the government measures up to its own responsibilities to the people of this country and that the information that is gathered, which directly affects the livelihoods of tens of thousands of families in this country, is sound. We are saying there should be a proper information collection process so that we can make judgments based on evidence, not on prejudice. It seems to be an approach that is currently lacking from the government’s policy framework.

A Labor government will establish a review to examine the best means of ensuring that we can maximise opportunities for both workers and management within this industry. We are about looking at the issues of tariff and non-tariff barriers. We are about looking at market access. We are about making sure that this industry is able to take full advantage of the circumstances in this country that give it the most likely chance of success. We are about making sure we examine the social impacts of government decisions on workers, on regional towns and on the broader community. That is not an ideological obsession; that is commonsense. It is an approach that assumes that the people of this country are entitled to the support of government, that they are entitled to look to their government to make sure that policy decisions are taken by a government that actually understand the implications of those decisions.

Labor support a new strategic investment program for the TCF industries, but a new SIP program that encourages innovation and investment in research and development and in exports. Labor are concerned that the government are looking to cut the SIP from 2009 without looking at where the industry is going to be in 2009. Again, we say they are putting the cart before the horse. We need to examine the implications of policy before the policies are acted on—a sensible approach, I would have thought. We will have a good look at this legislation when it is introduced into this chamber. We say that it must be targeted at the right types of TCF enterprises to ensure that the right type of activity arises from government activity—activity that is research and development intensive, that is export oriented and that genuinely provides encouragement for innovation.
Labor also take the view that it is incumbent upon any national government to have an effective labour adjustment program for the textile, clothing and footwear industries. The Howard government abolished Labor’s labour adjustment programs in 1997 without any consideration of the social impact of that decision, without any consideration of the effects that the abolition of such programs would have on those textile workers who were losing their jobs. On the face of it, the government’s $50 million, 10-year structural adjustment program does not seem to us to meet the necessary requirements. It fails to face up to the challenges that will be faced by many workers within this industry. For a start, it is too little money over too long a period. If we are in the business of providing real assistance to workers in this industry, we should be trying to improve language skills, we should be providing vocational education skills and we should be genuinely finding alternative employment opportunities.

The other area that concerns the Labor Party is the question of exports. We say that the growth of exports is fundamental to the capacity of this industry to have a prosperous future. That comes back to the issue of our capacity to gain access to international markets. We say that there needs to be concerted and sustained effort by government to improve market access for this country’s textile manufacturers. It would seem to me that the proposed US-Australia free trade agreement fundamentally ignores this issue. What concerns me is that if that agreement does get up in its present form, as certainly is likely on the basis of the evidence that has been presented to me, we may in fact be denying Australian textile manufacturers the opportunity to secure access to the world’s biggest market while at the same time the arrangements entered into leave open the possibility of Australia being flooded by US goods. So I believe there is an issue here about the effect of such an agreement on Australia’s national interest.

Finally, I will talk about some misrepresentations on these issues that the government has been pursuing with the textile industry. Labor’s position on these questions is very clear, and I have outlined it again tonight, but the government has been seeking to present these issues in a thoroughly distorted manner. It has been suggesting to employers that the Labor Party are seeking to block the strategic investment program. This is despite the fact that we have not actually seen the bill. This is despite the fact that the bill, as we understand it, will not provide significant assistance for some years. This is despite the fact that the government has repeatedly heard our statements of support for the SIP. It is being said that the government will propose that, unless agreement is made on the tariffs issue, there will be no SIP. It is the government that is blackmailling this industry. It is the government that is saying that unless the Labor Party capitulate on the tariff question it will not provide strategic assistance to the industry. We call that what it is—blackmail—and we will not stand for it. We will not be bullied into this.

The government had an opportunity to discuss these matters in a bipartisan way last year. I wrote to the minister and the minister’s response was tardy, to say the least. Now we have a situation where the government is going to the industry and suggesting that the Labor Party is acting improperly. We have stated our position clearly: there should be no further tariff reductions until there is a proper inquiry into the effects of them. We also say that we will support the SIP—and if the government wants to put the bill into the chamber it can test our resolve on that question. Equally, it will be able to test our resolve on the tariff issue. But we will not bow to the blackmail that the government is proposing and we will say to the industry, ‘Go
back to the government and say to them, “If you are serious about a SIP, put the bill into the parliament. Test it; see what the Labor Party’s position really is.” We have stated it publicly, and I repeat it here tonight. Do not try to blackmail us by suggesting that there has to be a trade-off in this manner in the dying days of this parliament.

We have seen with the legislative program so far that this government has treated this bill as a minor issue. It has constantly reduced this bill’s priority on the legislative program. So it surprises me when the minister’s office rings up and asks, ‘Is there a problem with the bill?’ We say, ‘No, there is no problem with the bill. It is up to the government to determine the priorities that are set by the government as to when legislation is debated in this chamber.’ We have sought to facilitate debate on these questions; that was a matter that was raised here a short while ago. We say to the government: if you are serious about a new SIP for the industry, put the bill into the chamber and you will find out what we are about. We will demonstrate our bona fides on those questions, but do not go to the industry, misrepresent our position and essentially propose a blackmail arrangement, because we will reject such an approach. I commend the second reading amendment to the chamber.

Senator RIDGEWAY (New South Wales) (6.43 p.m.)—I rise tonight to speak to the Textile, Clothing and Footwear Strategic Investment Program Amendment Bill 2004. The textile, clothing and footwear industry is a critical one, as Senator Carr has outlined. The Productivity Commission has noted that in 2000-01 Australia’s 5,000 TCF firms generated turnover of $9 billion and provided factory based employment for at least 58,000 people in this country, a significant number by any means. The commission noted that at that time there were also the equivalent of as many as 25,000 full-time employees engaged in outwork related to the industry.

The report of the Productivity Commission review of TCF assistance was released in July last year. The government considered the recommendation of the Productivity Commission, and in November last year the Minister for Industry, Tourism and Resources, Mr Macfarlane, announced that there would be a five-year pause on tariff reductions for the TCF industry from 2005 and that this would be followed by a gradual 10-year program of tariff reduction. To enable the industry to adjust to the new tariff arrangements, the government has announced that a $747 million assistance package will be implemented. We expect legislation giving effect to these proposed changes to be introduced into the parliament in the near future. I see that as the key bill that needs to be debated by this chamber as to whether or not it would win Senate support or, for that matter, Australian Democrat support.

A key element of any proposal for major change such as the government’s plans for post-2005 arrangements for the industry is consultation with stakeholders. With respect to the TCF sector, consultation with industry and employees is especially critical. There have been mixed reactions so far to the decisions taken by the government. On one hand, business owners and employers within the industry are keen to have some certainty sooner rather than later. They have accepted a program of tariff reduction and they need to know the exact terms under which this will happen over the next decade. This will of course enable them to strategically plan their investment in development activities to develop niche areas and expand their export activities to ensure the long-term sustainability of the industry. On the other hand, employees of the TCF industry are justifiably
The Democrats have been vocal critics of the blind faith of this and the previous government in market solutions and untrammeled competition policy, which has led to manufacturing and industry being undermined by an array of government policies including the reduction in tariffs, the restriction on research and development tax concessions, cuts to industry assistance programs, an unsympathetic tax system, heavy compliance costs from poor implementation of the new tax system, and a failure to engage in strategic industry and regional development planning.

We expect legislation to be introduced in the near future to give effect to the government’s entire plan for the TCF industry and we are committed to a thorough examination of all of the proposals and a full assessment of the precise nature of the impact it will have upon this sector. We do acknowledge the need for certainty, especially with regard to long-term strategic planning for investment and industry development. However, we have serious concerns about the prospect of major job losses as a result of these changes. If we can believe what has been said so far, then certainly the numbers that have been forecast are quite significant and do need to be taken into account.

The bill before us does not raise the same level of alarm as the bill that is likely to come in the future will. As we are all aware, it is a transition measure and applies specifically to the leather and technical textile industries. The bill introduces an alternative cap for certain grants in respect of TCF value adding under the SIP scheme. Total grants for value adding made to leather or technical textile firms in the 2003-04 and 2004-05 income years are equivalent to the sum of the total grants for new and second-hand plant and building expenditure and research and development expenditure. The additional funds available for these matching grants are
capped at $3.9 million. The leather and technical textile sectors of the TCF industry are not as vulnerable as other sectors. That has been noted particularly in the Bills Digest, which says that these sectors:

... have been less affected by the tariff reductions than other sectors in the industry and have responded positively under the SIP. Both sectors have performed strongly and have developed their export capability.

I note also that the leather industry in Australia has a turnover in excess of $730 million and employs more than 3,000 people, especially in regional areas. The leather industry accounts for 35 per cent of total TCF exports. The Australian technical and non-woven textile industry is also a strong performer, employing an estimated 10,000 people and with an annual turnover of around $1.7 billion. This sector has also experienced a healthy growth in exports. The bill will give firms in the leather and technical textile sectors an opportunity to engage in strategic planning and investment activities to maximise their opportunities to be as competitive as possible after 2005.

The Democrats support this bill, but we will be watching very carefully to determine the merit of the next phase of the legislation that will implement the government’s entire plan for the industry after 2005. We are committed to a process of thorough and careful scrutiny of the proposals when they are introduced into the parliament. A full assessment of the impact that these changes will have on the industry will, I believe, be essential to determine whether or not the assistance measures offered by the government are sufficient and properly targeted. We acknowledge the important contribution the TCF industry makes to the Australian economy and the need to ensure that this contribution is encouraged and developed in the decades to come. In conclusion, I am pleased to give the Democrats’ support for the second reading amendment moved by Senator Carr on behalf of the opposition.

Senator HUTCHINS (New South Wales) (6.54 p.m.)—I rise to speak tonight on the Textile, Clothing and Footwear Strategic Investment Program Amendment Bill 2004. I welcome this bill being put this evening. As Senator Carr highlighted, we believe it has been a long time coming. The bill provides for an alternative cap to allow leather and technical textile businesses to access additional funding for the final two years of the strategic investment program. The leather and technical textile sectors combined employ an estimated 13,000 people in Australia and have a turnover of nearly $2.5 billion. Encouraging the leather and technical textile sectors of this industry is a laudable aim because they are the elements of the sector which has seen the smallest reduction in employment for the textile, clothing and footwear industries.

What I am most concerned about, as all of us should be, is the creation or maintenance of jobs in this industry. Employment in the TCF industries has fallen from 120,000 in the late eighties to 71,000 in 2002. There are obvious reasons for this dramatic fall in employment, many of which are entirely out of the control of any Australian government. While the government has provided some assistance to ease the effect of tariff reduction on the industry, the focus of that assistance has been on cushioning the move towards tariff reduction for business. As is so often the case, the Howard government has failed to address an even more serious concern: the thousands of workers who may well lose their jobs in the TCF industries as a result of the removal of tariff protection.

The government’s time line for tariff reduction in this industry is hasty and irrational. Most concerning of all is that it will cost thousands of jobs because of its failure
to protect workers. It has been estimated by the Victorian government that 6,500 jobs will be lost in that state alone. Because of the concentration of TCF manufacturing in regional areas, the Howard government’s policy of accelerated tariff reduction will have a serious effect on communities where TCF industries are the primary source of employment. It is unwise for any government to implement economic and trade policy without looking at the broader implications of its actions, yet that is exactly what this government has done.

The Labor Party has committed to holding tariffs in this industry at current levels pending a review. Under a Labor government, that review will take the tariffs and trade barriers of our trading partners into account in the process of reducing our own tariffs. That is the balanced and sensible policy—one which takes real trade conditions into account, and one which would serve to protect Australian industry and jobs against unfair trade barriers imposed by other nations. In stark contrast, the current government has imposed a rigid and strict tariff reduction time line on an industry which cannot afford to be exposed to the trade practices of other nations. The current government appears to be motivated not by the national interest but by a sweeping ideological preference for the removal of tariffs come what may. That ideological preference was clearly articulated by the government’s recent free trade negotiations with the United States which sold out Australian industry while providing American business with unprecedented access to Australian markets.

The former Labor government was realistic about the challenges which will be faced by workers in the TCF industries. Labor realised that many workers in the industry are from non-English speaking backgrounds. Labor knew that those workers would have trouble finding work in other industries, and as such implemented the labour adjustment program—a program designed to help employees, the very people who stand to lose the most as tariffs fall in this industry. But in 1996, the Howard government abolished the labour adjustment program. We have a government which, on the one hand, has decided to hasten the removal of tariffs but which, within its first year of government, removed a program providing skills to the very workers who will be affected the most. The government, under considerable pressure, belatedly reintroduced the labour adjustment program under a different name and with considerably less funding. Labor has committed to reinstating an appropriate labour adjustment program which has appropriate levels of funding. It is only fair that Australians for whom there is a possibility that their jobs will disappear be retrained and provided with other skills.

Labor are committed to that process, while the Howard government’s actions have proven it to be unaware of the requirements of these workers. On this side, we see that the TCF industries have the potential to grow. We know that they will be able to maintain profitable and long-lasting businesses. But there needs to be a hands-on approach to the development of sustainability in the industry. The leather and technical textile sectors have proven that the industry is viable. That is why we have committed to creating a permanent textile, clothing and footwear industry council. That council will focus on increasing innovation and developing export strategies to ensure value added exports. This is in stark contrast to the Howard government’s approach to the industry which appears to be merely recompense for its failure to implement an appropriate time line for the reduction of tariffs.

We will not oppose this bill because it does provide assistance to elements of the textile, clothing and footwear industries, but
it is part of the government’s piecemeal approach to saving this industry. What the industry needs is not bits and pieces, but a program which truly believes that there is a future in manufacturing textiles, clothing and footwear in this nation. In conclusion, Labor have developed a plan with that objective and will implement it for the good of the 70,000 Australians who are still employed in that industry.

Senator MARSHALL (Victoria) (7.01 p.m.)—I rise to make a few brief points about the Textile, Clothing and Footwear Strategic Investment Program Amendment Bill 2004. I do so on the basis of the importance of the TCF industry, in particular to my home state of Victoria, where a large proportion of the industry is based. If we look at the figures of every group of employees in this industry that numbers over 1,000, we see that on a seat by seat basis, apart from the seat of Fowler, every other area is in Victoria. In the seat of Batman, there are 1,440; in Calwell, 1,700; in Corio, 1,443; in Holt, 1,087; in Indi, 1,189; in Maribyrnong, 1,585; and in Scullin, 1,838. That is certainly a significant proportion of the Victorian industry. This is a very important and crucial industry providing a large number of jobs and it ought to be good quality, secure employment.

There has been a significant transition in this industry over the years and many of the companies in the industry have adapted and gone high-tech. They have very high skills, good delivery modes, excellent products and fantastic quality. It is an industry that is worthy of government planning and intervention, not to be discarded, as this government seems intent on doing. There is certainly no evidence and no indication from anywhere, including the Productivity Commission, that a further reduction in tariffs in this industry is going to drive further productivity or efficiency in this industry. There is no evidence of that whatsoever.

What this government is doing to this industry is simply putting them in a race to the bottom in terms of wages. When we are trying to compete with low-wage countries with unlimited resources of labour, such as China, we will only win that race to the bottom. That is not what we ought to be doing to this industry or to any other industry, for that matter. What we need to do is have a proper, structured industry plan with government intervention that actually encourages innovation and investment in this industry and that drives further high-skilled jobs, innovation, investment and research and development that can provide a secure future for the numerous people who work in this industry and for future generations. This industry should never be seen as an industry that is dying, as one that we should give up on, trying only to look after those who are in it now and pretending that we should have no industry into the future.

The Victorian government commissioned a report very recently called The Long Goodbye and this study tells us a lot about the TCF sector. It noted the Webber and Weller study that was done in 2001 that demonstrated that one-third of TCF workers retrenched in the early 1990s had not found commensurate jobs. The findings of The Long Goodbye study indicated an even bleaker picture for this industry. Almost one-half of retrenched workers had not found employment after the mean time of 39 months after the date of retrenchment. While most workers had worked full time before retrenchment, few of those who found jobs were able to obtain full-time employment after the period of retrenchment, and not a single person was earning as much as they had before retrenchment. That paints a very bleak picture indeed.

At a time when we have had significant economic growth in this country, it seems astounding that the government has simply
discarded this particular industry. I think that is shameful situation, considering the number of people in this industry and the value that it contributes to our economy and our society. We know that it contributes about $9 billion to our economy every year. There are substantial fiscal costs if we abandon this industry, as this government seems intent on doing. By November 2004 the number of TCF workers across Australia is projected to fall from about 68,400—the figures for May 2003—to 39,500. That is a substantial reduction across the board in this industry, but also in many of the regional centres where this industry is a major, if not the only, employer.

Based on ABS labour force figures and the survey conducted by The Long Goodbye study, the cost of retrenchments to the federal government in terms of unemployment payments alone will be an additional $114 million per year. Those social costs are often not factored in when the government decides not to proceed with any form of protectionism in the absence of a structured industry assistance program that actually looks at saving the industry, investing in it and making it sustainable into the long term, and that is an unfortunate situation indeed.

Clearly, the free trade agreement recently negotiated with the United States also fails this industry. The unfortunate part of it is that the US has applied the yarn forward rule in this industry. The United States TCF industry have what they call the yarn forward rule, which effectively means that as long as the yarn is produced in the United States, even though the high labour intensive part of actually making garments or footwear may be done elsewhere—in Mexico, Chile or in other areas where the US does or does not have free trade agreements—the goods can be considered to be US goods for the basis of our free trade agreement with the United States. We say that that is a significantly unfair advantage, especially since we cannot take advantage of that provision. Our industry, for a whole range of reasons, imports most of its yarn, yet most of the high labour intensive parts of the industry are in fact done in Australia. The yarn forward rule does not assist our industry in any way in getting export markets into the US, but the free trade agreement certainly assists the US industry in getting export markets into Australia. We say that the free trade agreement has failed this industry, just as the government has failed it and looks as though it will continue to fail it time and time again.

Labor has a very different approach. We certainly do not believe that we should be removing the tariffs on the current government timetable. We say very clearly that no tariffs should be reduced until we have actually done a comprehensive study into the social and economic impacts on this industry and come up with a proper industry plan which will deliver the incentive and the ability for the industry to grow, invest, become even more high tech, efficient and sustainable into the long term and continue to provide that very necessary employment in this particular sector. While Labor does support this bill, its effect is simply to spend an underspend in the existing program. We think that is terrific, but it does not do what is really required to make this industry sustainable into the long term. We call on the government to develop a proper industry policy, one that has an objective of saving and encouraging this industry into the future.

Senator HARRADINE (Tasmania) (7.11 p.m.)—I rise to support the Textile, Clothing and Footwear Strategic Investment Program Amendment Bill 2004 and the second reading amendment moved by the opposition. The textile, clothing and footwear industry has been an important part of Tasmanian industry, although it has been declining in re-
cent years. It has been a very big employer, and it is still rather substantial. There are about 1,500 people employed in the Tasmanian TCF industry. It accounts for a large part of the workforce in Devonport. Sadly, there have been considerable job losses in the industry over recent years. Sheridan, the Tamar Knitting Mills and Coats Paton have closed in the past ten years. Devonport, a city with a workforce of over 5,000 people, has about 10 per cent of its workforce employed by the Australian Weaving Mills and Ulster Tascot. There are, of course, many other employees from other businesses that supply these two companies. The TCF industry is therefore a major and central part of the community's economy.

Blundstone, an Australian icon based in Hobart, is concerned that it may have to relocate offshore because it is being undercut by cheap imported boots. It is a family owned business struggling to remain Australian and to employ local workers in Hobart. It exports Australian boots to South Africa, Europe, Israel, Canada and the United States. I can give a personal assurance that they are very good boots. I lived in them for about five days after the last parliamentary session when my wife and I went on the Federation Peak track. It rained for four of the days, and these boots were marvellous in the mud and slush and for climbing up slippery Moss Ridge. We almost got to the top of Moss Ridge but, because it was raining, it was too bad to go any further. Without those Blundstone boots, I do not know what we would have done. So that is a little advertisement. Without continued support, Australian leather goods and Australian boots may soon become a thing of the past. Last year, Blundstone laid off six staff and replaced them with two contract workers, reportedly in the struggle to remain competitive.

My focus is of course on Tasmania, but I have noticed how many other regional areas around Australia depend on TCF jobs, such as Wangaratta, Bendigo, Geelong and Albury-Wodonga, plus a number of others. Tasmanians living in an island state have particular difficulties, shared no doubt by other regional areas. Loss of TCF jobs in Tasmania is more than just an inconvenience. These workers and their colleagues have particular skills that are difficult to place in the relatively small Tasmanian employment market. They either have to retrain extensively in the hope of finding new employment or uproot their families and leave Tasmania.

TCF workers are often from groups that are relatively marginalised in our society. Over 40 per cent are from non-English-speaking backgrounds and over 70 per cent have no formal qualifications, though they are highly skilled in the TCF industry. More than 50 per cent are over 35 years of age, so they tend to be older workers who would have difficulty finding new jobs or to relocate, as they are more likely to have families. About 60 per cent of employees are women, so traditionally they may not be the main breadwinner and may not be able to relocate to find alternative employment. Their family may just have to struggle to cope with the drop in income if they cannot find another local job.

Outworkers are one group of TCF workers who do not even have the relative security of working in a clothing factory. A Senate committee looked at outworkers in the clothing industry in 1996 and noted that they were becoming more prevalent. The industry was being structured around them in an effort to compete against cheap imports. The Productivity Commission estimates that there are about 25,000 outworkers in Australia—about 40 per cent of total TCF factory based employment and 25 per cent more than factory based clothing employment.
Many outworkers can be described as being in sweated labour. A 2001 report by Dr Christina Cregan of the University of Melbourne found that the average pay rate for a group of surveyed outworkers was just $3.60 per hour. Remember we are talking about a report in 2001. Some were being paid under $1 an hour. Many migrants are so desperate for work that they take these jobs. They do not have the opportunity to search for or train for a better job, in part because they are not eligible for the higher-paying government welfare payments until they have been in Australia for two years.

Last year the Productivity Commission looked at the plight of outworkers and noted that they were vulnerable to exploitation. The commission also noted that, although governments had implemented legislation to protect outworkers, the reality was that it was not being enforced, either because of the difficulty of doing so in such a dispersed work environment or because of a lack of resources. Outworkers are at even greater risk of extended unemployment if they lose their jobs, difficult though those jobs can be. The great majority have little English and no educational qualifications and have invested significant amounts in sewing equipment. This is the reality for TCF workers. They are from marginalised groups in uncertain employment.

Last year a number of TCF workers visited my office to recount the fears they have for their jobs in the light of the recent Productivity Commission examination of TCF tariffs. They are real people with homes, communities, families and friends nearby, kids at school and bills and mortgages to pay. They are not economic units to be moved to new areas of employment without personal pain and dislocation.

The TCF industry has been constantly improving and becoming more efficient over almost 20 years, kicked off by moves to improve the industry by then Senator John Button. Unfortunately, the strong Australian dollar in recent months is also making it difficult for local industries like TCF. The tight competitive situation and the fact that some textile companies are still shedding jobs—for example, the Australian Weaving Mills in Devonport cut 13 jobs just last November—show that these companies still need support. I understand that the government does provide assistance to TCF companies, mainly in the form of the strategic investment program.

Debate interrupted.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Women: Domestic Violence

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (7.20 p.m.)—by leave—In question time I stated that the government had spent over $60 million on the prevention of domestic violence. Can I clarify that over $60 million has been spent or committed under programs administered by the Office of the Status of Women.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Brandis)—Order! It being 7.20 p.m., I propose the question:

That the Senate do now adjourn.

Trade: Live Animal Exports

Senator FERRIS (South Australia) (7.20 p.m.)—Yesterday, Agriculture Minister Warren Truss released the government’s response to the Keniry inquiry, which looked into the conditions and future of the live animal export industry. The response that was announced by Minister Truss set out $11 million worth of initiatives to both improve animal welfare standards and ensure the long-term security of this very important
industry to Australia. This announcement and the measures outlined by Minister Truss will give certainty to the 9,000 Australians who work in this industry and whose jobs are dependent on it. It is a $1 billion livestock export trade, and I would like to congratulate Minister Truss tonight on the initiatives that he announced and the reforms that he has proposed for the industry.

I do not think any of us in this chamber will forget the tragic Cormo Express episode and the damage that was done to our international livestock carrier industry. It inflicted terrible damage on the export industry from Australia through the unacceptable on-board livestock mortalities that occurred after the rejection of the consignment by the Saudi authorities.

To considerably reduce, and hopefully minimise, the likely chance of such an incident ever occurring again, a range of measures have been put in place and were announced yesterday by Minister Truss. These include increased government involvement in the regulatory framework for the industry, including surprise audits and inspections of ships; an industry quality assurance standard; improved risk management procedures and systems management; the investment of $1 million a year in improving animal welfare outcomes in the Middle East; and the establishment of new export protocols with Middle East destinations. I recently visited a live animal export ship down in Port Adelaide, at Outer Harbour. It was loading sheep. It was an old car carrier that had previously taken vehicles to the Middle East. It was certainly a very different ship to the old open deck ships that used to take our livestock. I was very impressed with the way the heat stress model would operate on these ships. When live animals are loaded and leave Australia the temperature in the countries for which they are destined is taken into account. There is a great deal more space around the sheep than on voyages which go to cool climate countries.

Our record on live animal standards is already strong. We now show a declining mortality rate on voyages, down from 0.34 per cent of cattle shipped in 1999 to 0.10 per cent in 2003 and from 1.34 per cent of sheep to 0.99 per cent over the same period. With the Keniry reforms in place I am quite sure that those figures will continue to decline. Key changes that the government has agreed to and that the industry has accepted include a new livestock export code, which will be referenced in legislation and which exporters will need to meet before shipments can be cleared; a new annual licensing arrangement to make sure the exporters meet certain standards and procedures; and the inspection and registration of export feedlots, including increased inspection times in the feedlot before final permits for export are issued. Australian veterinarians will be required on voyages to the Middle East. These vets will report directly to AQIS, will be personally trained in procedures for the voyages and will be held liable in the event that any incorrect information is reported.

Keniry recommended that all animal exports from the southern ports be banned during the winter. Fortunately for South Australia and Victoria, that recommendation—which covered the ports of Port Adelaide and Portland—was not accepted by the government. However, the heat stress model system which I referred to earlier will be adopted to ensure that those voyages contain sheep which have been particularly loaded to take into account the temperatures in the countries for which they are destined. The importance of this decision to Port Adelaide, in my home state of South Australia, is very significant. The opportunity now exists, through giving that certainty to the industry, for the establishment of a port encompassing world’s best practice standards. I am sure
that my colleagues in Victoria will have the same view about the facility at Portland. The security and confidence that is offered by this decision is significant to both the grazing industry and the exporters themselves, and it cannot be underestimated. Furthermore, the stringent quality assurance systems and the longer preparation and inspection times that are going to be imposed at feedlots under the new standards will further reduce the risks that are going to apply on those ships.

The trade to Saudi Arabia remains suspended and will not be renewed without a government to government memorandum of understanding so we can ensure that there will never be a repeat of the Cormo Express set of circumstances. I have visited Saudi Arabia and I can say that the feedlots in Riyadh are certainly not what we would want for our animals. But let us not forget that Saudi Arabia is a country where there are 3,000 honour killings a year, where fathers and brothers kill their daughters and their sisters. We should never forget that. When we are talking about the care of animals in Saudi Arabia, we should have a look at how those families treat some of their female children. I think it puts criticism of the feedlots in Riyadh in a different context when you consider 3,000 honour killings occur every year in that country.

A new compulsory research and development levy that is to be introduced, in consultation with the industry, will be matched dollar for dollar by the federal government and will make sure that the very best circumstances apply on these ships when the animals are loaded so that the stock arrives in the very best condition, through the exporter, to the country where they have been sold.

Minister Truss’s announcement has been warmly welcomed by industry. The National Farmers Federation said yesterday that the government’s response to the Keniry report will help secure the long-term future of the industry. The Sheepmeat Council, one of the industry bodies that joins with the National Farmers Federation, said:

The Australian Government’s much awaited response to the Keniry live export review is a positive outcome ... That is, for the sheepmeat industry. It helps ‘sheep meat producers across the country’ and it will ‘enable the ports of Portland and Adelaide to operate all year-round’. That is a very important and quite substantial change from the Keniry recommendations. Mr Ian Feldtmann, President of the Sheepmeat Council, said that the $4 million to be made available over four years to help improve animal welfare and handling practices in importing countries is also very significant. The Cattle Council has also praised the decision, saying:

The Government has demonstrated its commitment to Australian cattle producers who rely on the live export trade by—

the announcement of the—

$11 million funding commitment to help address areas of concern.

The government’s response to the Keniry report will deliver improved animal welfare outcomes as well as bringing security to a crucially important industry employing 9,000 Australians. The decisions announced by Minister Truss yesterday represent a massive vote of confidence in the industry as a whole by the federal government. The minister is to be congratulated on the courage that I believe he showed in taking this decision, which reinforces a sense of confidence and security in the industry that has been sadly lacking since the disaster of the Cormo Express.

Education and Training: Funding

Senator MACKAY (Tasmania) (7.30 p.m.)—I rise today to speak about this government’s failure to commit to providing
Australian students with the adequate number of TAFE places and the resources required to undertake vocational education and training, VET. I am talking in particular about the Minister for Education, Science and Training’s withdrawal from negotiating on a new Australian National Training Authority agreement with the states and territories for the coming triennium, 2004-06.

Under this government, vocational education and training has been run into the ground thanks to a minister who has failed to provide the necessary funds that this important sector needs to survive and to meet demand. We cannot underestimate the importance of this funding for many Australians, including the need to reskill older workers and meet critical skill shortages in some states, such as my own home state of Tasmania. Yet the inadequate funding offer put on the table by the Howard government shows how little concern and care this government has for Australian VET institutions and providers and users of VET.

The main group missing out in the coming triennium, however, will be Australian students. The minister is clearly ignoring the need to support our young people and those marginalised in the labour market via vocational education and training. Skills bases need to be adequately maintained, and this can only happen with an increase in the resourcing of VET. Yet this government has not provided one extra cent of growth funding for the new ANTA agreement. I notice my colleague Senator Crossin is now in the chamber. She has a great knowledge and interest in this area.

The government’s offer will not sustain the future growth of VET in this country. I am aware that all state and territory governments have negotiated in good faith on this issue, but that has not been reciprocated by the federal minister for education, who has refused to re-enter negotiations until October this year. The result is that young Australian students will continue to miss out on a TAFE place. Only last week I heard of a young Tasmanian student who finished high school last year and who wanted to get into TAFE to study child care. Despite her merit, she was turned away due to a lack of funding to provide enough places for students to study child care at TAFE. This is despite there being a skill shortage of child-care workers in my home state of Tasmania.

Whilst this government sits there doing nothing, by contrast the Tasmanian state Labor government is continuing to act in the interests of VET students. Only yesterday the Tasmanian Minister for Education, Paula Wriedt—an excellent minister—opened a new peak body for post-year 10 education and training: the Tasmanian Learning and Skills Authority. The authority will continue to provide advice on vocational education and training, ensuring that learners’ and industries’ needs are met. It will also assume new functions and powers to reflect its broader role under a post-year 10 education and training banner. The authority will be responsible for policy and planning relating to adult and community education, vocational education and training, higher education and senior secondary education in Tasmania.

On top of that, the Tasmanian Labor government has just held a conference to discuss the shape of Tasmania’s vocational education and training system. This clearly shows how the Tasmanian Labor government is committed to working to provide world-class VET opportunities. Yet, unfortunately, the Howard government could not care less about the future of VET and our young people and skills base in Australia.

There is a clear unmet demand for the provision of vocational education and train-
CHAMBER

As Ms Cross from ANTA identified in a recent estimates hearing to my colleague Senator Crossin, ANTA expect a 2.7 per cent annual growth rate in VET. That is, ANTA have agreed with a report commissioned from Access Economics last year which made projections of a likely growth in demand for VET from 2004 to 2010 of 2.7 per cent per annum. Is that right, Senator Crossin?

Senator Crossin—That is correct. The funding increases did not reflect that.

Senator MACKAY—That is shocking. So there is no denying the growth in this sector. Yet the Commonwealth’s funding offer for the next triennium for VET contained no growth funding at all. The ANTA agreement for the period 2001-03 expired on 31 December 2003. Negotiations have been going on for over six months, yet the minister, unable to bully the state and territory ministers into signing the agreement, has now suspended negotiations until October this year.

This decision by the minister is denying thousands of Australians, especially young Australians, the education and training opportunities that they need for their future careers. We know from the ABS figures that last year alone 15,600 young Australians aged 15 to 24 were turned away from TAFE despite meeting all the entry requirements. This was an increase of 20 per cent on the 2002 figures. The irony of these figures is that jobs in industries that young Australians aspire to are vacant. The Department of Employment and Workplace Relations’ skilled vacancy report, released last December, showed that the demand for Australian workers with skills in automotive, metal and printing industries continued to be high—in fact, higher than at the same time the year before.

This government’s refusal to offer growth funding to expand training opportunities under the ANTA agreement means that young Australian talent is being wasted. This government’s commitment to VET is nil. It is full of rhetoric with no provision for adequate funds. We do not need to look far for this rhetoric. The report released by the Treasurer earlier this year titled *Australia’s demographic challenges* does not provide any recommendations on education and training but stresses the importance of it in achieving the goals of workforce participation. It says:

Further increasing our skills and educational attainment will be important in improving our productivity and labour force participation ...

As the world around us continues to change rapidly, especially with technological change, efficient and effective post-compulsory education and training systems will become more important. Current and future workers will need to improve and continually update their skill levels.

We have, written in a report released by the Treasurer, a clear outline of the importance of vocational education and training to Australians but the Minister for Education, Science and Training refuses to sit at the table and negotiate an adequate funding package for this sector to meet current and future demand.

The fact remains that the federal government’s offer of $218 million of so-called extra funding is a sham. No wonder the state and territory ministers have been reluctant to sign the new ANTA agreement. It is nothing more than $120 million of funding previously announced as part of the government’s welfare reform measures and three years of indexation of both base and growth funding. This offer leaves base recurrent funding remaining at the year 2000 level, while growth funding barely keeps pace with indexation.

Australia urgently needs to expand the number of TAFE places. Young Australians cannot afford to wait until October for the minister to come back to the table on this.
This government is doing nothing to address the skills shortages which are growing. Under this government, 15,000 school leavers have missed out on a TAFE place, even though they have earned a place on merit. By contrast, a Latham Labor government will provide 20,000 new TAFE places to meet demand. We will not ignore the serious shortage in skilled Australian workers, especially in trade based occupations. Labor’s TAFE policy, entitled Aim Higher: Learning, Training and Better Jobs for More Australians, will ensure all Australians can access training and education opportunities that will improve their long-term career prospects. Only a Labor government will end the Howard era of neglect for our Australian TAFE students.

Transport: Road Safety

Senator RIDGEWAY (New South Wales) (7.38 p.m.)—I rise tonight in this chamber to address the impact of the proliferation of four-wheel drive vehicles on road safety in Australia. This is a timely issue because the Easter holiday season is fast approaching and this is the period of each year with the highest toll of fatal road accidents. It is also timely because today we saw the launch of the national safer roads projects. Friday is World Health Day and the World Health Organisation has designated that the theme for World Health Day 2004 is road safety.

It is my view that the proliferation of four-wheel drive vehicles on Australian roads presents a major threat to road safety in this country. This is, therefore, what I want to focus on this evening. The statistics that relate to four-wheel drives and road safety are alarming, to say the very least. The fact that Easter is just around the corner means that the question of road safety and family vehicles is particularly important.

Comparisons of the speed limits at four-wheel drive and passenger car crash sites show that a higher proportion of four-wheel drive crashes occur in high-speed zones—that is, 100 kilometres an hour or over—compared with passenger car crashes. Given that Easter is a time when many families drive significant distances at high speeds to reach their holiday destinations, this is a matter of serious concern.

According to the Australian Transport Safety Bureau, there was an 85 per cent increase in the incidence of fatal crashes involving four-wheel drive vehicles in the decade before 1998. Almost 90 per cent of children killed in New South Wales driveways in 1998 were run over by four-wheel drives or large commercial vehicles. Four-wheel drive crash test ratings by the NRMA have shown that, in a head-on collision between a four-wheel drive and a conventional passenger vehicle, the passenger car occupants were up to 12.8 times more likely to be killed.

In pedestrian crash testing, which refers to the possible impact on a child or adult if hit by a particular type of car, only a third of four-wheel drives tested scored above the one star rating out of a possible four. These statistics have also been confirmed by American research which has indicated that sports utility vehicles impose a greater risk on drivers of other cars than all other types of cars. It raises the question of compatibility of vehicles on the road.

Many four-wheel drive owners also believe that their four-wheel drives give them better protection on the roads, but this is not the case; in fact, the higher the car, the greater the chance that it may tip over. In all three cases of tipping that were outlined by the Australian Transport Safety Bureau, the four-wheel drive was twice as likely to tip than a normal passenger vehicle. The NRMA has also conducted a study which rates the safety of used four-wheel drives. Out of 26 models of four-wheel drives from various
manufacturers, only two models received a rating of better protection than average. Out of the remaining 24 models, seven received a rating of average protection, four had worse than average protection and nine had much worse than average protection.

The fact that many four-wheel drive models feature bullbars is also a matter of some concern because bullbars can cause more serious injuries to pedestrians, cyclists and motorcyclists. The occupants of other vehicles are at particular risk from bullbars, as the stiff and unyielding bars force the other vehicle in a road accident to absorb more crash energy and the risk of injury to its occupants will invariably be higher. The idea that a bullbar offers greater protection to the occupants of a four-wheel drive vehicle is also false. If a bullbar is an after-market add-on—that is, added later and not part of the vehicle’s original design—the vehicle may not crumple to absorb forces in the way it was designed to do in a crash, which essentially means that passengers inside the vehicle are at greater risk of serious injury. Bullbars may also reduce the effectiveness of any airbags that are installed.

The fact is that four-wheel drives present a unique set of safety risks that need to be addressed. Even if these risks were not inherent in the design and sheer size of the vehicles, the fact remains that they are hard to drive safely. In many cases, it is impossible to see the ground all around the vehicle. Visibility is a major issue on the roads, and with the driver of a four-wheel drive so far above the ground the potential for safety risks is much greater.

When you attach a caravan to the back of one of these already large cars, you end up with a vehicle that is the size of a small truck or lorry. In fact, they are even more difficult to drive, because it is a jointed, moving load instead of a solid one. Truck drivers require special licences which recognise the need for extra training and expertise required to safely manage a vehicle of that size. There is no such requirement, however, for four-wheel drive owners.

The number of these safety risk vehicles on our roads is increasing at an alarming rate. The sales of four-wheel drive vehicles were 13 per cent of the total sales of vehicles in Australia in 1999. This grew by four per cent to 17 per cent in 2002, and it is likely that this trend will continue into the future. The fact that the bulk of the four-wheel drive market is imported is also important when you consider the differential tariff treatment for four-wheel drive imports under our current customs laws. I think we have all noticed the top-of-the-line luxury four-wheel drives that now grace Australian roads. Keep in mind that when the low tariff on imported vehicles was put in place it was for commercial vehicles that related to agriculture and mining activities and, judging by my discussions with people out there on the land, none of them drive around the back paddock in a BMW, a Porsche or a Mercedes four-wheel drive, so it does raise particular questions.

The research note from the Parliamentary Library has explained:

... the customs rules which sets the criteria for applying a lower tariff to 4WDs is the result of a policy decision made by the Government more than 20 years ago—

As I have already stated:
The criteria were initially designed to separate off-road work vehicles for use in mining, agriculture, and the movement of goods, from other types of vehicles.
The rationale for this differential treatment is clearly dated and without basis in current reality. The time of four-wheel drives as vehicles only for those people ‘on the land’ is clearly over. Many of them cannot even afford to buy a four-wheel drive because of the
excessive prices. You only need to look at a single city street to realise that what we might call Toorak tractors—or the many other names that are used in other capital cities for these four-wheel drives—have taken over as regular passenger vehicles for an increasing number of Australians. The differential tariff which makes four-wheel drives more attractive to the market is a major contributing factor to that trend.

As we are all aware, the government did move last year to lower passenger car tariffs over the next 10 years. The proposed rate will be down to 10 per cent by 2005 and five per cent by the year 2010, which will bring these tariffs in line with those of commercial vehicles and four-wheel drives. However, I think that there are particular issues that have to be resolved now rather than us just keeping an eye on some future date. I want to call upon the government to review the differential tariff treatment for four-wheel drive vehicles that are aimed at the passenger vehicle market and to make road safety and the safe use of four-wheel drive vehicles a national priority.

The government do need to modify their national road safety action plan to include the implementation of education programs to educate people about the risks and hazards of driving four-wheel drives for themselves and for others. Many owners are not aware of the dangers and, more importantly, the specifics of their cars and therefore they do not necessarily know how to operate their vehicles correctly. This should be enforced through withholding the issue of a licence until appropriate road safety courses have been attended. It is not uncommon when you consider that in the tourism industry in adventure tourism it is something that is imposed as a result of insurance and liability requirements.

To finish up, I also want to mention that Friday is Walk to School Day, a campaign supported by the Australian government. Essentially it is about people getting out of their cars, especially four-wheel drives, and walking the kids to school but it is also about making it a safe area to drop off and pick up kids. I think that we ought to acknowledge and endorse that campaign.

Munungirritj, Mr Harry

Senator CROSSIN (Northern Territory) (7.48 p.m.)—I rise this evening to pay tribute to an exceptional Aboriginal man from Yirrkala who, sadly, passed away on 31 January this year. I am talking about Harry Munungirritj and I use his name in the hope that his family will allow me that privilege based on the understanding that those people who read this speech will need to be aware of whom I am talking about. I know that it is not traditional custom to name the person who has died, and perhaps it would be more appropriate if I referred to this man by my relationship to him, but for the purposes of the record in this parliament I beg the indulgence of his family and continue to provide his name in this speech.

The number of tributes and the tone of those tributes that were paid to Mr Munungirritj at his memorial service at Yirrkala of 12 March were a remarkable indication of the friendships he had made and the respect he had earned even at an international level both on a personal and professional basis. Harry Munungirritj was a saltwater man, born in July 1954 at a small homeland called Gulurunga on his Rirratjingu clan land near the beach at Port Bradshaw in north-east Arnhemland, a very beautiful but isolated spot. It is a sad fact that you will note that at the time of his death he was only 49 years old.

In my first speech in this parliament I paid tribute to the people of Yirrkala amongst
whom I lived and worked for nearly 4½ years. Harry Munungirritj and his wife, Raymatja, were in fact neighbours of ours and lived across the road from us in Webb Way at Yirrkala. So for us our relationship with Harry has a special meaning. In my first speech, when I mentioned the warmth and the friendliness that we had found in going to Yirrkala from Melbourne and the Indigenous people who had made us welcome there, it was people like Harry and Raymatja that I had foremost in my mind when I delivered that speech. I clearly remember some funny stories about Harry. He was a great footballer. He had a lot of wit. He was a great family man. I remember our six-year-old son sleepwalking one night around the camp at Yirrkala and at two o’clock in the morning I got a knock on the door and there was Harry bringing him safely home to us.

Harry spent his early years at the homeland helping his father with a market garden. He was surrounded by beach, bush and sea and developed the start of what was to become a great environmental knowledge. He then moved some kilometres to the Yirrkala community to attend school, for in those days there were no homeland schools. Later he was to study for trade qualifications in the building and electrical trades in which he then worked for many years. It was in that profession that I first met Mr Munungirritj. He married Raymatja in 1976. Today she is a nationally noted linguist and an educator. They have four children. So he was very much a family man.

He was around at a time of great change for his people and naturally became involved. This was the time of the coming of the bauxite mine to his area on clan land. The old people fought this but lost and so the mine came to the area and with it the township of Nhulunbuy on the Gove Peninsula. The next generation, that of this man, was left and entrusted with continuing the fight for land rights. Mr Munungirritj indeed continued as one of those fighting for land rights and played a prominent part in community affairs. He was at times community councillor and chair of their local council and then the school council.

Mr Munungirritj’s interest in the environment never waned, and he was one of the first Yolngu from north-east Arnhem Land to attend Batchelor Institute where he undertook formal studies in resource management. He became increasingly concerned with problems arising from the nearby mine—not just the mining activity and any effect on the land but increasing tourist numbers coming in to the area, the expanding town of Nhulunbuy and associated social problems, particularly illegal fishing on Aboriginal land and waters.

In the early 1990s, with the support of the local clans and backing from other key people, he was one of the group that commenced the initial planning for the Dhimuuru Land Management Aboriginal Corporation that was officially founded in 1992. Their vision statement included this from another late Yolngu man of that area, Mr Roy Marika:

The land will exist forever. It must be protected so that it will remain the same, so that it can be seen in the same way that the elders saw it in the past. Our vision and hope is that Yolngu will continue to use the land for all generations to come ... The decision makers are the landowners ... They have placed certain areas in the hands of the Dhimurru Committee, which authorises the Dhimurru Rangers to manage and preserve, maintain and protect the areas designated for recreational use.

Let us note here, the local clans are agreeing to the non-Indigenous people of the larger community, the township of Nhulunbuy, having use of their land for recreational purposes, albeit under Aboriginal management, care and respect. Never was there any attempt, as some Liberal governments, such as
the previous CLP government in the Northern Territory, tried to portray, of Aboriginal people to lock up their land. In fact the opposite is what happened.

With initial support from Environment Australia and the Northern Land Council, Dhimurru went from strength to strength and has become a fine example of Indigenous controlled natural and cultural resources. Harry Munungirritj was a central and vital figure in this progress and success. He showed a great ability not only to work well with people but also to do so across cultures. One of the speakers at the memorial service made special note of his friendliness, his great grin and his can-do optimism. He did make friends and they respected and loved working with him, and they worked together as a team as a result of that. Together with other key Aboriginal and non-Aboriginal people, Dhimurru built partnerships and collaborations in the region, in the Territory, nationally and internationally. A considerable number of those at his memorial service had come especially from overseas. I remember in particular the people from New Zealand speaking at his service.

In 1995 Harry Munungirritj became senior ranger and then in 1999 senior cultural advisor. He was well known for the work he led with Dhimurru into marine turtle management and conservation. He and the Dhimurru team would patrol isolated beaches and rescue, where possible, marine turtles which had fallen victim to old drift nets and become entangled. He collaborated with the Centre for Indigenous Natural and Cultural Resource Management at the Charles Darwin University, previously known as the Northern Territory University, in this work.

As a senior Dhimurru personality he was heavily involved in the research and consultation which led to the establishment of the Dhimurru Indigenous Protected Area in 2000. This is an area of around 98,000 hectares of Indigenous land now under special protection and managed by Dhimurru for its natural and cultural resources. It remains the only Indigenous protection area to date in the Northern Territory, and this could be seen as his crowning achievement. As long as this IPA lasts he will never be forgotten for the major part he played in its establishment.

In 2001 Dhimurru, with Mr Munungirritj heading the team, was joint winner of the Banksia award for marine debris management, and in 2002 they won the Northern Territory Alcoa Landcare award. Dhimurru still remain actively involved in all these works and carry on what this man helped to establish for his people.

His family have lost a father; his people a great worker, leader and ambassador. His competence across cultures, his sharp mind and wit, his positive optimism and his communication skills made this man so special. He achieved reconciliation as much as any one person could. I am proud to have known him, my family are proud to have known him and I pay tribute to him and his family.

Senate adjourned at 7.58 p.m.

DOCUMENTS
Tabling

The following government document was tabled:
Australian Communications Authority—Report—Payphone policy review under section 159A of the Telecommunications (Consumer Protection and Service Standards) Act 1999.

Tabling

The following documents were tabled by the Clerk:
Christmas Island Act—
Regulations—Statutory Rules 2004 No. 47.
Cocos (Keeling) Islands Act—
Disability Discrimination Act—
Regulations—Statutory Rules 2004 No. 43.
Evidence and Procedure (New Zealand) Act—Regulations—Statutory Rules 2004 No. 44.
Fringe Benefits Tax Assessment Act—
Regulations—Statutory Rules 2004 Nos 50 and 51.
Foreign Acquisitions and Takeovers Act—
Regulations—Statutory Rules 2004 No. 49.
Income Tax Assessment Act 1997—
Regulations—Statutory Rules 2004 No. 52.
Primary Industries (Excise) Levies Act—
Regulations—Statutory Rules 2004 No. 42.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Defence: Explosives**

(Question No. 1935)

Senator Mark Bishop asked the Minister for Defence, upon notice, on 8 September 2003:

(1) How many instances were there in each of the past 3 years of explosives being stolen from Defence establishments.

(2) In how many instances in the same years were there incomplete reconciliations of stock holdings.

(3) In each case, what was stolen and in what quantity.

(4) (a) What regular process exists for the routine reconciliation of explosive supplies; and (b) what is the reporting and coordination process.

(5) What quantities of explosives, by type, were purchased in each of the past 2 financial years.

(6) In how many locations around Australia are explosives stored.

(7) What accountability for stocks of explosives exists to security agencies at both federal and state levels.

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

(1) and (3) The instances of reported theft in each of the past three years are as follows:

2001 – 8 cases:

Navy – 5
• 1 x demolition initiating device.
• 2 x 16mm signal flare.
• 1,000 x 9mm rounds.
• 400 x 9mm rounds.
• 400 x 9mm rounds.

Army – 2
• 100 x 5.56mm ball link rounds, 90 x 5.56mm ball F1 rounds, and 2 x hand grenade F1.
• 1 x simulator battlefield grenade F2A1.

Air Force – 1
• 1 x Martin Baker cartridge set from an explosive aircraft ejection seat.

2002 – 6 cases

Navy – 4
• 1 x 8oz stick plastic explosive (PE4).
• 3 x 40/60 drill rounds.
• 2 x 40/60 drill rounds.
• 2 x 40/60 drill rounds.

Army – 1
• 13 x practice hand grenade F3.
Air Force – 1
- Small quantity of small arms ammunition, 1 x smoke grenade, 1 x flare and 1 x dummy (inert) hand grenade.
2003 to 29 February 2004 – 3 cases
Navy – 2
- 2 x incendiary explosive device.
- 1 x incendiary explosive device.
Army – 1
- 1 x 8oz stick of plastic explosive (PE4).
Air Force - 0
(2) A precise answer cannot be given because reconciliation occurs at each change of custody along the supply chain. What can be advised is that about 1,500 to 2,000 line items are issued and/or returned per month to over 500 Defence units authorised to requisition explosives.
(4) (a) Reconciliation is performed at each change of custody along the supply chain, including while explosives are held in static storage. Initial responsibility for reconciling explosives resides with the individual managers of the more than 500 Defence entities authorised to have custody of explosives, and is done when the explosives first come into their custody.
(b) Notional anomalies are investigated case-by-case by the receiving/storing organisation. If initial investigations suggest theft is suspected then Defence policy mandates the matter be referred through the chain-of-command to a Defence Investigative Authority such as Service Police, the Inspector-General, and the Defence Security Authority.
(5) Defence took delivery of explosives valued at $380.4 million in 2001-02, and $352.0 million in financial year 2002-03. The types of explosives delivered included pyrotechnics, small to large calibre ammunition, guided missiles, torpedoes, demolition explosives, landmines approved under UN convention, countermeasure flares, and aircraft egress systems. Specific quantities of the types of explosives delivered are classified.
(6) Defence explosives are routinely stored in 125 licensed locations around Australia. Each location may contain several storage buildings.
(7) Accountability for stocks of explosives is independently audited periodically by the Defence Inspector-General and the Australian National Audit Office. All thefts and suspected thefts are reported to the Australian Bomb Data Centre which distributes consolidated reports to state, federal and Defence security agencies.

Health: Defend and Extend Medicare Group
(Question No. 2472)

Senator Marshall asked the Minister representing the Minister for Health and Ageing, upon notice, on 15 December 2003:

With reference to an article which appeared on page 9 of the Herald Sun of 5 December 2003:
(1) What were the terms of reference for the departmental investigation into the Defend and Extend Medicare Group (DEMG).
(2) Who was responsible for initiating the investigation into the DEMG
(3) When was the investigation launched.
(4) Has the department completed its investigation; if so, when; if not, when will it do so.
(5) Why was the investigation launched.
(6) Who comprised the investigating group.
(7) Who decided the composition of the investigating group.
(8) What activities did this group undertake in order to investigate DEMG.
(9) Can all of the findings of the investigation be provided; if not, why not.
(10) Can details of the illegal activities of the DEMG be provided; if not, why not.
(11) Can details of the illegal activities of individual members of the DEMG be provided; if not, why not.
(12) What charges, if any, have been laid against members of the DEMG.
(13) (a) What action, if any, is to be taken against members of the DEMG; and (b) if action is to be taken, against whom.
(14) What was the cost of investigating the DEMG.
(15) Can details of other departmental resources used in the investigation be provided; if not, why not.
(16) (a) Who provided the Herald Sun with an ‘internal report prepared by the ministerial officers responsible for investigating DEMG members’; (b) why was this report provided to the Herald Sun; (c) who authorised the release of the report to the Herald Sun; (d) is this report available publicly; if not, why not; and (e) can the report be provided; if not, why not.
(17) Which intelligence agency is referred to in the Herald Sun report.
(18) Who requested that the agency undertake the investigation into the members and operations of the DEMG.
(19) Under the provisions of what Act did the intelligence agency undertake its investigation into DEMG.
(20) Why did an intelligence agency undertake an investigation into DEMG instead of state police.
(21) (a) Which intelligence officers provided the Herald Sun with a briefing on the activities of DEMG; (b) who authorised this briefing; (c) why was this briefing authorised; and (d) can details of the briefing be provided; if not, why not.

Senator Ian Campbell—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) to (21) No Departmental investigation was held into the Defend and Extend Medicare Group.

Health: Defend and Extend Medicare Group
(Question Nos 2509 and 2510)

Senator Nettle asked the Minister representing the Minister for Health and Ageing, upon notice, on 19 January 2004:

(1) Is the Minister aware of a report in the Herald-Sun, of 5 December 2003, that staff members of the former Minister for Health and Ageing, Senator Patterson, instigated an investigation into the Defend and Extend Medicare Group.

(2) Can the Minister confirm that Senator Patterson or members of her staff initiated an investigation into the group and its members; if not, who did initiate the investigation into the group and its members.

(3) Which agency or agencies undertook the investigation.

(4) Who authorised the investigation and on what grounds.

(5) What is the justification for conducting intelligence investigations into the group.

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(6) Did the investigation include intelligence agents attending rallies organised by the group; if so, what rallies did the agents attend.

(7) To whom did the agency of agencies report and when.

(8) Who has been provided with a copy of the report.

(9) What were the findings of the report.

(10) What recommendations, if any, did the report make.

(11) What action has the Government taken in response to the report.

(12) If the Government has not taken any action in response to the report; does it intend to; if so, what will be that action and when.

(13) Have any members of the group who were investigated been advised that they were the subject of an intelligence agency’s investigation.

(14) Will the Minister make the report available to the Parliament; if not, why not.

(15) Is it Government practice to collect intelligence on members of the public who oppose Government policy; if so, when did this practice take effect and how many other organisations and their members have been subjected to intelligence investigations.

Senator George Campbell—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) A Ministerial advisor collected press clippings from a variety of public sources, including internet searches.

(3) None to my knowledge.

(4) There was no intelligence investigation to my knowledge.

(5) See response to question 4.

(6) See response to question 4.

(7) See response to question 4.

(8) See response to question 4.

(9) There was no report made to Government.

(10) See response to question 9.

(11) See response to question 9.

(12) See response to question 4.

(13) See response to question 4.

(14) See response to question 4.

(15) Not to my knowledge.

Health: Intellectual Disability

(Question No. 2523)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 3 February 2004:

With reference to a study reported in the February 2004 edition of the Journal of Intellectual Disability Research, General practitioners’ educational needs in intellectual disability health, which found that despite the central role general practitioners (GPs) now play in the provision of primary health care to people with intellectual disability, GPs reported inadequate training in the areas of behavioural or psy-
chiatric conditions, human relations and sexuality issues, complex medical problems and preventative and primary health care; and that 94 per cent of GPs were interested in further education in at least one of the nine health care areas, the most frequently nominated areas being behavioural or psychiatric conditions, syndrome-specific medical problems, human relations and sexuality issues and collaboration with government services: Will the Government consider including GP training for the health needs of the intellectually disabled and developmentally delayed under the Federal Enhanced Primary Care Program; if not, how will the Government address the substandard health of such people and the need for more GP training in this area.

Senator Ian Campbell—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

The Government is aware of the study reported in the Journal of Intellectual Disability Research, February 2004, on general practitioners’ educational needs in intellectual disability health. In considering the general applicability of the study’s findings, it is noted that the study had a response rate of 28% and analysed responses from 252 GPs only, or approximately 20% of the GPs in the study’s initial sample.

The Enhanced Primary Care (EPC) program was a package of related initiatives introduced in the 1999-2000 Budget aimed at improving the health care and well being of older Australians and people with chronic conditions and multidisciplinary care needs. One initiative under the EPC package was the introduction of EPC Medicare items, including health assessments for older Australians, and care planning and case conferencing for people of any age with chronic conditions and complex needs requiring care from a multidisciplinary team. The EPC care planning and case conferencing items are appropriate for providing some aspects of care for people with intellectual or developmental disability and multidisciplinary care needs. The EPC items are not, however, the only or principal vehicle for primary medical care for such people.

As part of the EPC package, the Government funded Divisions of General Practice to provide general education and support for GPs in using the EPC items. This did not extend to training GPs in the particular needs of specific population groups that may access EPC items. The Government is not considering funding specific GP training for the health needs of the intellectually disabled and developmentally delayed people under the Enhanced Primary Care (EPC) Medicare items. I have, however, directed my Department to draw attention to the potential applicability and value of relevant EPC items for people with intellectual disability and developmental delay in any future information material prepared for GPs on the use of the EPC items.

The continuing professional development (CPD) of GPs is the responsibility of the medical profession including the Royal Australian College of General Practitioners and the Australian College of Rural and Remote Medicine. CPD programs are widely available through Divisions of General Practice, universities and other education providers. It is open to GPs who identify a need for the types of training outlined in the study to pursue such training through these sources. I would encourage experts in the area of intellectual and developmental disability to work with the providers of CPD to develop and deliver appropriate courses to meet the needs of GPs in this area.

Health: Complementary Medicines

(Edited Question No. 2547)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 18 February 2004:

(1) Why were products that had been manufactured by companies other than Pan Pharmaceuticals, meeting the Therapeutic Goods Administration’s (TGA) requirements, but encapsulated by Pan Pharmaceuticals, included in the 2003 product recall.

(2) In what sense did these products present an imminent risk of serious illness and death.
(3) How many products were in this category and can full details be provided.

(4) Were there any products for which the only involvement of Pan Pharmaceuticals was encapsulation that were not recalled and, if so, can details be provided together with an explanation of why some were recalled and others not.

(5) Is it the case that Oil of Emu, manufactured by Emu Spirit and encapsulated by Pan Pharmaceuticals, was recalled, but that emu oil products manufactured by Pan Pharmaceuticals are still available in pharmacies and health food stores; if so, why is this the case.

(6) On what advice was the TGA raid conducted on Emu Spirit on 12 November 2003.

(7) What action has been taken regarding the statements made to the media by the TGA media liaison officer, Ms McNiece, concerning Mr Michael Schmidt, Managing Director of ERCA Pty Ltd in January 2004.

Senator Ian Campbell—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) to (3) Encapsulation of raw materials is one part of the manufacturing process that ultimately results in a finished product. In order to assure the quality of the final product, a manufacturer must be able to demonstrate that each step in the manufacturing process for which they are responsible, including encapsulation of raw materials, meets the relevant standard of Good Manufacturing Practice. TGA audits of Pan Pharmaceuticals (Pan) revealed serious, widespread deficiencies in the company’s manufacturing and quality control procedures. This included substitution or omission of active ingredients; deliberate falsification and manipulation of test results; inadequate cleaning of equipment between manufacture of different products; and failure of end product testing prior to release of the product for supply to consumers. This meant that some products could contain incorrect amounts of active ingredients and/or potentially harmful contaminants and no reliance could be placed on records presented by Pan to demonstrate otherwise.

As a consequence of these findings the TGA convened an Expert Advisory Group (Expert Group) comprising 5 Professors including the Chair of the Medicines Evaluation Committee. All are highly qualified and experienced in one or more of the fields of geriatrics, clinical pharmacology, toxicology, paediatrics, public health nutrition, complementary medicines and naturopathy. Based on the advice of the Expert Group, the TGA concluded it could have no confidence in the quality of products manufactured, including those encapsulated by Pan since 1 May 2002.

The Expert Group advised the TGA that products manufactured under the conditions that existed at Pan posed a risk to the community of death, serious illness and serious injury. It also advised that these risks would increase over time and could be realised at any time. These risks included severe organ damage, severe allergic reactions and infections.

Given this advice, and acting in the interests of public health and safety, the TGA commenced a consumer level recall on 28 April 2003 of all therapeutic products manufactured by Pan since 1 May 2002.

(4) All therapeutic products, for which Pan had responsibility for one or more steps in the manufacture of the final product including encapsulation, were subject to the recall.

(5) Emu Spirit – Omega 369 Oil of Emu Capsules manufactured (encapsulated, packaged and labeled) by Pan in the period since 1 May 2002 were recalled. In April 2003, there were 5 Listed medicines on the Australian Register of Therapeutic Goods (ARTG) approved for supply in Australia, that had both Emu oil as an ingredient and Pan as a nominated manufacturer. The sponsor of each product was asked to provide a declaration to the TGA to confirm whether or not any batches of their product had been manufactured by Pan in the period May 2002/April 2003 inclusive. Emu Research Corporation of Australia Pty Ltd (Emu Spirit) sponsored four of the five products and declared that Pan had manufactured three batches of the capsule referred to above. These were
recalled. The sponsor of the fifth product declared that no batches of their product were manufactured during the period in question. This product was not, therefore, subject to recall.

Notwithstanding these declarations the TGA reviewed Pan manufacturing records provided to the TGA on 29 July 2003. The TGA identified two additional companies for which Pan had manufactured emu oil products although neither company had emu oil products listed or registered on the ARTG as at 28 April 2003. Investigation by the TGA confirmed that the first company still has possession of the batches of product manufactured by Pan and therefore no recall action was required. The second company advised that its food product manufactured by Pan have been destroyed.

(6) A complaint was received by the TGA on 30 October 2003 alleging that Emu Spirit was supplying products that were subject to the recall of therapeutic products manufactured by Pan Pharmaceuticals. As part of their investigation, TGA officers visited the Emu Spirit premises on 12 November 2003.

(7) Mr Schmidt was invited to put his complaint in writing. His letter was received by the TGA on 17 February 2004 and has been investigated. There is no evidence to support the claim. Both Ms McNiece and the journalist concerned deny making the alleged comments.

### Health: Foetal Alcohol Syndrome

**Senator Allison** asked the Minister representing the Minister for Health and Ageing, upon notice, on 25 February 2004:

What data collected by the Australian Paediatric Surveillance Unit since January 2001 on the incidence of Foetal Alcohol Syndrome is available.

**Senator Ian Campbell**—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

Data collected by the Australian Paediatric Surveillance Unit (APSU) on the incidence of Foetal Alcohol Syndrome (FAS) diagnoses are available by application to the Unit’s director, Associate Professor Elizabeth Elliott.

The APSU protocol requests clinicians working in paediatrics and child health to report newly diagnosed cases of a range of rare childhood conditions (the study conditions). These reports are further investigated via a questionnaire to collect more detailed clinical and demographic data. Study conditions typically have a three-year data collection period, although this period can be extended. The study of FAS commenced in 2001, and will be continuing beyond the initial collection period.

To date there are no findings from this study generally available, although qualitative data has been promulgated in scientific forums and the like. In a recent commentary in the Journal of Paediatrics and Child Health (Vol 40, p8–10), Associate Professor Elliott and co-author Dr Bower advise that preliminary analysis of the 2001 and 2002 data, suggest that the incidence of FAS in Australia is lower than previous studies might suggest.

The APSU data collection, along with associated studies, is contributing to the understanding of possible causal pathways for FAS, which may lead to interventions that will reduce the burden of this condition on Australian families.