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SITTING DAYS—2004

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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on the following Parliamentary and News
Network radio stations, in the areas identified.

CANBERRA 1440 AM
SYDNEY  630 AM
NEWCASTLE 1458 AM
GOSFORD  98.1 FM
BRISBANE  936 AM
GOLD COAST 95.7 FM
MELBOURNE 1026 AM
ADELAIDE  972 AM
PERTH     585 AM
HOBART    747 AM
NORTHERN TASMANIA 92.5 FM
DARWIN    102.5 FM
FORTIETH PARLIAMENT
FIRST SESSION—EIGHTH PERIOD

Governor-General

His Excellency Major-General Michael Jeffery, Companion in the Order of Australia, Commander of the Royal Victorian Order, Military Cross

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert
Deputy President and Chairman of Committees—Senator John Joseph Hogg
Temporary Chairmen of Committees—Senators the Hon. Nick Bolkus, George Henry Brandis, Hedley Grant Pearson Chapman, John Clifford Cherry, Alan Baird Ferguson, Stephen Patrick Hutchins, Linda Jean Kirk, Susan Christine Knowles, Philip Ross Lightfoot, John Alexander Lindsay (Sandy) Macdonald, Gavin Mark Marshall, Jan Elizabeth McLucas and John Odin Wentworth Watson

Leader of the Government in the Senate—Senator the Hon. Robert Murray Hill
Deputy Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin
Leader of the Opposition in the Senate—Senator the Hon. John Philip Faulkner
Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy
Manager of Government Business in the Senate—Senator the Hon. Ian Gordon Campbell
Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders

Leader of the Liberal Party of Australia—Senator the Hon. Robert Murray Hill
Deputy Leader of the Liberal Party of Australia—Senator the Hon. Nicholas Hugh Minchin
Leader of the National Party of Australia—Senator the Hon. Ronald Leslie Doyle Boswell
Leader of the Australian Labor Party—Senator the Hon. John Philip Faulkner
Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy
Leader of the Australian Democrats—Senator Andrew John Julian Bartlett

Printed by authority of the Senate
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(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
(2) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Warwick Raymond Parer, resigned.
(3) Chosen by the Parliament of South Australia to fill a casual vacancy vice John Woodley, resigned.
(4) Chosen by the Parliament of Queensland to fill a casual vacancy vice John Andrew Quirke, resigned.
(5) Appointed by the Governor of Tasmania to fill a casual vacancy vice Hon. Brian Francis Gibson AM, resigned.
(6) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. John Joseph Herron, resigned.
(7) Chosen by the Legislative Assembly of the Australian Capital Territory to fill a casual vacancy vice Hon. Margaret Reid, resigned.
(8) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, resigned.

PARTY ABBREVIATIONS
AD—Australian Democrats; AG—Australian Greens; ALP—Australian Labor Party; APA—Australian Progressive Alliance; CLP—Country Labor Party; Ind—Independent; LP—Liberal Party of Australia; NATS—The Nationals; PHON—Pauline Hanson’s One Nation

Heads of Parliamentary Departments

Clerk of the Senate—H. Evans
Clerk of the House of Representatives—I.C. Harris
Secretary, Department of Parliamentary Services—H.R. Penfold QC
HOWARD MINISTRY

Prime Minister
Minister for Transport and Regional Services and Deputy Prime Minister
Treasurer
Minister for Trade
Minister for Foreign Affairs
Minister for Defence and Leader of the Government in the Senate
Minister for Finance and Administration and Deputy Leader of the Government in the Senate
Minister for Health and Ageing and Leader of the House
Attorney-General
Minister for the Environment and Heritage and Vice-President of the Executive Council
Minister for Communications, Information Technology and the Arts
Minister for Agriculture, Fisheries and Forestry
Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation
Minister for Education, Science and Training
Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women
Minister for Industry, Tourism and Resources
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service

The Hon. John Winston Howard MP
The Hon. John Duncan Anderson MP
The Hon. Peter Howard Costello MP
The Hon. Mark Anthony James Vaile MP
The Hon. Alexander John Gosse Downer MP
Senator the Hon. Robert Murray Hill
Senator the Hon. Nicholas Hugh Minchin
The Hon. Anthony John Abbott MP
The Hon. Philip Maxwell Ruddock MP
The Hon. Dr David Alistair Kemp MP
The Hon. Daryl Robert Williams AM, QC, MP
The Hon. Warren Errol Truss MP
Senator the Hon. Amanda Eloise Vanstone
The Hon. Dr Brendan John Nelson MP
Senator the Hon. Kay Christine Lesley Patterson
The Hon. Ian Elgin Macfarlane MP
The Hon. Kevin James Andrews MP

(The above ministers constitute the cabinet)
HOWARD MINISTRY—continued

Minister for Justice and Customs
Senator the Hon. Christopher Martin Ellison

Minister for Fisheries, Forestry and Conservation
Senator the Hon. Ian Douglas Macdonald

Minister for the Arts and Sport
Senator the Hon. Charles Roderick Kemp

Minister for Small Business and Tourism
The Hon. Joseph Benedict Hockey MP

Minister for Science and Deputy Leader of the House
The Hon. Peter John McGauran MP

Minister for Local Government, Territories and Roads and Manager of Government Business in the Senate
Senator the Hon. Ian Campbell

Minister for Children and Youth Affairs
The Hon. Lawrence James Anthony MP

Minister for Employment Services and Minister Assisting the Minister for Defence
The Hon. Malcolm Thomas Brough MP

Special Minister of State
Senator the Hon. Eric Abetz

Minister for Veterans’ Affairs
The Hon. Danna Sue Vale MP

Minister for Revenue and Assistant Treasurer
Senator the Hon. Helen Lloyd Coonan

Minister for Ageing
The Hon. Julie Isabel Bishop MP

Minister for Citizenship and Multicultural Affairs and Minister Assisting the Prime Minister
The Hon. Gary Douglas Hardgrave MP

Parliamentary Secretary to the Prime Minister
The Hon. Jacqueline Marie Kelly MP

Parliamentary Secretary to the Minister for Transport and Regional Services and Parliamentary Secretary to the Minister for Trade
The Hon. De-Anne Margaret Kelly

Parliamentary Secretary to the Treasurer
The Hon. Ross Alexander Cameron MP

Parliamentary Secretary to the Minister for Foreign Affairs
The Hon. Christine Ann Gallus MP

Parliamentary Secretary to the Minister for Defence
The Hon. Frances Esther Bailey MP

Parliamentary Secretary to the Minister for the Environment and Heritage
The Hon. Dr Sharman Nancy Stone MP

Parliamentary Secretary to the Minister for Finance and Administration
The Hon. Peter Neil Slipper MP

Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
Senator the Hon. Judith Mary Troeth

Parliamentary Secretary to the Minister for Family and Community Services
The Hon. Christopher Maurice Pyne

Parliamentary Secretary to the Minister for Health and Ageing
The Hon. Patricia Mary Worth MP

Parliamentary Secretary to the Minister for Industry, Tourism and Resources
The Hon. Warren George Entsch MP
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<tr>
<td>Deputy Leader of the Opposition and Shadow</td>
<td>Jennifer Louise Macklin MP</td>
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<tr>
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<td>Leader of the Opposition in the Senate, Shadow</td>
<td>Senator the Hon. John Philip Faulkner</td>
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<tr>
<td>Special Minister of State and Shadow</td>
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<td>Minister for Public Administration and Accountability</td>
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<tr>
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<td>Governance and Financial Services</td>
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<td>Senator Thomas Mark Bishop</td>
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Monday, 21 June 2004

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

WORKPLACE RELATIONS AMENDMENT (CODIFYING CONTEMPT OFFENCES) BILL 2003

Recommittal

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (12.31 p.m.)—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 Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003 be recommitted, and that consideration of the bill in committee of the whole be an order of the day for a later hour.

(3) That the committee consider the bill as reported by the committee of the whole on 3 March 2004.

Question agreed to.

AGED CARE AMENDMENT BILL 2004

Second Reading

Debate resumed from 18 June, on motion by Senator Abetz:

That this bill be now read a second time.

upon which Senator Forshaw had moved by way of an amendment:

At the end of the motion, add “but the Senate:

(a) notes that for years the Government has ignored the pleas of the aged care industry, the community and the Australian Labor Party about its neglect of residential aged care, neglect that has caused difficulties in access and industry viability as well as concerns about the quality of care; and

(b) registers its concern that the Government has resorted to a short-term political fix which seeks to put off until after the election the Government’s true intentions on a range of issues, including whether:

(i) accommodation bonds will apply consistently for both high level care and low level care,

(ii) an accommodation bond will apply to residents who are classified as medium care residents under the new resident classification scale,

(iii) there will be a further increase in the maximum daily accommodation charge for non-concessional residents from $16.25 to $19, a nearly 40 per cent increase from the current charge,

(iv) the requirement that at least 40 per cent of residents are concessional before a provider is entitled to a concessional supplement is retained into the future,

(v) bonds will be available to providers for the duration of a resident’s period of stay if it is greater than the current 5 years,

(vi) an aged care voucher system will be introduced, and

(vii) an auction or tender system will be introduced for the allocation of aged care places”.

Senator NETTLE (New South Wales) (12.31 p.m.)—On Friday, when we last dealt with the Aged Care Amendment Bill 2004, I was speaking about the working conditions of aged care workers in this sector. Carers enter the aged care sector because they believe they can make a difference in the lives of some of the most vulnerable members of our community. They are committed to, and passionate about, their work. But even if wages improve and extra aged care workers are trained, workers will not stay in the sector if their working conditions are unbearable. I have heard the horror stories, as I am sure many have, about the conditions that some workers face—aged care facilities
where one registered nurse is responsible for 90 residents, or where there are sometimes no staff awake at night to care for residents.

The government’s own report, which was released in April of this year, is damning. It shows that less than 20 per cent of staff have enough time to properly care for residents and that one in four carers is expected to leave the sector in the next three years. I constantly find it astounding that there are no minimum staffing levels in this sector. The Greens call on the government to legislate, implement and enforce minimum staffing level standards as a matter of priority. Staff in the sector are overworked and underpaid and the risks to the health and safety of residents and carers as a consequence are not acceptable. The quality of care that can be made available to some of the most vulnerable members of our community is damaged because this government has not dealt with the industrial issues for workers in the aged care sector. As one Melbourne based care worker said:

We try to provide the best care we can but we are constantly rushing and not being able to give the quality of care that we would like.

Workers, no matter how committed they are, should not be expected to put up with these conditions, and residents and their families should be able to expect quality care in the aged care sector. The Greens recognise that this bill implements some of the Hogan report recommendations, and we acknowledge the extra funding provided in the budget that I spoke about previously when we were dealing with this bill. But the type of funding that is provided highlights once again that this government is emphasising giving money to business and neglecting the needs of workers, which ultimately means that residents suffer. Giving money to operators without obliging them to spend that money on improving the working conditions, training and wages of carers is a waste of taxpayers’ money. To say that the money is being given to address wage parity in the area but to provide no conditions on its funding out of the budget shows the rhetoric of the government to be a lie.

There are no conditions applied to this money to ensure that it is spent on dealing with the wages parity issue in the aged care sector, where workers are paid 20 per cent less than their public hospital colleagues. How can we expect people in the nursing profession to choose the aged care sector as their preferred area of work when, if they do so, they have to accept wages 20 per cent lower than those of their public hospital colleagues? We need to deal with the issue of wages parity so that we can ensure that quality care is provided. We need to set in place minimum staffing levels within aged care facilities so that quality care can be provided.

The Australian Greens raise these issues because we believe that workers in the sector deserve a fair go and proper conditions, and also because we want to ensure that we have a quality aged care sector where quality care can be provided. Only by addressing these urgent industrial issues can we start to improve the quality of care available.

The Greens are also concerned about another component of this legislation. Currently, accommodation charges paid by certain residents in high-level care are limited to a five-year period. This legislation removes that five-year cap so that new residents who enter high-care facilities on or after 1 July 2004 will pay the accommodation charge for the whole time that they are in the aged care facility. The Greens are concerned that the removal of this five-year cap will force residents to pay more for their care and will move the aged care sector further towards, and further within, a user pays system.

These are our concerns with the bill. We believe that if the government were genuine
in wanting to address the crisis that exists in the aged care sector the money it committed to the sector in the last budget would have been directed towards dealing with the issues of workers’ conditions, wage parity and minimum staffing levels rather than simply having been handed to operators without conditions attaching to ensure that the money was spent on improving the quality of care available in the sector.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (12.37 p.m.)—I would like to thank all honourable senators for their contributions to the debate. Because this is such an important bill, I wish it a speedy passage.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator FORSHA W (New South Wales) (12.38 p.m.)—I move opposition amendment (1) on sheet 4268:

(1) Schedule 1, page 3 (after line 6), after item 1, insert:

1A After paragraph 57-2(1)(h)

Insert:

(ha) if the application of resident classification scale levels 1, 2, 3 and 4 as high care and levels 5, 6, 7 and 8 as low care is modified or replaced with the effect that care recipients are categorised into three levels, namely resident classification scale levels 5, 6, 7 and 8 as low care, levels 3 and 4 as medium care and levels 1 and 2 as high care, the payment of an accommodation bond can only be required in respect of care recipients categorised as low care.

The amendment is very straightforward. However, it is a rather lengthy paragraph and what it provides might not be clear just from the reading of it. What it provides is this: currently residents in aged care facilities are classified as either high care or low care. If you are classified as a low-care resident, you can be required to pay an accommodation bond. If you are classified on entry as high care then there is no entitlement for the facility to charge you an accommodation bond. There is a proposal emanating out of the Hogan review that the two-tier system of high and low care be replaced by a three-tier system of high, medium and low care.

We are concerned that there is potential for accommodation bonds to be imposed on people who are classified as medium care when they are entering an aged care facility. We have sought assurances from the minister, through questions in the parliament, that the new medium-care level would not attract accommodation bonds. The minister has refused to give that undertaking. There was some discussion of this at the Community Affairs Legislation Committee estimates hearing on 2 June, and it was stated by the Secretary to the Department of Health and Ageing that the new category of medium care would not attract an accommodation bond. That was the statement made by the secretary to the department. We were somewhat comforted by that, because that was the first time we had had an explanation from anyone in government or in the department on this issue. However, when the minister was asked in the House of Representatives subsequent to the estimates hearing to confirm that that would be the case—that is, that aged care facilities would not be able to require accommodation bonds from medium-care level residents—the minister again refused to give that assurance. It is therefore unclear just what the government’s position is.
This is a significant issue. As I said, for some time now—since 1997, when the act came into force—it has been very clear which residents in nursing homes or aged care facilities could be liable to having an accommodation bond imposed and which residents could not be so liable. Moving to a new, three-tier classification system would open up the possibility of it being extended from low-care residents to either residents who are classified as high care or new residents who might be classified as medium care. We want to make it abundantly clear in the legislation that accommodation bonds would continue to be limited to residents classified as low care. We want to make it abundantly clear in the legislation that accommodation bonds could not be required from persons classified in the future as medium-level care or high-level care. That is the purpose of the amendment. We would ask the government to support it. That would make the future situation very clear to people in the aged care community.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (12.44 p.m.)—We had a circuitous debate during the estimates committee hearings on this matter relating to the Aged Care Amendment Bill 2004. This amendment says much about the Labor Party’s confusion about aged care policy and their wanting to beat up the bonds issue. There is no reference within the act or this amending bill to bonds for high care, so effectively they are talking hypothetically about when some future government—maybe even a Labor government with Peter Garrett as the minister for ageing—may come in and bring in bonds for high care.

The Labor Party seem to be preoccupied with it. They have a preoccupation with bonds for high care but if as a future government they were to bring that in they would effectively be putting a very badly drafted provision in the law that says that in the event this happens, something else would happen. There is no reference to bonds for high care in the act; there is no reference to it in this bill. This is entirely hypothetical. It is nonsense, a waste of time and another way for Senator Forshaw to make a political point. The government will reject this amendment.

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

The committee divided. [12.50 p.m.]
(The Chairman—Senator J.J. Hogg)

Ayes............ 25
Noes............. 37
Majority........ 12

AYES
Bolkus, N. 
Campbell, G. 
Collins, J.M.A. 
Cook, P.F.S. 
Evans, C.V. 
Harradine, B. 
Hutchins, S.P. 
Ludwig, J.W. 
Marshall, G. 
Moore, C. 
Nettle, K. 
Stephens, U. 
Wong, P. 

NOES
Abetz, E. 
Barnett, G. 
Boswell, R.L.D. 
Calvert, P.H. 
Chapman, H.G.P. 
Colbeck, R. 
Ellison, C.M. 
Ferris, J.M. * 
Greig, B. 
Humphries, G. 
Kemp, C.R. 
Lees, M.H. 
Macdonald, I. 
Mason, B.J. 

Buckland, G. * 
Carr, K.J. 
Conroy, S.M. 
Crossin, P.M. 
Forshaw, M.G. 
Hogg, J.J. 
Kirk, L. 
Lundy, K.A. 
McLucas, J.E. 
Murphy, S.M. 
Ray, R.F. 
Webber, R. 
Allison, L.F. 
Bartlett, A.J.J. 
Brandis, G.H. 
Campbell, I.G. 
Cherry, J.C. 
Eggleston, A. 
Ferguson, A.B. 
Fifield, M.P. 
Heffernan, W. 
Johnston, D. 
Knowles, S.C. 
Lightfoot, P.R. 
Macdonald, J.A.L. 
Minchin, N.H.
### Third Reading

**Senator IAN CAMPBELL** (Western Australia—Minister for Local Government, Territories and Roads) (12.54 p.m.)—I move:

*That this bill be now read a third time.*

**Question agreed to.**

**Bill read a third time.**

**CORPORATIONS (FEES) AMENDMENT BILL (No. 2) 2003**

**CORPORATE LAW ECONOMIC REFORM PROGRAM (AUDIT REFORM AND CORPORATE DISCLOSURE) BILL 2003**

**In Committee**

Consideration resumed from 17 June.

**CORPORATE LAW ECONOMIC REFORM PROGRAM (AUDIT REFORM AND CORPORATE DISCLOSURE) BILL 2003**

**The CHAIRMAN**—The committee is considering the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003, as amended, and amendment (35) on sheet 4216 revised, moved by Senator Conroy. The question is that the amendment be agreed to.

---

**Senator MURRAY** (Western Australia) (12.55 p.m.)—Has the government a view on this, Minister? I cannot recall if you have expressed a view.

**Senator IAN CAMPBELL** (Western Australia—Minister for Local Government, Territories and Roads) (12.55 p.m.)—The government does have a view. Currently the bill would only allow ASIC to publicise infringement notices when they have been complied with. The opposition is proposing to amend the bill to allow ASIC to publicise the issue of a statement of reasons—that is, publicity before the entity has had an opportunity to put its case and before the issue of an infringement notice and an opportunity to comply. The opposition amendment assumes that any situation in which ASIC issues a statement of reasons is one which should be disclosed to the market. This is not necessarily so. The opposition proposal also encourages the media and public to rush to judgment on the case. While publicity can be an important means of improving and promoting compliance with the continuous disclosure regime, it is inappropriate to name and shame an entity at the stage of a preliminary finding by an administrative body, which the opposition amendment would have us do. Publicity is only appropriate when an infringement notice has been complied with. In our view, publicity at the point proposed by the opposition is unacceptable.

**Senator MURRAY** (Western Australia) (12.57 p.m.)—Minister, I rather like the point you are making except that the amendment from Senator Conroy for Labor says ‘ASIC may’ not ‘ASIC must’, so my understanding is that what they are doing is giving ASIC a discretion—and I would assume it is for exceptional reasons, not for regular reasons—to issue a statement of reasons where it is appropriate. I thought from your answer you thought it was a ‘must’ rather than a ‘may’.
Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (12.57 p.m.)—I think the reality of this is that it is a new power for ASIC. The major concern of those who are very worried that the government has gone too far is that ASIC will become the judge and the jury and companies who strongly hold the view that they are in compliance with the law would suffer the effects of being proven guilty before they have even had a chance to put their case if you were allowed to have this sort of publicity before the event. So it is very much an equity thing. It is a matter of where you strike the balance. As the joint committee would have heard, a lot of people are very strongly opposed to the government doing what it is doing. It has probably been one of the most contentious areas of the government’s CLERP 9 package. Having a balance between due process and equity, with companies being able to have the right to put their case before ASIC and before there is publicity associated with the infringement, is, in the government’s view, the right way to strike that balance. As for ASIC having the power, whether it is a ‘may’ or a ‘must’ is only a subtle difference in this regard. Some might say that even giving them that flexibility would be potentially very unfair, but the government has, without any equivocation, gone forward to give ASIC this power. That has been very strongly opposed by most of the corporate community. That has been strongly opposed by much of the legal community as well. We believe that we have struck the right balance after a couple of years of intense negotiation and discussion. Those who would have argued the Commonwealth has gone too far would love to see this provision not get into the law at all, and I do not think we want to play into their hands.

Senator MURRAY (Western Australia) (1.00 p.m.)—The minister would recognise that in my personal circumstances I have had the experience of being roughed around at law and named and shamed only to be found totally innocent afterwards. Sometimes you think: if that can happen to an ordinary citizen accused of whatever then why shouldn’t it happen to corporations. Let them suffer what any citizen suffers every day when they are named as possibly breaking the law in an area. In my circumstances I ended up with a five-minute retiral of the jury and that was the end of it. Nevertheless, I will accept your reasons and we will vote now.

Question negatived.

Senator MURRAY (Western Australia) (1.01 p.m.)—by leave—I move Democrat amendments (1) and (9) on sheet 4256:

(1) Schedule 1, item 14, page 6 (after line 32), after subsection 225(1), insert:

(1A) In fulfilling its functions the FRC shall:

(a) conduct its meetings in public, unless the sensitivity of a specific matter under consideration, as determined by an absolute majority members of the FRC, makes it appropriate to consider a matter in closed proceedings; and

(b) undertake public consultation on proposals within its functions and responsibilities which have a public interest element.

(9) Schedule 1, item 28, page 17 (lines 28 and 29), omit paragraph 236E(3)(a).

We circulated Democrat amendments (1) to (5) and (8) and (9) on sheet 4256 late on Friday. They were our best effort to give some kind of flesh, if you like, to the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services. The difficulty with this is that there have been some amendments already passed which went in a different direction and are of a different flavour to what we suggest. For instance, the revised running sheet, which I am
sure both Senator Conroy and Senator Ian Campbell have before them, indicates that in this little section Democrat amendments (2) to (5) and (8) are in conflict with opposition amendments (1), (2), (4), (5) and (13) earlier considered and agreed to. I think it would get too messy for us to try to recommit those and then commit ours and see where we go with that. The government is now aware of what our views are; it knows the shape of the amendment. When this bill gets to the lower house, if the government were to reject Labor’s amendment and substitute ours then we would obviously accept that view. For the moment, I think I should leave aside those of my amendments—that is, amendments (2), (3), (4), (5) and (8)—which are in conflict with opposition amendments which have already passed. Otherwise it will just get too messy.

Amendment (1) is a direct reflection of the Parliamentary Joint Committee on Corporations and Financial Services recommendations. It takes into account the very strong views expressed by Professor Ramsay, who has a considerable influence and status in terms of his consideration of these matters. We think this is really good public policy. It does not mean that the FRC could not have in camera meetings, but it does tell them quite clearly that they must conduct their meetings in public unless the sensitivity is such that they cannot. Amendment (9) is a parallel kind of amendment.

Senator CONROY (Victoria) (1.05 p.m.)—I think one of Labor’s amendments that we have already voted on does this. Opposition amendment (8) omitted subsection 225(8) and inserted a new subsection (8), which said:

(8) The FRC shall hold its meetings in public except to the extent that a meeting considers:

(a) matters relating to the appointment or retirement or performance of members of the FRC, AASB or AUASB; or

(b) matters which are of such a sensitive nature that a public meeting would be inappropriate.

We have already put that one through with your support, Senator Murray. You seem to be doing the same thing with your amendment.

Senator MURRAY (Western Australia) (1.06 p.m.)—I was working off the revised sheet. So you are suggesting that I drop amendment (1) as well?

Senator CONROY (Victoria) (1.06 p.m.)—We have actually already achieved what your amendment seeks to achieve. The issue outstanding is the issue of consultation. That one was not contained within the Labor amendment. If Senator Murray wanted to pursue an amendment specifically along those lines, we would be favourably disposed to it. I indicate that we have actually done most of what you are seeking to achieve, other than consultation, Senator Murray.

Senator MURRAY (Western Australia) (1.06 p.m.)—I seek leave to amend Democrat amendment (1) by removing (1A)(a) on sheet 4256 and leave item (1A)(b).

Leave granted.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (1.07 p.m.)—I indicated last week that the government would like to see the legislation up and running in time for 1 July—and I think there is bipartisan support for this position. There are a number of mostly Labor amendments that we have indicated we will not be supporting. Senator Murray has diligently sought to incorporate much of the committee report’s recommendations into amendments. I also undertook last week—as far as the government’s processes can carry it bearing in mind that some changes would have to go to cabi-
net and so forth—that we would seek to see just what amendments could be agreed to by the government. If it is too difficult and too fast for the government with only three scheduled sitting days left to try to reach an agreement on the amendments and recommendations of the committee report, we would undertake to bring back the amendments in the next sitting period as a show of good faith. We will—and Senator Chapman, the committee chairman, is working very hard for us to do this—be seeing what amendments the government can agree to. We have the Labor amendments, obviously, and we have had some of them passed. We now have before us some detailed amendments from the Democrats and they can be considered by the government in that cooperative approach.

Senator MURRAY (Western Australia) (1.09 p.m.)—I would take heed of that normally but I will not on this occasion for two reasons. Firstly, our offer was that if the government wanted to bang in a non-controversial bill on Thursday through the Senate we would certainly be very interested in that. But knowing that this bill has to be reconsidered by the House our view was that in that process—

Senator Ian Campbell—I agree with that.

Senator MURRAY—Yes. The government can look at these and then make a decision as to which ones they can accept immediately and which ones they cannot. We recognise that you will not be able to accept all of them but there must be some of these which are quite easy to process. That is why I am proceeding on this basis.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (1.10 p.m.)—I do understand that. I am saying that when the bill gets back to the House the government will have these amendments before it and, in terms of looking at the functions of the FRC and how it operates, we have a clear indication of what the Democrats would like to do and what the amendments would have the government do. We are in the situation whereby Labor have moved some amendments, which were passed, I think, in the Senate last week. The Democrat amendments that have arrived today are substantially the same, with some additions. In the event that Senator Murray withdraws some amendments today because of that, the government will still consider them in our consideration of the committee report. I stress that it would be very difficult to do that, with a cabinet meeting today and a party meeting tomorrow making the chance of actually getting decisions very hard. I give the Senate, and Senator Murray in particular, the undertaking that these will be considered by the government, but I cannot give you an assurance that the government is going to be in a position this week to agree to them.

Senator CONROY (Victoria) (1.11 p.m.)—In terms of the amendment that, on consulting, Senator Murray is now moving, Labor indicate support for it.

Question agreed to.

Senator MURRAY (Western Australia) (1.11 p.m.)—by leave—I move amendments (6) and (7) on sheet 4256 together:

(6) Schedule 1, page 6 (after line 8), after item 13, insert:

13A Before section 225

(1) To assist the FRC in the performance of its functions, the FRC:

(a) shall engage such staff as the FRC considers necessary to establish and maintain a secretariat which will be solely responsible to the FRC; and
(b) shall determine the functions and responsibilities of that secretariat.

(2) The functions and responsibilities of the FRC secretariat established by subsection (1) shall be funded by money appropriated by the Parliament for the purpose.

(7) Schedule 1, item 14, page 6 (after line 11), before subsection (1), insert:

**Independence and continuing funding of FRC secretariat**

(1A) The FRC may carry out its functions in accordance with this section only:

(a) after the establishment of a secretariat in accordance with section 225A; and

(b) where funds are appropriated for the functioning of the secretariat referred to in paragraph (a).

Again, these two amendments advance the committee’s recommendations. Unless there is concern from either side and they want me to expand on the amendments a little more, I will just move them.

**Senator CONROY** (Victoria) (1.12 p.m.)—I strongly support the sentiment that Senator Murray and the Democrats are seeking to achieve. I just seek some explanation of (2), firstly, which suggests funding ‘appropriated by Parliament for the purpose’. I am just wondering which part of parliament? Would it be from the Speaker’s office, the President’s office, the joint house? I am wondering whether the Democrats could clarify that proposition for us.

**Senator MURRAY** (Western Australia) (1.12 p.m.)—That is a reasonable question. As both the minister and the shadow minister know well, the FRC’s funding has been a matter of concern and dispute. This year the government in its budget has given much more secure funding to the FRC but there is no guarantee that that will be permanent in a forward sense. Whilst the government can propose funding, it is for the parliament to dispose. So whilst the wording might perhaps be a bit clumsy and might need a little better expression, that is the purpose of putting it that way. The fact is that, if we had said that it should be funded by money appropriated by the government, it would not work because it is the parliament that decides.

**Senator IAN CAMPBELL** (Western Australia—Minister for Local Government, Territories and Roads) (1.13 p.m.)—Interestingly the very final meeting I had with stakeholders was the day before the ministerial reshuffle. It was a meeting in Sydney on the Friday. We were looking at the whole funding issue. It was the very last issue I dealt with before I lost the job. We are very keen in the government to see the FRC adequately resourced.

Senator Murray has referred to our own contributions from the parliamentary appropriations. We are keen to see it have a good and dedicated secretariat. I do not think anyone would criticise the secretariat support that the FRC has received. There was what I regarded as a very multipartisan-supported prescription for how the FRC and accounting standards setting should be funded in Australia. Back in 1998, as I recall, there was a very strong commitment from the business community and from preparers and users that we would have a UK style, City of London funded type, FRC. Of course all those business supporters of that concept said, ‘Yes, we’ll all fund it.’ When the FRC went around wanting to have a broad funding base with contributions from the corporate community, they were not quite as generous as when they first indicated, which is a shame. I do not know if Senator Conroy visited Mr Volcker when he went to America but if you look at the report of Mr Volcker’s group you will find pages and pages of corporate supporters of the International Accounting Standards Committee Foundation. We were seeking to
replicate that model. It has not worked that well in Australia, but I hope there are enough people in the corporate community who see that having well-funded accounting standards setting and financial reporting oversight is in the interests of them and of the corporate community not to give up on that model.

The problem we have with the Democrat amendment is that to move to the structure proposed by Senator Murray’s amendment you would have to reconstitute the FRC as a body corporate. That is the change of status that would be needed to enable the FRC to employ its own staff, engage its own consultants and operate its own bank account. As it is currently drafted, the Democrat amendment does not achieve this and would create substantial confusion about the operational capacity of the FRC. That is not to say that this is not the body corporate model that at some stage you should or could move to, but it is in conflict with the architecture of the financial reporting oversight that we are seeking to create in the CLERP 9 framework.

Senator CONROY (Victoria) (1.17 p.m.)—As I said, we passionately support the principles that Senator Murray is putting forward. I am probably in favour of funding by a slightly different mechanism. In the past the Stock Exchange has levied either transactions or participants to provide funding for work done very similar to what the FRC does. We put our hand up with Senator Campbell and indicated that we strongly support the business community and the funding model that is there. Like Senator Campbell, we are very disappointed that the business community talked the talk but when it came to putting their money where their mouth is they just went missing. I do not want for a moment to suggest that this is a hasty amendment—

Senator Murray—it is.

Senator CONROY—I will take your interjection that it is a hasty amendment, Senator Murray. I have concerns about the issues that Senator Campbell has outlined and I would be interested in Senator Murray’s response on whether the parliamentary effect would be as he hopes. But I also thinks it shuts off other possible avenues that I probably would be more supportive of than having taxpayers putting their hands in their pockets with this one. So I would be interested in the Democrats’ response to the government’s position.

Senator Murray—I think we should just move on.

Question negatived.

Senator MURRAY (Western Australia) (1.18 p.m.)—That was an easier way to do it. The running sheet indicates that the Democrats will, by leave, move amendments (10), (12) and (13) together, but I do not intend to do that. Firstly, I move amendment (10) on sheet 4256:

(10) Schedule 1, item 95, page 50 (after line 29), at the end of section 324AF, add:

(3) A rotation obligation does not apply to a review auditor where:

(a) the review auditor performs a role in an audit which is exclusively technical; or

(b) the review auditor’s contact with the audit client could not be regarded as material to the day-to-day conduct of the audit as a whole.

I regard this amendment as one that government could genuinely take on board. It is less controversial than amendment (12), where I think there might be some stronger feelings. Frankly, if amendment (12) were agreed to, amendment (10) would probably be less important. But, as the law is presently intended, there are review auditor situations where the rotation requirement would simply not only be unnecessary but might in fact have unin-
tended consequences. In many cases, particularly with small or medium firms, the practice auditor on the job has a review auditor back office, if you like, reviewing anything up to 20 different audits being done with different firms. For such a review auditor doing a technical task to have to rotate could prove to be unnecessarily complicated. This is again a committee recommendation. It is one of those things where you either agree with the committee or you do not. I would like the support of the Senate, but I am certainly obliged to put it here.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (1.20 p.m.)—This is obviously a core part of CLERP 9. As I describe the history of CLERP 9, it really did commence when I received the report of Professor Ian Ramsay on audit independence. Audit rotation is one of the key things that the parliament is trying to get right. The Treasurer very frankly and very determinedly said that we would institute the recommendations of the HIH royal commission. The royal commissioner put a lot of effort into getting this right. We have had to strike an appropriate balance in a very small marketplace, compared with the rest of the world, where we have a very small handful of large companies, a mass of middle-sized companies and a hell of a lot of small ones. Seeking to put in place a one size fits all prescription for corporate governance and in relation to audit rotation is very hard.

I can see the Joint Committee on Corporations and Financial Services ended up very much where the government ended up, because the committee was looking at the same issues. You have sought here to relieve something that could well be onerous for both smaller firms and smaller audit firms. I can see the logic in doing that, but here is an example of an amendment that is very clearly the subject of a cabinet decision. It goes directly to one of the HIH royal commission’s well-considered judgments and recommendations. I believe, as the committee does, that it is an area that is appropriate to look at, but the cabinet, having first spent millions on the royal commission and then having looked at the commission closely, looked at this. Really, the heart and soul of CLERP 9 is: how do you get audit independence; how do you get the audit rotation right? Sarbanes-Oxley, for example, does require rotation of both the lead and the review auditors. You can, I presume, go to PCAOB—known as ‘peekaboo’—and get an exemption.

The way the government approached this problem was to give ASIC the power to defer the rotation requirement from five to seven years in cases where the provision is unnecessarily onerous on the company or the auditor, and that does seek to assist smaller and remote listed companies and auditors. It is a recognition of the fact that we are a small market and we are spread across eight capital cities and a number of regions. That is the way we have addressed it. That is not to say that the government should not and will not look at this recommendation, because it does go to an area which has caused real concern and clearly the committee have picked that up. I am not sure where the Labor Party senators went on this.

It is a cabinet decision. That is not to say that we will not have another look at it, but I am not in a position to agree to it. It is an example of the sort of amendment recommended by the committee where I think it would be unfair to the government to say, ‘Look, you should make a decision on that this week.’ We have spent a lot of time looking at it. The cabinet have considered it carefully. We have all looked at the same issues. We have sought to find a way that sends a clear signal to the marketplace—and to the international marketplace—that, yes, just as I am sure PCAOB will be flexible in these
sorts of cases in the US, we will be flexible but we will leave it in the hands of ASIC to make exemptions and we will not seek to define that.

Senator CONROY (Victoria) (1.25 p.m.)—I indicate that Senator Murray has long championed some of these issues and raised these concerns. As Senator Ian Campbell has indicated, the committee did consider this at some length. We believe there is a mechanism within this legislation that protects the people that Senator Murray is trying to protect, so we will not be supporting the amendment.

Question negatived.

Senator MURRAY (Western Australia) (1.26 p.m.)—I will not be moving Democrat amendment (12). I recognise that there will be a great deal of heat over that particular amendment. The Democrats do support the committee recommendations to restrict somewhat the number required to rotate, but it is a very considerable policy issue. I know it will be a cabinet consideration if they were to shift. If I recall correctly Labor’s views, they were not keen on it, but Senator Conroy can speak for himself. I now move Democrat amendment (13) on sheet 4256:

(13) Schedule 1, item 95, page 87 (after line 35), after section 324DC, insert:

324DCA Postponements of audit firm’s rotation obligation

(1) Where an auditor, audit firm or an audit company makes an application to ASIC for a short-term postponement of the rotation obligation required by this Part, the Commission may approve such a postponement.

(2) A postponement provided for in subsection (1) may be granted only:

(a) where it is for a term of not more than six months; and

(b) the postponement is reasonable to complete active audit work underway; and

(c) is reasonable in all the circumstances.

This amendment intends to give a little more precision and leeway in terms of the intended postponement regime that already exists. The committee felt that ASIC’s discretion, if you like, was insufficiently identified. Accordingly, the committee felt that a postponement of any rotation obligation should be granted in restricted and specific circumstances. I think this improves the bill’s provision, the committee thinks it improves the bill’s provision and that is why I move it.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (1.27 p.m.)—We would say that the ASIC exemption power covers this, that it allows for an exemption of one or two years and that this would be unnecessary.

Senator CONROY (Victoria) (1.27 p.m.)—I indicate that we also believe that ASIC does have the power to ameliorate this impact and we do not support the amendment.

Question negatived.

Senator MURRAY (Western Australia) (1.28 p.m.)—The Democrats oppose schedule 1 in the following terms:

(11) Schedule 1, item 95, page 82 (line 29) to page 83 (line 11), section 324CK TO BE OPPOSED.

This, too, is a fairly hefty policy decision. But right at the heart of the debate we had last week was the Democrats’ constant re-statement that a corporation is not only a shareholder democracy but also a democracy that should be increased and enhanced. We believe that, if you attend to weaknesses and deficiencies in the way in which company constitutions and direct election processes
occur and if you attend to deficiencies in voting, you will restore power to the shareholders for them to decide who will be directors. We think forbidding multiple member directorships is unnecessary and unwise. Accordingly, we oppose that item in schedule 1.

Senator CONROY (Victoria) (1.29 p.m.)—My apologies to the chamber for this, but we only received these amendments this morning so we are just working through them. I am just trying to understand the intent of the Democrats—what they are seeking to achieve. I understand there has been a reasonable policy position put that if somebody used to work for a firm 15 years ago and if someone else wanted to move across after the requirement—and we always believed that should be four years rather than two, as we have put forward—then they would not clash if there were some lengthy period. I am just trying to gain an understanding of what it is the Democrats are actually trying to achieve here. Through you, Mr Temporary Chairman, could we get some clarification on that from the Democrats.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (1.30 p.m.)—The government’s position is that the section as it stands in the bill is as recommended by the HIH royal commission. It is important to note that the royal commission concluded that one of the reasons there was a perception that Andersen’s was not independent of HIH was the cumulative effect of the three former partners on the HIH board: there was the perception that Andersen’s independence had been compromised more than it would have been with the presence of one former partner. The PISC, I am informed, accepted the evidence that the restraint is too broadly framed. I am told that Senator Conroy, in his minority report, said that the ALP recommended that the provision be amended but, having said that, that the ALP would not want to delete the whole provision. The government’s position is that it implements an important recommendation of the HIH royal commission. We will stand by the provision staying in the bill as it is.

Question agreed to.

Senator MURRAY (Western Australia) (1.32 p.m.)—by leave—I move Democrat amendments (14) to (16) on sheet 4256:

(14) Schedule 1, item 117, page 113 (lines 12 to 15), omit paragraph (1)(a), substitute:

(a) allow a reasonable opportunity for the members as a whole at the meeting to ask the auditor or their representative questions:

(i) relevant to the conduct of the audit and the preparation and content of the auditor’s report;

and

(ii) about critical accounting policies adopted by the directors of the company and the basis on which the financial statements of the company were prepared; and

(15) Schedule 1, item 117, page 113 (line 18), at the end of subsection (1), add:

; and (c) allow a reasonable opportunity for members present at the meeting to ask the auditor or their representative questions about the independence of the auditor.

(16) Schedule 1, item 117, page 113 (after line 18), after subsection (1), insert:

(1A) Where a company’s auditor or their representative is at the meeting and has prepared written answers to written questions which have been submitted under section 250PA, the Chair of the AGM may permit the auditor or their representative to table the written answers to questions.

Again this arises from the committee recommendations. The purpose is to clarify the way in which questions on the audit can be asked. The committee obviously did not de-
sign this specific amendment, so let us never try and give that impression. The committee was of the view that the way in which questions should be put to the auditor and at shareholder meetings should be amplified. So, again, these are an attempt to put into legislation the committee’s views on how it should be readjusted.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (1.33 p.m.)—We have had a look at the amendment. We believe that it is unnecessary because the bill as it currently stands does require the chairman of an annual general meeting to allow a reasonable opportunity for shareholders to ask the auditor questions relevant to the conduct of the audit and to the preparation and the content of the auditor’s report. The subject matter referred to in the proposed amendment would appear to be information relevant to the conduct of the audit and to the preparation and the content of the auditor’s report. Therefore, there already is and will continue to be, in the bill as it is currently framed, an opportunity for shareholders to ask questions which relate to the subject matter.

Senator MURRAY (Western Australia) (1.35 p.m.)—That is correct; it would not close off questions. The difficulty has been that chairs of meetings take, sometimes, an idiosyncratic and highly discretionary approach to the way in which questions are dealt with. It may mean that after a period they will say, ‘That’s enough questions now,’ and move on to something else when people may have legitimate questions which require detailed responses. Sometimes there are technical questions which are better provided in writing. So the committee saw this as an adjunct to, rather than a substitute for, a process to maximise the information that will be made available.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (1.35 p.m.)—Firstly, the issue of auditor independence which Senator Murray talks about is clearly a matter that is, to quote from the law, ‘relevant to the conduct of the audit and the preparation and content of the auditor’s report’. The law will also require an annual statement declaring the auditor’s independence. Under the new law proposed by CLERP 9, a chairman could not cut off questions because it would be against the law. The law will say that the chairman is required to allow a reasonable opportunity for shareholders to ask the auditor questions. If the chairman decided unilaterally to cut off questions then he would be in breach of the law. So we would say that the bill as it stands clearly enables all of this to occur without the amendments.

Question agreed to.
Senator MURRAY (Western Australia) (1.37 p.m.)—I move Democrat amendment (17):

(17) Schedule 2, item 2, page 138 (after line 3), after subsection 295A(2), insert:

(2A) In making the declaration required in subsection 295A(2), the Chief Executive Officer and Chief Financial Officer may:

(a) rely reasonably on information provided by other company employees having relevant responsibilities; and

(b) take account of practical contingencies relevant to compliance with section 295A.

Amendment (17) relates to the insertion of item 295A and an additional section designed to be explicit about what the chief executive officer and the chief financial officer may rely on. The committee thought that that would be of assistance in clarifying the intent of 295A(2).

Senator CONROY (Victoria) (1.37 p.m.)—I am not sure of the intent of the Democrat amendment. I get the sense that it waters down the provision and I would not be comfortable with that. Notwithstanding that we are moving along at a pace, I am not sure I am comfortable with the intent. It may be that I have misunderstood the intent but I am not sure that I am comfortable with it.

Question negatived.

Senator MURRAY (Western Australia) (1.38 p.m.)—by leave—I move Democrat amendments (18) to (22):

(18) Schedule 2, page 140 (after line 9), after item 3, insert:

3A At the end of section 297
Add:

(2) In undertaking the assessment of a true and fair view, directors must consider the objectives contained in paragraph 224(a) of the ASIC Act and must include a statement in the financial report that they have done so.

(3) In the case of conflict between sections 296 (compliance with accounting standards) and 297 (true and fair view), the notes to the financial statements must indicate why, in the opinion of the directors, compliance with the accounting standards would not give a true and fair view of the financial performance and position of the company.

(4) The notes to the financial statements must include a reconciliation to provide additional information necessary to give a fair view.

(19) Schedule 2, page 140 (after line 9), after item 3, insert:

3B After section 297
Insert:

297A Purpose of true and fair view
The purpose of a true and fair view is to ensure that the financial reports of a disclosing entity or consolidated entity represent a view that users of the reports (including investors, shareholders and creditors) would reasonably require to make an informed assessment of matters such as investment in the entity or the transaction of business with the entity.

(20) Schedule 2, page 140 (after line 9), after item 3, insert:

3C Section 297 (note)
Repeal the note.

(21) Schedule 2, page 141 (after line 12), after item 7, insert:

7A At the end of section 305
Add:

(2) In undertaking the assessment of a true and fair view, directors must consider the objectives contained in paragraph 224(a) of the ASIC Act and must include a statement in the financial report that they have done so.
(3) In the case of conflict between sections 296 (compliance with accounting standards) and 297 (true and fair view), the notes to the financial statements must indicate why, in the opinion of the directors, compliance with the accounting standards would not give a true and fair view of the financial performance and position of the company.

(4) The notes to the financial statements must include a reconciliation to provide additional information necessary to give a fair view.

(22) Schedule 2, page 141 (after line 12), after item 7, insert:

7B Section 305 (note)

Repeal the note.

This is a really important issue. This refers to the ‘true and fair view’ debate. It was a set of amendments which arose out of the Joint Committee of Public Accounts and Audit report No. 391. The committee took very extensive evidence from a wide variety of experts and came to a view. The government accepted that view in their draft bill and essentially had this sort of approach to the true and fair view issue and then dropped it in the final bill—I presume after lobbying, representations or consultation. Nevertheless, the Parliamentary Joint Committee on Corporations and Financial Services went again and had a look at the JCPAA’s work, asked its own questions and came to the view that this is the way to go. It is quite explicit. If you look at amendment (18), for instance, it says:

In undertaking the assessment of a true and fair view, directors must—

not ‘may’ but ‘must’—

consider the objectives contained in paragraph 224(a) of the ASIC Act and must include a statement in the financial report that they have done so.

A true and fair view, as a shorthand, is a very important statement for all users of financial statements. The minister and the shadow minister know as well as I do that the range, depth, sheer extent and technical complexity of accounting standards are such that where there is conflict you do need to end up with someone making a judgment. The JCPAA felt on the basis of expert evidence that that judgment should be made and should be very clear and apparent. As I say, it was in the government’s draft exposure bill and the committee has said that it should be back in. We support that view, and accordingly, we have moved these amendments to assert that view. The question is whether the government would be prepared to accept that. We do not object, of course, to changing some words here and there in the lower house—that is up to you—but we certainly support the thrust of what has been put before you.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (1.41 p.m.)—Senator Murray is quite right; it was in the original bill. We were convinced through the consultation process on the draft to take it out for one good reason—on the advice of the Australian Accounting Standards Board—and that is that the accounting standard AASB 101, which we hope will have the force of law fairly shortly as international accounting standard No. 1, ‘The presentation of financial reports’, will require disclosure of this information in the notes to the financial statements. As I understand it, most people who made submissions to the joint committee said that the financial statements were the best place to have this sort of information. It is on the advice of the AASB that we have removed it, basically because it could create confusion.

Senator MURRAY (Western Australia) (1.42 p.m.)—Even if that was right, and the minister does seem to indicate from his re-
response that the government accept the philosophy but just want to go a different route, the problem we face is that that accounting standard is not law yet and has not been confirmed by parliament. If something went wrong, it was delayed or something happened, you would be left still with this area of concern. Our view is that this should be in the law. If it is in the law by the end of June, it will govern all the accounts which are established for this financial year, will be reported next financial year and will have immediate power and effect. I do not think that something which the government agree with in the broad, if I understand the minister, should be dropped in anticipation of some future legislative event which might not occur.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (1.43 p.m.)—I do not think there is some sword of Damocles hanging over AASB 101; I am told it will come into effect on 1 January 2005. To amend the law on 1 July 2004 knowing that it will be effectively replaced on 1 January 2005 is not a sensible way to go.

Senator CONROY (Victoria) (1.44 p.m.)—As Senator Murray would know, I am a supporter of the sorts of propositions he is putting forward. I have also, through hard and bitter experience, come to agree with your last stated proposition that just because the government say they are going to do something down the track is not a reason for you not to do something now in the chamber. I wish you had had that view 12 months ago on fee disclosure. Senator Murray, when we had the opportunity to put into law some far stronger propositions than those that have, unfortunately, now been agreed to, I do encourage you to read the articles in the papers over the weekend—from Terry McCrann to Alan Wood and every other commentator who has any knowledge on this issue.

Senator Murray—I thought your spinning was magnificent.

Senator CONROY—As you would know, Senator Murray, I cannot claim responsibility for all of that. My office is always very well on top of these issues. But I would wish that the sentiment you had about holding the government to account on the day in parliament would have been prevalent and present six months ago when we were first dealing with those issues. I have always been someone who believes that, if we have got the opportunity to put something into legislation, we should grab that opportunity rather than wait for the government to move through its processes.

Senator Ian Campbell—Are you a friend of the IASB?

Senator CONROY—I am sympathetic to their view on this. I do believe there has been a good proposition made, but there is always the capacity to withdraw it at a later stage, if it is working well, and we can look to do that. I indicate Labor support for Senator Murray’s amendments.

Question agreed to.

Senator MURRAY (Western Australia) (1.46 p.m.)—Thank you, Senator Conroy, for your support for the previous amendments. I would add the point, of course, that since what the minister was saying and what has been put here are not in conflict you do not in fact have a situation where the law will be appreciably different to what the intent, as I understand it, of that accounting standard might be. My most important point, of course, is that it will relate to the company reports and statements to be dealt with now. That is a key issue for me. The other point I would make before I move to the next specific amendments is that, as a former schoolboy wicket-keeper, I always admire a good spinner, Senator Conroy, and I thought your spinning this weekend was wonderful. I seek
leave to move Democrat amendments (23) to (29), (33) and (35) on sheet 4256.

Leave granted.

Senator MURRAY—I move:

(23) Schedule 2, item 11, page 150 (line 10), at the end of the subsection 239CC(6), add:

; (h) the registered company auditor of the lodging entity.

(24) Schedule 2, item 14, page 156 (line 20), after “entity”, insert “and the registered company auditor of the lodging entity”.

(25) Schedule 2, item 14, page 157 (after line 36), after section 323EE, insert:

323EEA Written response to ASIC notice

The registered company auditor of the lodging entity may, within 14 days after receiving the notice, give ASIC a written response relating to any matters relevant to the notice, have its response included with ASIC’s referral and make submissions to the Financial Reporting Panel’s consideration of the relevant financial report.

(26) Schedule 2, item 14, page 158 (line 16), after “entity”, insert “and the registered company auditor of the lodging entity”.

(27) Schedule 2, item 14, page 158 (line 18), after “entity”, insert “and the registered company auditor of the lodging entity”.

(28) Schedule 2, item 14, page 158 (line 19), after “323EE”, insert “or 323EEA”.

(29) Schedule 2, item 14, page 158 (line 22), after subparagraph 232EF(1)(d)(i), insert:

(ia) the registered company auditor of the lodging entity gives ASIC the response under Section 323EEA; or.

(30) Schedule 2, item 14, page 159 (line 17), omit “323EH”.

(31) Schedule 2, item 14, page 159 (line 21) to page 160 (line 9), omit section 323EH.

(32) Schedule 2, item 14, page 160 (lines 18 and 19), omit paragraph 323EI(1)(c)

Once again these are technical amendments.

Question negatived.

Senator MURRAY (Western Australia) (1.49 p.m.)—I move amendment (34) on sheet 4256:

(34) Schedule 2, item 14, page 162 (after line 3), after subsection 323EK(3), insert:

(3A) Determinations of the Financial Reporting Panel shall not have application beyond the specific matter or matters referred, as precedents for the interpretation of financial reporting requirements.

This amendment is in respect of the Financial Reporting Panel. This is an important matter of principle. The committee felt that,
certainly in the early days of the Financial Reporting Panel, there needs to be some restraint on how its determinations will be applied. They felt, on the precautionary principle, that the panel’s determination should not have application beyond the specific matter or matters referred as precedents for the interpretation of financial reporting requirements. That is clear on the face of it.

Senator CONROY (Victoria) (1.50 p.m.)—Because we are moving to this new international accounting standards regime, there are a number of holes which I think Senator Murray is seeking to fill. Until we can see how the full regime plays out, I am not sure that this will assist the process. We are going to have to revisit this, Senator Murray, because the new process is unclear. Whether or not these panels can make an interpretation of any sort that applies to anything will actually be a matter of some discussion. Ultimately only the International Accounting Standards Board can change an interpretation. I am not comfortable with that position and I do not know how the FRP is ultimately going to interact with the International Accounting Standards Board process. So at this stage I indicate nonsupport, but I think that one of the key areas for our committee to work on over the next 12 months is how we are going to deal with these disputes in Australia and how that will merge with the international process. I welcome the debate, but at this stage it is probably a little too early to make a definitive call on this. I indicate support for the government’s position.

Question negatived.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (1.52 p.m.)—by leave—I move government amendments (105) and (106) on sheet PK247:

(105) Schedule 7, page 213 (after line 4), before item 4, insert:

3A Section 9 (paragraph (a) of the definition of continuously quoted securities)

After “prospectus”, insert “or Product Disclosure Statement”.

(106) Schedule 7, item 15, page 217 (line 38), omit “and”, substitute “or”.

Question agreed to.

Senator MURRAY (Western Australia) (1.52 p.m.)—I move Democrat amendment (6) on sheet 4214:

(6) Schedule 8, page 227 (before line 8), after item 1, insert:

1A At the end of paragraph 249D(1)(b) Add “, being members who hold:

(i) a minimum of 100 shares each; and

(ii) the value of the shareholding per member is not less than $500.”.

The minister and the shadow minister will be familiar with the issues surrounding Democrat amendment (6) on the issue of the 100 members. Frankly, we do not much mind if it stays as it is, but we have moved an amendment to modestly tighten it up because the government have not advanced on this. We think this would make things a little tighter. We are suggesting that the 100 members be defined as members who hold a minimum of 100 shares each and that the value of the shareholding per member is not less than $500. I stress to you, Minister, that this does not mean we close our minds to future representations from the government, but it certainly does tighten up the law immediately until such time as there is agreement on how that area should be reassessed.

Senator CONROY (Victoria) (1.53 p.m.)—As you know, Senator Murray, we have canvassed this since 1998 and we both hoped that the government would proceed rather than throw stones from the side, blaming everybody else. Its lack of action on this has been disappointing. I would have hoped that if you were going to go down this eco-
nomic interest path, which, as you know, I have advocated and supported, you would have been able to take into account a sliding scale. Depending on the size of a company, 100 is still a relatively small number for a large company but is a large number for a small shareholder based company. I do think this is a step forward; it does not go quite as far as I would want it to go.

Senator Murray—We did not want it closed off.

Senator CONROY—I appreciate the point you are making. I do think it is a small step and I do think it is worthy of support, even though it is only a small step and does not go as far as Labor would like; but it may go some way to assisting in what we are trying to solve. But I would have hoped you would move a sliding scale to this; then we would have had absolute support for this amendment. I do welcome the initiative and I hope the government ultimately finds a way—

Senator Ian Campbell—Don’t we have a bill on the Notice Paper already?

Senator CONROY—You do, but you are never going to get to it. I think that is why Senator Murray has taken the bit between the teeth and moved forward on it. I suggest this may be a very quick opportunity to make an improvement, albeit not the government’s preferred improvement, and amend it further. I indicate our support for it.

Question agreed to.

Senator CONROY (Victoria) (1.55 p.m.)—by leave—I move opposition amendments (36) to (39) and (64) on sheet 4216:

(36) Schedule 8, page 229 (after line 12), after item 9, insert:

9A Subsections 250A(4) and (5)

Repeal the subsections, substitute:

(4) An appointment may specify the way the proxy is to vote on a particular resolution. If it does:

(a) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way; and

(b) if the proxy has 2 or more appointments that specify different ways to vote on the resolution—the proxy must not vote on a show of hands;

(c) if the proxy is the chair—the proxy must vote on a poll, and must vote as directed in respect of each appointment; and

(d) if the proxy votes on a poll and if the proxy has 2 or more appointments that specify different ways to vote on the resolution—the proxy must vote on a poll as directed in respect of each appointment.

If a proxy is also a member, this subsection does not affect the way that person can cast any votes they hold as a member.

(5) A person who contravenes subsection (4) is guilty of an offence.

(37) Schedule 8, page 230 (after line 16), after item 14, insert:

14A After section 250T

Insert:

250U Confirmation of appointment of Chair

(1) At the first AGM following the appointment of a new person as chair of a listed corporation’s board of directors where that corporation was at the date that the notice convening the AGM (the notice date) one of the top 300 listed companies on the Australian Stock Exchange by market capitalisation, a resolution confirming the appointment of that person as chair of that listed corporation’s board of directors must be put to the vote where that person (at the notice date) was also
the chair of another company which was one of the top 300 listed companies on the Australian Stock Exchange by market capitalisation.

Note: Under subsection 249L(2), the notice of the AGM must inform members that this resolution will be put at the AGM.

(2) The vote on the resolution is advisory only and does not bind the directors or the listed corporation.

(38) Schedule 8, page 230 (after line 16), after item 14, insert:

14B At the end of the subsection 251AA(1)
Add:
; and (c) if a resolution is withdrawn prior to the meeting, the nature of the resolution and a statement that it was withdrawn.

(39) Schedule 8, page 230 (after line 16), after item 14, insert:

14C At the end of subsection 300(10)
Add:
; and (d) the qualifications and experience of each person who is a company secretary of the company as at the end of the year.

(64) Schedule 12, item 2, page 253 (after line 8), after subsection 1471(2), insert:

(2A) The amendments made by item 14A of Schedule 8 to the amending Act apply to an AGM held on or after 1 October 2004.

These amendments are intended to empower shareholders. I have discussed these issues during the second reading debate and do not propose to go into depth now. However, I will briefly comment on them, as they are matters which should receive support from all parties. The first amendment relates to section 250A of the Corporations Act. Its purpose is to clarify the provision and to ensure that the voting intentions of shareholders are carried out in relation to their proxies. During the PJC inquiry this amendment was described as making proxy votes like postal votes. Once it is filled out, the intention of the proxy cannot be changed. This amendment has the support of the Company Secretaries Association and the Australian Shareholders Association, and ultimately I would hope that this is one of those amendments, Senator Campbell, that the government will find worth while and one that will resolve some issues that have arisen in recent years.

The amendment to section 251AA requires disclosure of resolutions which are withdrawn prior to the AGM. This matter was discussed during the PJC inquiry and is supported by Corporate Governance International and the ASA. Amendment (39) relates to section 300(10) and requires the disclosure of the qualifications and experience of company secretaries in the annual report. This was also a matter discussed during the PJC inquiry and is supported by the CSA and the ASA. Each of the three amendments I have discussed is based on disclosure. The purpose is to empower shareholders. These amendments are not controversial and should, and I hope will, receive the support of all parties. If the government fails to support these three amendments, it will become obvious to the corporate governance movement in Australia that the Howard government has chosen to vote, again, against empowering shareholders.

The final amendment in this block relates to multi chairs. Labor’s amendment says that, where a director is to be appointed the chair of a company and the director is already the chair of another company at the date of the AGM, the company will be required to put a non-binding resolution to shareholders at the AGM in relation to the appointment of the director as the chair of the company. This vote would be non-binding and is intended to send a message to the company that shareholders do not support the appointment of a person as chair.
This provision only applies where the chair is potentially the chair of two companies within the top 300 companies on the ASX. We have a situation where ‘the club’ likes to appoint its own, and we have had a whole range of companies that have multiple chairs. It is not good enough. It is not good enough for shareholders in the modern day for a person to be chairing three or four companies. Their time and effort needs to be focused on their primary chair. I am not ruling them out from being directors of other companies but certainly shareholders are entitled to know and have their approval sought when chairs start doubling up or trebling up. This is just a non-binding vote that would give an indication from the floor about whether shareholders were comfortable with the situation or not.

Progress reported.

QUESTIONS WITHOUT NOTICE

Iraq: Treatment of Prisoners

Senator FAULKNER (2.00 p.m.)—My question is directed to Senator Hill, the Minister for Defence. Can the minister explain why, on receiving the 61-page report from the Defence fact-finding task force, he withheld this report from the Australian public and instead got his office to produce a 5½-page whitewash of a statement for the Senate? Why did he also order the creation of three tables which excluded key reports and evidence from many of the ADF personnel who had served in Iraq, including Major O’Kane? Why did the minister refuse to provide a declassified version of this report to the estimates committee last Thursday?

Senator HILL—We have actually been over this at great length. The so-called ‘report’ mentioned by Senator Faulkner was a brief to me. It is not the practice of this government nor was it of previous governments to table its briefs in estimates committees. The brief covered the investigations of the department following tasks that I had set for it. The additional material I provided in the Senate was in accordance with what had been requested of me by the Prime Minister, and the tables that I tabled in the Senate provided detail of Australian contacts with the detention issues in Iraq. I think I have provided a comprehensive explanation and supportive material to the parliament in order that the parliament should be fully informed.

Senator FAULKNER—Mr President, I ask a supplementary question. Given that the minister allowed the reading out of verbatim extracts from one of Major O’Kane’s situation reports and some of Lieutenant Colonel Muggleton’s situation report dated 17 February 2004, can the minister now explain to the Senate why he refused to read into the record from the same situation report of 17 February 2004 Colonel Muggleton’s reported concerns regarding detention practices, this material being, Minister, in the same situation report?

Senator HILL—Whatever I was able to provide from situation reports or from situation updates, I did. I provided as much detail as was proper to provide. When it was possible for me to read it verbatim, I did. I expressed in general terms Lieutenant Colonel Muggleton’s comments in relation to some concerns about US practices. I declined to take it further than that because I did not think it was in the best interests of our relationship with the United States, and I would hope that in the same circumstances, before a US congressional committee, any comments that the US officials might make about Australia would not be put on the public record as well.

Trade: Free Trade Agreement

Senator HEFFERNAN (2.03 p.m.)—My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Ian Macdonald. Will the min-
ister outline to the Senate the benefits to agriculture and the Australian economy of the US free trade agreement? Is the minister aware of any alternative policy approaches?

Senator IAN MACDONALD—Senator Heffernan, coming as he does with a background in the productive sector of our nation, will understand the very important role that the Australia-US free trade agreement will play in Australia’s future prosperity. The Australia-US free trade agreement will provide Australia’s agricultural sector—and, indeed, the overall economy—with an enormous boost. Senator Heffernan would be aware that there are many honest, hardworking Australian exporters champing at the bit to start reaping the rewards of the enhanced trade that will follow from AUSFTA, which enables Australia to have access to the world’s largest market.

Australian primary producers, in particular, are set to reap billions of dollars worth of additional benefits over the life of this deal through improved market access and the reduction and eradication of many tariffs. These include the reduction of 66 per cent of agricultural tariffs to zero in year 1 and, by year 3, 75 per cent of all tariffs being eliminated. Increased beef access will give us a 15,000-tonne increase in quota in year 1, and that means about $60 million to the Australian economy. Increased dairy access will give the economy about an extra $55 million in year 1, and a completely open market for lamb, seafood and many horticultural products is fantastic news for the Australian economy, and particularly good news for the Australian primary producer. Importantly, all of this will be achieved without compromising Australia’s world-leading quarantine systems and protocols, which protect the nation’s important agricultural and marine industries.

Senator Heffernan further asked me if I am aware of other policy approaches. I think the Labor Party really, deep down, do support the free trade agreement. Anyone with elementary mathematics could work out that an additional $6 billion to the Australian economy every year has to be great news for Australia. Even the Labor Party—even some of those people who are pretty limited on clever thought—would understand that this is a good deal. Why does it take the Labor Party five months in a Senate committee to be able to recognise the benefits of this deal? It is clear to me that the Labor Party know it is good, but do not want to have to make a decision that might upset some of their union mates before the election.

There are a couple of other aspects of Labor’s position that I do not understand. Australia is the envy of the developed world in having negotiated this deal. Other nations are lining up to do this deal. The six Labor premiers, without exception, are great supporters of this deal. But Mr Latham cannot make up his mind on this and sends it off to a Senate committee—of all things—to try and help him convince himself that $6 billion is a great deal for Australia. I would have thought that that was a tremendous deal. Even Mr Adams from Tasmania understands what a great deal it is. All of the Tasmanian senators, I know, think it is a great deal, and Mr Adams is infected by the opportunities that arise from this program. (Time expired)

Iraq: Treatment of Prisoners

Senator CHRIS EVANS (2.08 p.m.)—My question is directed to Senator Hill, the Minister for Defence. Can the minister confirm that he was specifically briefed by Defence on 10 May this year about the gross abuse of Iraqi prisoners at Abu Ghraib? Didn’t this briefing highlight the concerns of an Australian lieutenant colonel about US detention policies in Iraq and make it clear
that the October Red Cross report contained graphic details about the abuse of Iraqi prisoners? Wasn’t the minister also told on 10 May that the US administrator in Iraq, Paul Bremer, was sickened by what the October Red Cross report contained? What action did the minister take in response to these reports and briefings of 10 May?

**Senator HILL.**—The first I became aware of the gross abuses—if you want to put it in those terms—was when the pictures were released on the television at the end of April or the beginning of May. We all know, with the benefit of hindsight, that the United States had made mention in January this year that serious allegations had been made, that they were being investigated and that appropriate action would follow. I think from memory there was even a suggestion that there might be photographs of it. There was not great international response to that, presumably because until evidence was produced nobody particularly wished to respond. When the evidence was produced in the photographs, it became a matter of great concern for the international community.

As a result of that, I sought further details, even though I knew that Australians had not monitored the prisons, had not administered the prisons, had not provided guards to the prisons and had not interrogated prisoners. As a result of my further inquiries, I found that some Australian lawyers had had some incidental contact with the detention system in Iraq, but I am pleased to say that I found that their contact had been constructive and helpful. I found that some who had been working for the Coalition Provisional Authority had been particularly concerned about issues such as overcrowding, the difficulty of prisoners obtaining access to relatives and, I think in some instances, the difficulty of prisoners getting legal advice. The fact that Australian lawyers working for the CPA had been seeking to improve those conditions I believe was something to be applauded.

In relation to the work of the Red Cross, I found that the Red Cross had issued a report in February to Mr Bremer, as head of the CPA, and to the United States of America and the United Kingdom, as the occupying powers, and that that report—and, interestingly, we now know that the report had actually been put on the Web slightly before that time, but anyway—had indicated areas of serious concern. What was positive again, however, was that the advice I received was that the relevant authorities, those responsible for the prison system and those responsible for detention matters, although obviously deeply concerned by the report—and it is good to see that they were—had again responded positively and outlined to the ICRC the steps that were being taken to improve the situation. Finally, it was heartening to learn that the ICRC had in turn responded positively to those undertakings. What I learnt through that process confirmed to me that the only contacts that Australians had were positive contacts and that the parties responsible for the system had responded positively and had sought to improve outcomes. *(Time expired)*

**Senator CHRIS EVANS.**—Mr President, I ask a supplementary question. I note the minister did not answer the question about what actions he took following the 10 May briefing, and I would like him to address that. I also refer him to the Prime Minister’s comments, made as late as 30 May:

I’m told by Defence that ... the October report did not contain references to the abuse, but rather to poor conditions.

What was the source of the advice that the Prime Minister was relying on? Didn’t the minister know that the Prime Minister’s advice was wrong from 10 May onwards? Why did the minister wait three weeks until he
told the Prime Minister that what the Prime Minister was saying publicly and the advice he was relying upon were wrong?

Senator HILL—No, that is not correct at all. What did I do? I answered questions in the Senate on 11 May. I answered questions as to what I knew about the abuses, which I outlined in answer to the first part of this question. I was seeking to interpret the questions that I was asked in the Senate and in those terms I made mention of the February report of the ICRC, which I had just seen. I think what Senator Evans is trying to get at relates back to the working paper that was subsequently discovered—a working paper of October last year—and to visits, which had been contributors to the ICRC report of February. (Time expired)

Trade: Free Trade Agreement

Senator FERGUSON (2.15 p.m.)—My question is to the Minister for Finance and Administration, Senator Minchin. Will the minister inform the Senate of the opportunities for Australian business from the free trade agreement with the United States? I further ask: is the minister aware of any alternative views?

Senator MINCHIN—I thank Senator Ferguson for his question and acknowledge his very strong support for the free trade agreement. Senator Ian Macdonald has outlined the enormous benefits for Australian agriculture of this agreement but one of the very significant benefits flowing to the Australian economy from the FTA with the US stems from the unprecedented access which Australian firms will have to the massive US government procurement market. As a result of this agreement Australian suppliers will have access to 79 US federal departments and agencies through the removal of existing statutory barriers. This is a procurement market worth some $200 billion every year. Just one example of a company to benefit is a high tech communications company in Adelaide called Codan, which has already said publicly that this is going to mean a substantial boost to their revenues and capacity to employ Australians.

What is less well known about the FTA is that Australian suppliers will also have access to the procurement markets of a majority of the American state governments. So far, 27 US states have signed up to the deal, including some of the largest states: California, New York, Texas, Pennsylvania, and Florida. These states are bigger than many countries, with substantial procurement markets. The Centre for International Economics study that we had done into the benefits of the FTA did not take account of the US state government procurement market. In relation to the US federal government procurement market the study suggested the FTA could enable Australian suppliers to gain sales of some $200 million per annum. When you add in the American states you roughly double the size of the procurement market to which Australian suppliers will have access.

It is not only the 27 US state governments that have signed up to the procurement chapter of the FTA; all Australian states and territories have now signed up to the procurement chapter of this historic agreement. There will be some phase-ins and higher thresholds for some states but all eight state and territory Labor governments have recognised the significant benefits of the FTA and have come on board to implement this procurement chapter. We on this side of the Senate heartily congratulate the Labor state governments on their decisions to participate in this very important agreement. We have an FTA providing substantial benefits to the Australian economy in terms of jobs and exports. We have the strong support of the US administration and indications of good support in the congress. Twenty-seven American state governments have signed up
and eight Labor state and territory governments have signed up.

As Senator Ian Macdonald made clear, we do not have the support of the federal Labor Party. That is the one entity standing out from this historic agreement. Since the signing of the FTA the Labor Party has been in a state of complete paralysis. We have found out why they are in such a state of paralysis from today’s Australian, which reports that the Labor Party is split right down the middle on this FTA. They are clearly facing an identity crisis over this issue. They are not quite sure whether to appease their fanatical anti-American left wing on this issue or to get behind a great deal for the Australian economy, Australian business and Australian jobs. It is about time that the federal Labor Party put the national interest first, joined the state and territory Labor premiers and got behind this free trade agreement.

Iraq: Treatment of Prisoners

Senator HUTCHINS (2.19 p.m.)—My question is to the Minister for Defence, Senator Hill. Is it true, as alleged in an article by Ian McPhedran in this morning’s Herald Sun, that the Defence Secretary, Mr Smith, was keen to correct the record at the Defence estimates hearings on 31 May and 1 June but that the minister insisted that the record be corrected through lengthy evidence rather than a statement? Is it true that the minister is responsible for preventing Mr Smith and General Cosgrove from correcting the record quickly?

Senator HILL—The article is incorrect. It is inconsistent with the evidence that was given in the estimates committee. It is a pity that the journalist did not check with General Cosgrove or Mr Smith.

Senator HUTCHINS—Mr President, I ask a supplementary question. I have the article here, Minister. If it is the case, as the minister says, that Mr McPhedran’s information is incorrect, how does the minister reconcile his and his senior officials’ failure to correct the public record—which he has tried to do now—over those 1½ days of hearings, in response to the code of conduct, as spelled out by the Prime Minister, which says that any misconception should be corrected at the earliest opportunity?

Senator HILL—I am sorry, I could not understand the supplementary question.

Senator Brown—Mr President, I rise on a point of order. The question was quite clearly asking why there was a breach.

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

Senator Brown—The point of order is that the minister is obliged to understand such a simple question and answer it; that is what question time is about.

The PRESIDENT—There is no point of order.

National Security: Terrorism

Senator BARTLETT (2.21 p.m.)—My question is to the Minister representing the Prime Minister and the Minister for Defence, Senator Hill. My question goes to the government’s priorities in addressing the threats of terrorism. Why is it that, over 18 months after the danger of accessibility of ammonium nitrate for use as an explosive was identified as a significant risk, it can still be purchased over the counter without any sorts of controls or even a need to show ID? I contrast this with the minister’s announcement that, on the eve of an election, the government plans to sign an MOU with the USA on developing new missiles as part of a missile defence program. Does the government believe intercontinental missiles are a bigger terrorist threat to Australia than home-made bombs? If not, why is the government rushing to act on the first issue but dragging its heels on the second?
Senator HILL—In late March the government asked the states and territories to introduce a licensing and permit system to control access to ammonium nitrate. The states and territories responded positively to this recommendation. The Department of the Prime Minister and Cabinet is working closely with the states and territories to ensure quick implementation of a nationally consistent approach. A meeting of senior officials and state and territory regulators was held in Canberra on 28 April. A workshop to develop the details for a licensing and permit system was held in Canberra from 10 to 12 May. We expect a licensing and permit system to be under way in the near future. We are conscious of the risks posed by ammonium nitrate but we are also mindful of its legitimate use in the mining, quarrying and agricultural sectors. The licensing and permit system will mean legitimate users continue to use ammonium nitrate products but they will be required to record all transactions and to transport and store the product more securely.

While the tightening of regulations will go some way to addressing the problem of ammonium nitrate, effective intelligence offers us the best hope of preventing terrorist attacks before they can be carried out. I remind the honourable senator that since September 11, 2001 the government has committed $602 million in additional funding to enhanced intelligence collection and analysis. As the Prime Minister announced at the opening of the National Threat Assessment Centre, we will allocate an additional $232 million to the intelligence agencies over the next four years. The point I am seeking to make is that we have taken the issue of terrorism extremely seriously. Apart from our efforts internationally to attack terrorists at their source, we have spent a lot of money on and put a lot of effort into bolstering Australia’s domestic defences, and we will continue to do so. On the other hand, we must also look at the need to protect Australia in the long term from other threats, and a ballistic missile defence system for the future—albeit, for the future—will be one way to provide greater security to the Australian community for threats that might emerge in the decades ahead.

Senator BARTLETT—Mr President, I ask a supplementary question. Why is it that the government is so quick to give itself more powers to address the terrorist dangers but, 20 months or more after the outrages in Bali, it still has not acted on such a simple matter as access to the basic ingredient for home-made bombs? How can the minister credibly say that this is quick implementation? We also ask the minister why the government will not commit to taking its policy of signing up to ‘son of Star Wars’ to the electorate, rather than signing a memorandum of understanding with the US government literally on the eve of a caretaker period before an election campaign.

Senator HILL—On the latter point, the government will be taking its policies to the electorate. The electorate will have the opportunity to choose between the retreat and isolation policies of the Labor Party and those of the government. That is how the system works, I must remind Senator Bartlett. In relation to the licensing of ammonium nitrate, I have sought to set out the practical difficulties involved in that and the efforts that the government has taken, in concert with the states, to bring about a more effective way of protecting Australians in relation to improper use of those products. But I again remind Senator Bartlett there are also proper uses of those products that are in Australia’s best interests and therefore the matter is more complex than he is prepared to acknowledge.
Sport: Drug Testing

Senator FAULKNER (2.27 p.m.)—My question is directed to Senator Kemp, the Minister for the Arts and Sport. Given that the federal government is responsible for the AIS facility at Del Monte, has the minister been briefed on which other AIS athletes are alleged to have been involved in the same possession, use and trafficking of banned substances as Mr French? Can the minister confirm when he was first informed that at least five other members of the AIS cycling team were alleged to have frequently used Mr French’s room 121 at the AIS Del Monte facility in Adelaide as an injection room for the administration of banned substances, including glucocorticosteroids and equine growth hormone? Prior to last Friday, what action had the minister taken to have allegations against other members of the AIS team, including potential Olympians, thoroughly and independently investigated?

Senator KEMP—Senator Faulkner raised a number of issues. These are related to the issues that Senator Faulkner raised in this chamber late last week. I plan to make in the very near future a comprehensive statement in relation to these matters and indicate, in light of the new evidence that has been brought forward, what action the government proposes to take. Have I got the names of the athletes? No, Senator Faulkner, I haven’t. Have you got the names of the athletes, Senator Faulkner? If you have got the names of the athletes, Senator Faulkner, you should forward those immediately, Senator.

Senator Faulkner—Have you checked the court of arbitration record?

Senator KEMP—Senator Faulkner, as you would know, there are rules governing the use of that material. You would be aware, Senator Faulkner, that the ASC has written off seeking the use of that material. It has written to the lawyer, I understand, for Mr French so that that material can be used. We are determined to make sure that we have a zero tolerance approach to doping in sport. These charges that have been made—the more recent ones which came before CAS—will be investigated. I call on Senator Faulkner to make available the information that he has. This would greatly help, I believe, the investigations, which I hope will commence as soon as practicable.

Senator FAULKNER—Mr President, I ask a supplementary question. Given that many in the Australian cycling community have known for months about the nature of these allegations—and the identity of cyclists alleged to have been involved—what has the minister done to demand a comprehensive investigation into all aspects of the alleged drugs activity, including those of purchase and trafficking of banned substances while in Germany at an AIS training camp? Minister, have potential methods of investigating precisely who has used the EGH injections—methods such as DNA testing—not been followed through because of financial considerations by the Australian Sports Commission? Does the minister agree that decisions such as this give no confidence about the comprehensiveness of the investigations to date?

Senator KEMP—Senator Faulkner will be aware that, in relation to the earlier matters which were raised, there was an independent investigation into this matter. He would be aware that one athlete was brought before CAS and he would be aware that there was a finding against that athlete, and a suspension and a fine. He would also be aware that general allegations were made regarding other athletes at the AIS, and this was also the subject of an investigation. As a result of that, two particular athletes were counselled about an inappropriate use of a non-banned drug. As I said, I plan to make a comprehensive statement and to see how we
can deal with the latest series of allegations that have been brought forward. This has caused great concern in the wider community. (Time expired)

Immigration: Residential Housing

Senator NETTLE (2.32 p.m.)—My question is to Minister Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs, and relates to the Port Augusta residential housing project, which I visited two weeks ago. Does the minister recall saying on Sunday Sunrise, ‘Families can live there as though they are in a normal street’? Does the minister believe that it is like living in a normal street when there are two fences with security cameras and motion detectors all around them, when children are searched on their way to and from school, when windows to the building cannot be opened after 11 p.m. and when guards regularly come into the homes? What threat does the minister believe these women and their children pose to the community and when will they be able to live on a normal street like yours or mine?

Senator VANSTONE—I thank the senator for her question because she gives me the opportunity to highlight just how much this government has done to provide suitable alternative detention for women and children in a way that the previous government, who had hundreds of children in detention at one point, never did. Senator, you focused on the residential housing projects, which are but one aspect of children and their mothers being placed in alternative forms of detention.

Yes, I do think Port Augusta is pretty much like a normal street. The houses look over each other. They have lawns. If there is any difference, it is that not every street has a playground at one end and not every street has a basketball court that can be used, I am told, as a hard based soccer court as well—although I am a bit dubious about that claim—down the other end of the street. Yes, there are controls on people in residential housing projects. We have never said that residential housing projects are the equivalent of simply letting people out into the broader community. There are some controls, but they are minimal controls.

With respect to guards regularly going into the houses, that is not expected to be the case. If anyone wants to make that allegation, I will have that investigated—not, with respect, Senator, simply on your hearsay. But, if you know people in the housing project who believe that, get them to make a claim and I assure you that it will be properly investigated. If you have been inside any of the homes—and I assume that you have—you will see how nicely they are appointed. They have three bedrooms, a separate laundry—all newly equipped—a living area with a television and sound system and a kitchen-dining area as well. No-one can pretend that alternative detention is not detention; it is. We have never made the case for otherwise.

Senator, you asked when these people could live in a normal street. Do not forget that we are not talking about refugees here; we are talking about people who have had their refugee claim assessed, it has been rejected and they are challenging that. So we are past the point of them being refugees. These places, including detention centres, are not prisons. You are not free to leave a prison and go home; you are free to leave a detention centre and go home, but if you do not want to then you can stay in alternative detention, which I think is a much better option for women and children than the detention centres. It is a much better service than was offered, as I say, by the previous government, who had, at one point, hundreds and hundreds of children in detention and did nothing about it.

Senator NETTLE—Mr President, I ask a supplementary question. Can the minister
Senator VANSTONE—I have always indicated that these are forms of alternative detention—better detention, I think, than the detention centres—for children. No-one wants to see children in detention centres. We are the only government to have provided alternative mechanisms, and residential housing projects are one of them. Some of the children are in foster care, some are in state care and some are with community groups, although community groups are finding it a bit harder to deliver on the alternative detention mechanisms than they thought they would at the time. But we do have that arrangement with at least one community group and we plan to extend that. As of yesterday there were 11 children—as a consequence of boat people—in detention centres, all of whom could be in a residential housing project tonight if their mothers agreed. There are just 11. The remainder of the children on the mainland are children of compliance cases—and then only a small proportion of them—whose families we believe will not go unless they are detained. (Time expired)

Sport: Drug Testing

Senator LUNDY (2.38 p.m.)—My question is to Senator Kemp, Minister for the Arts and Sport. Can the minister inform the Senate whether he is now satisfied with all aspects of how the AIS and the Sports Commission handled the case of Mark French, including how it is that coaching and other staff saw nothing suspicious about five men locking themselves in a small room several nights a week over several months? Given that cycling is one of the highest risks for drug use in sport, what supervision and management practices were in place that allowed this young cyclist to be led into drug taking by other more senior members of the team? What action has the minister required of the AIS to force it to focus on the duty of care to all athletes within its programs, including the future careers of those athletes?

Senator KEMP—As usual with Senator Lundy there are a lot of assumptions and allegations in her questions which she assumes to be fact. Senator Lundy, you make an allegation about people locking themselves in a room. You and I are aware that that is a comment which has been floated around. This matter will be investigated and we will await the facts. Senator Lundy, there are a couple of things I can add. You asked about supervision in the area. My advice is that, at Del Monte, a full-time manager and house parents are on duty 24 hours a day. The AIS cycling program at Del Monte includes an AIS head coach, a Cycling Australia high performance manager and an AIS cycling administrator. In addition, all AIS athletes, including those based at Del Monte, have access to qualified medical staff and psychologists throughout the duration of their AIS scholarships.

I think it is important that we do not state things as facts when they are matters that are to be investigated. If people are guilty of inappropriate behaviour, if people are guilty of breaching the drug code, they will be deservedly punished. On the other hand, we have to be a bit careful about smearing people, Senator Lundy. It is very easy to stand up here and claim certain things as fact.
What I think we need to do is to make sure that these recent matters are properly investigated, Senator Lundy. I have been assured by the AIS and the ASC that all appropriate procedures have been followed in relation to the investigation of these cases. Senator Lundy, you will be aware that there was an earlier set of cases. You will be aware that a cyclist has been suspended. You will be aware, as I mentioned in my answer to Senator Faulkner, that action was taken against two other athletes. Senator Lundy, do not convey this image that nothing has been done. That is completely wrong.

The PRESIDENT—Minister, I remind you to address your remarks through the chair if possible.

Senator KEMP—At the same time, these latest matters should be investigated so that we can determine what the facts are and what they are not. Senator Lundy, I call on you and Senator Faulkner, if you are in possession of particular information, to forward that information. That is your duty, Senator Lundy, as the shadow minister for sport, and it is your duty, Senator Faulkner, as the former minister for sport.

The PRESIDENT—Order! Minister, I remind you to in future address your remarks through the chair rather than to the senator.

Senator KEMP—A ‘sloppy case’, Senator Lundy? A cyclist has now been banned. That was not entirely clear from your response, Senator Lundy, and action has been taken against two other cyclists.

The PRESIDENT—Order! Minister, I did ask you to address your remarks through the chair.

Senator KEMP—Those are the facts of the case. You referred to it as sloppy, but real action that has been taken. You would know, Senator Lundy, to be quite frank—

The PRESIDENT—Order! Minister, I did ask you to address your remarks through the chair, not to the senator.

Senator KEMP—Thank you for drawing my attention to that, Mr President. We are determined to get to the bottom of the latest series of allegations. These matters will be fully investigated.

Family Services: Carers

Senator LIGHTFOOT (2.44 p.m.)—My question is addressed to the Minister for Family and Community Services, Senator the Hon. Kay Patterson. Will the minister inform the Senate how the Howard government is recognising and assisting carers? Is the minister aware of any alternative policies?

Senator PATTERSON—I thank Senator Lightfoot for the opportunity to remind the Senate of the way in which the government has been assisting carers. Families with children and carers are the backbone of our community and we have given carers enormous assistance since we came into government. We now give $1.6 billion per annum, which is an 85 per cent increase since 1999. There are 81,000 Australians receiving carers
payment, which is about $800 million a year in benefits going to carers, the majority of whom are caring for people rather than being in the work force, and that carers payment is in recognition of the fact that they might otherwise be working. We provide carers allowance for about 290,000 customers, at a cost of about $760 million each year.

When you run the economy in a way that gives low interest rates and low inflation, and when you have paid back $70 billion of Labor’s debt and are saving almost $6 billion in interest, you can afford to pay a social dividend to those families and carers who are the backbone of our community. We were able to do that in this latest budget, with a provision of $461 million for carers. There has been a $255 million one-off lump sum payment provided in recognition of the tremendous work that carers do in our community, and by tomorrow the majority of those carers will have received those payments in their bank accounts. Carer payment recipients are currently receiving $1,000, and those on carer allowance are receiving $600 for each eligible person for whom they provide care. As I said, these payments are being made in recognition of the tremendous contribution that carers make to the community.

The carers legislation as it currently stands states that carers must co-reside to be eligible for the carers allowance. The Howard government recognise that this may restrict some carers from receiving this allowance so we announced in the budget that this legislation will be changed. This $106 million initiative will help more than 13,000 carers who provide substantial care to people who have a disability or who require care for at least a minimum of 20 hours a week. These people who do not reside with those for whom they care will now be eligible for carers allowance. The legislation change was to take place from 1 April 2005, but I am pleased to say that yesterday I made the announcement that this will be brought forward to 1 September this year. This has come about as a result of working with the department to ensure that we could roll this out faster. These are people who for many years have been caring for other people, and this measure will assist them and recognises the assistance they have been giving.

Some of the other major assistance measures in the budget are for young carers. There is a budget initiative that gives young carers, people as young as 12, 13 and 14 years of age who care for parents with a disability, respite care during school week and two weeks respite a year. We have also given assistance in the form of $72½ million to the states to help them to meet their responsibilities in giving accommodation to older carers, people in their 70s who are still caring for their sons and daughters, to give them respite for at least a month a year. What we want is for the states to come up to the plate and do their job and give accommodation to the sons and daughters of those older disabled people and also to ensure that they have respite. This is a huge package of half a billion dollars for carers. (Time expired)

**Sport: Drug Testing**

Senator ROBERT RAY (2.49 p.m)—My question is to Senator Kemp, the Minister for the Arts and Sport. Can the minister confirm that equine growth hormone is a schedule 4 poison and that its availability is limited for any use other than veterinary purposes under strict supervision? Is the minister aware that the World Anti-Doping Agency have described the current problems in Australia as the first occasion, to their knowledge, on which this highly dangerous drug has been used to dope an athlete or, possibly, athletes? Given the dangerous nature of this growth drug, has Cycling Australia, the Australian Sports Commission or the
minister’s own department referred this misuse to the relevant police for investigation?

Senator KEMP—I will check on the matter that Senator Ray has raised and provide him with information on whether it has been referred to the police.

Senator ROBERT RAY—Mr President, I ask a supplementary question. When the minister checks on that, would he keep in mind that I am talking about the illegal nature of the drug rather than the performance-enhancing matter, which is of course relevant to the Court of Arbitration for Sport. Will he himself look at the fact, not just his department, as to whether it should go to the police to see whether there is a case for investigation?

Senator KEMP—As I said, I will take that matter on notice and advise Senator Ray.

Attorney-General’s: Child Sexual Offences

Senator BARTLETT (2.50 p.m.)—My question is to the Minister for Justice and Customs, representing the Attorney-General. The minister would be aware of the recent arrests in South Australia of nine men on charges of child sex abuse crimes and that prosecution was only made possible because of the lifting in South Australia last year of the pre-1982 statute of limitations on the reporting of sex abuse crimes. Minister, given that for many victims of child sexual or physical abuse and assault, the expiry of limitation periods makes it impossible to seek legal remedies in the courts, what action has the federal government taken to compel the states to remove all statutes of limitations for child sex abuse offences in both criminal and civil law so that perpetrators cannot continue to evade prosecution by hiding behind limitation of actions provisions?

Senator ELLISON—Senator Bartlett raises a very important issue here in relation to paedophilia and offences against children. The Australian government have a strong record in relation to this very issue and it is one which we are pushing at the Australian Police Ministers Council in relation to a national child sex offenders register. I have to remind the Senate and those listening, however, that this is an area which involves state jurisdiction and that the Constitution limits the powers of the Australian government in what we can and cannot do. Where we can act, we have certainly brought in legislation which deals with those paedophiles and people who want to engage in this abhorrent activity—for instance, child sex tourism, where we have had successful action in relation to people and introduced very heavy penalties. I have mentioned the move towards a national child sex offenders register, and we will be introducing a bill dealing with child pornography and downloading that from the Internet and making that an offence which will carry a penalty of 10 years imprisonment. This is an issue which the Australian government takes seriously. In relation to the common-law reform and the civil jurisdiction, that of course is squarely within the state jurisdiction. In relation to offences, we have made it very clear to the states and territories that we believe that nothing should act as a bar to the prosecution of anyone for a child sex offence. We will continue to maintain that position and influence the states and territories in every way possible.

Senator BARTLETT—Mr President, I ask a supplementary question. Given that the minister has just stated that he will seek to influence the states in whatever way possible, what has this government specifically done, what specific action has it taken, to pressure the states to remove all statutes of limitations? Secondly, I ask the minister: given that the federal government does have this power, will the federal government establish a national royal commission into...
child sexual abuse in Australia, as urged by a Senate resolution of over 12 months ago?

Senator ELLISON—Senator Bartlett should well ask the state governments around this country as to what they are doing in relation to child abuse, because the departments that are primarily involved in this are departments in the state and territory jurisdiction. But I can tell you that a national commission will not be able to go into the aspect of state and territory jurisdiction. This would have to be something which would involve a compendious jurisdiction, which I have already mentioned is not available under the Constitution. What the Commonwealth is doing is acting where it constitutionally can, and we will continue to do so. Senator Bartlett mentioned in his earlier question: what are we going to do to ’compel’ the states and territories? We do not have that jurisdiction, but we will continue to impress upon them that we all have to address this in a whole-of-governments—that is, federal, state and territory—approach to the issue of child sex offenders. (Time expired)

Defence: Military Discipline

Senator MOORE (2.55 p.m.)—My question is to Senator Hill, Minister for Defence. I refer the minister to reports last month that Army personnel in Townsville had been found guilty of sadistically torturing animals. Further to his answer to my question on 11 May, can the minister update the Senate about what disciplinary action Defence has taken against the personnel involved in this horrid incident? What steps has the minister taken to ensure that appropriate action is taken against those individuals?

Senator HILL—I think I said on the last occasion that criminal action had been taken and that I anticipated that the Army would be taking administrative action as well. I understand the soldiers were issued with termination notices on 19 May and they have 28 days to respond to these notices. There is also then the possibility of an appeal process. The only thing that I did not mention that I think is relevant—and I would have like to have mentioned it on the last occasion, but now that I have been asked this question I will do so—is to remind honourable senators that the incident was actually discovered within the unit and when that discovery was made it was immediately referred to the Queensland police and the RSPCA so that the appropriate action could be taken by civil agencies. The point I am making is that the Army itself and the personnel within the Army were appalled by this type of conduct, and on their initiative the matter was reported to the police and criminal prosecutions followed, and now, as the Senate has been told, very serious administrative processes are being pursued.

Senator MOORE—Mr President, I ask a supplementary question. Is the minister aware of the depth of community feeling about the inadequacy of the perceived punishment that has been handed down to the individuals involved in the case? Does the minister share those concerns? Is the minister aware of reports of Australian soldiers being harassed on the streets as a result of this incident? Aren’t Australians entitled to expect that this sort of behaviour will not be tolerated in the Australian Defence Force?

Senator HILL—The inappropriate actions of a small group of soldiers should not tarnish the reputation of the rest of the Army, and that was the point that I was making. The fact that soldiers themselves, their colleagues, referred the matter to the police is indicative of how the Army as a whole regarded this particular behaviour. Are the penalties adequate? As I said, they were prosecuted in the civilian courts. They were fined $2,000 each and ordered to complete 100 hours of community service. It is true, I gather, that no conviction was recorded by
the court, but they were fined, they now have this very serious administrative process ahead of them and they are obviously very unpopular with their colleagues and very unpopular with the whole of community. 

(Time expired)

Taxation: Policy

Senator CHAPMAN (2.59 p.m.)—I direct my question to the Minister for Revenue and Assistant Treasurer. Will the minister inform the Senate of the benefits flowing to all Australians as a result of the Howard government’s tax reform initiatives? Has the government considered any alternative policy proposals?

Senator COONAN—I thank Senator Chapman for his question. It is true that Australian families, individuals and seniors at all income levels have benefited from this government’s continuing program of tax reform. Last week’s legislation to implement the personal tax cuts announced in the 2004-05 budget passed through parliament and will start to take effect from 1 July 2004. These tax cuts are the third stage in the ongoing structural reform of the personal income tax system. The combined effect of three stages of tax reform has been to deliver significant tax cuts to all Australian taxpayers. The most important thing about this government’s tax cuts is that they are paid for and delivered within a balanced budget.

In addition to these tax cuts, last week nearly two million Australian families received an increase of $600 in family tax benefit per annum for each child. For senior Australians the government provides substantial tax relief through the senior Australians tax offset, at a cost in the vicinity of $1.6 billion each year. Eligible single senior Australians can earn up to $20,500 and couples can earn up to $33,612 without paying any income tax or Medicare levy. As a result of these benefits many senior Australians do not even have to lodge a tax return.

I would also like to make this point about reducing personal income tax: there are some countries around the world that are reducing taxes, but they are not doing it on balanced budgets. The United States is one example. There are some countries around the world that are increasing taxes—the United Kingdom is one—while running budget deficits. But there are certainly not many countries around the world that are running budgets which are in surplus and reducing taxes, like Australia. Even within Australia there are many governments that are certainly not reducing taxes. I know of at least six states and two territories that take a very different view to the fact that their citizens need to have their taxes reduced.

In Australia at a national level we continue to wait with interest for the Australian Labor Party’s tax policy. So far it seems to be a hide-and-seek tax policy. The seek part of it is that Labor have so far indicated that their policy is going to give broad tax relief to everybody, it is going to fund an intergenerational fund, it is going to leave a bigger surplus, and somehow it is going to enable the Labor Party to spend more. The hide part of the hide-and-seek tax policy is that Labor will not say how they can pay for it, and they will not even subject their tax policy to scrutiny. They simply will not reveal what they propose for a tax policy. They do not have one. The Labor Party have not had a tax policy since 1993, when of course we can all remember the 1-a-w tax cuts promised and never delivered. Labor’s attitude to tax does
not add up. But what does add up, if you actually do the additions, is that Labor are very good at budget deficits, with $69 billion of deficits in Labor’s last five budgets.

It is clear that this government has a strong economic record and has delivered tax policies that give tax relief to all Australians and still help families, carers and the aged. It is only with good government and a strong economy that this government has been able to deliver tax cuts for all. *(Time expired)*

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

**QUESTIONS WITHOUT NOTICE:**
**TAKE NOTE OF ANSWERS**

**Sport: Drug Testing**

**Senator Faulkner** *(New South Wales—Leader of the Opposition in the Senate)* (3.04 p.m.)—I move:

That the Senate take note of the answers given by the Minister for the Arts and Sport (Senator Kemp) to questions without notice asked by Senators Faulkner, Lundy and Ray today relating to drug use in cycling at the Australian Institute of Sport.

Senator Kemp said in answer to a question I asked in question time that I should front up with the secret ‘evidence’ that, according to him, I apparently have. I want to say very clearly for the record that the speech that I gave in this chamber last Friday was based on the Court of Arbitration for Sport reasons for judgment, which would certainly be available to Senator Kemp if he bothered to ask for it. I also want to say that the minister is in a unique and privileged position to have access to masses of secret evidence, like the results of the entire investigation—it was not an independent investigation—that was carried out by the ASC appointed lawyer. So I think it is appropriate for me, in these circumstances, to call on Senator Kemp to front up with all that evidence that has not been made public. I ought to say that very concerned senior figures in the sports and sports administration area came to me late last week, as a former Australian sports minister, with serious concerns about a number of people in cycling and a number of events in cycling. I have said, essentially, that this flowed from the case heard by the Court of Arbitration for Sport which was decided on 8 June. Nothing has been done by anyone in authority since 8 June.

Of much greater concern, of course, is how this situation could have occurred. We have very serious allegations regarding more widespread use of banned drugs and we ought to place on record here that this represents a massive risk to Australia’s sporting credentials and our standing in the international community. I took the view, and so do many others in the sports community, that this is a matter we must sort out before we go to march around that stadium on 13 August in the opening ceremony in Athens. It must be sorted out before the Olympic Games. It must be sorted out before the cycling team is chosen. We would run a massive risk if those allegations were to remain under cover until the Olympics and then blow up. That would be something that no reasonable person would want to see and certainly no Australian would want to see.

What is required here—it is absolutely necessary—is an independent inquiry into these matters. We must have a credible and independent inquiry investigating all the allegations that arise from the findings of the Court of Arbitration for Sport. That is what is necessary. Those allegations and those issues must be dealt with. There is no alternative; these issues are of such a serious nature. I am very concerned about the role played here by the Australian Sports Commission, and the Australian Institute of Sport in particular as one of the programs of the ASC, because of how potentially damaging these allegations
are. The minister’s responsibility is clear: a credible and independent inquiry is required. I am disappointed that the minister has not announced that today. I hope he will be able to announce such an inquiry in the near future. Many in sport and sports administration in this country know that that is the only appropriate action. (Time expired)

Senator KEMP (Victoria—Minister for the Arts and Sport) (3.10 p.m.)—Senator Faulkner makes a number of points. It is true that these matters must be dealt with promptly, expeditiously and in a way which ensures there is public confidence in the way these latest allegations have been handled. I hope to announce in the very near future—

Senator Faulkner—Good.

Senator KEMP—an inquiry—I have already said that to you today. We would hope that these matters could be dealt with as promptly as possible. To have these slurs hanging over the heads of athletes is immensely damaging to the individuals in the cycling program and to Australian sport. This government has zero tolerance in relation to drug taking. This government, I believe, has taken very many important steps to continue the attack on drugs in sport. Senator Faulkner need have no worry about our determination to get to the bottom of this matter.

The way some of these matters have been raised is unfortunate. They have been raised in the sense that they are facts when they are not—they are allegations which have to be investigated. There are certain procedures that Senator Faulkner would know, as a former minister for sport, for accessing some of the confidential material that the Sports Commission can obtain from CAS. This does require, I am advised, in relation to certain material, approval of the parties involved through their lawyers. My view as sports minister is that the sooner this matter is resolved the better. It is very important that people have confidence in the way these matters are dealt with.

Perhaps a casual listener may be listening to this: there is an impression that nothing has been done. It is quite the contrary. There was an independent investigation at the start of this year. There was a case bought before CAS and, as I mentioned, three athletes have been dealt with. One has been suspended. In relation to the hearing before CAS, further allegations were made. I understand that some of these were quite specific in nature. These will have to be investigated as well. Senator Faulkner, it is rare that you and I are in agreement—it is very rare. But this matter has to be dealt with soon and in a way which ensures there is public confidence in the process so that we can find people who may be guilty or at least clear the innocent so they do not have to put up with these slurs that have been thrown around.

Senator LUNDY (Australian Capital Territory) (3.13 p.m.)—I would like to take this opportunity to refer to a number of statements that were made by Mr Mark Peters, the CEO of the Australian Sports Commission, in Senate estimates hearings in response to questions regarding investigations into the Mark French drugs case. In evidence, Mr Peters stated:

The recent delay is because CAS—the Court of Arbitration for Sport—has not been able to hold its hearing, and that is what we have been waiting for.

He also said:

CAS has informed us they cannot hear these issues.

He also said CAS:

... are stretched to the limit at the moment a la the French case. It has taken them some months to arrange a hearing.

I have here a letter from the Court of Arbitration for Sport in which they categorically
state that they do not accept that there has been any delay on the part of CAS or the arbitrator, Malcolm Holmes QC, in the matter of French and that the assertion that CAS has informed the Australian Sports Commission that it cannot hear doping related matters is incorrect.

This statement is supported by the following facts. The ASC and Cycling Australia first learned of the accusations against Mr French in early December 2003. However, it was not until 10 March, some 14 weeks later, that the application form was filed with the CAS registry. In this case, the parties were unable to agree on a choice of arbitrator within the time frame specified. As is normal practice, a directions hearing was held prior to the hearing of this matter. This was delayed due to the unavailability of one party’s lawyers. The parties could not agree on an expedited time frame in which to file and serve submissions and hold the hearing of the matter, and CAS has never informed the Australian Sports Commission or Mr Mark Peters that it is unable to hear matters such as these. In fact, 35 doping relating matters have been filed with CAS in Australia between 1996 and 2004. In other words, CAS directly contradicts the evidence provided by Mr Peters.

Given that CAS was obviously not the party at fault in these delays, as Mr Peters claimed, I ask for a truthful explanation behind these delays. I also wish to draw the Senate’s attention to a media statement from Steve Haynes AM, who was the inaugural head of the Australian Sports Drug Agency. In reference to Senator Faulkner’s statement to the Senate last Friday, Mr Haynes said:

Anyone who suggests that Senator Faulkner’s statement in the Senate was for any other reason than protecting the values of sport, particularly for future generations, should take the time to reflect on his numerous anti-doping achievements. During his time as Minister for Sport, Senator Faulkner did more to promote sport free from the scourge of drugs, both at a national and international level, than any other minister from any other country in the world. On more than one occasion he accused uncommitted sports administrators of robbing our athletes of the accolades they deserved but did not receive because of drug cheats.

It is always unpleasant to find any athlete guilty of a doping offence and it is always difficult to deal with these cases. However, dealing with these issues quickly and openly must always be the primary consideration. Getting tough on drugs in sport means that when required we face the difficulties associated with dealing with such issues rather than turn a blind eye. However, at best it is a blind eye that the Howard government has cast on this matter and at worst it has participated in an unforgivable cover-up, putting at risk the lives of athletes and Australia’s reputation. This is not the behaviour of a government tough on drugs. That is why Labor continues to call upon the Howard government to immediately initiate a transparent investigation completely independent of Cycling Australia, the AIS, the Australian Sports Commission and the department.

Senator HUMPHRIES (Australian Capital Territory) (3.17 p.m.)—I do not think anybody in this chamber would for one instant wish to perpetuate the situation of a cloud hanging over Australian sport because of the allegations which have been aired in this chamber last week and again this week. Nobody would wish to see the kinds of problems which are obviously being faced by Cycling Australia being perpetuated in an environment in which Australian sportsmen and women are very shortly to travel to Athens to represent this nation at the Olympic Games. I am certain that every member of the house is equally of the view that Australia’s reputation as a nation which does not
tolerate or condone the use of drugs in sport should be maintained and enhanced.

In these circumstances, it is extremely important that all of us cooperate to ensure that these allegations, having been raised, are properly, fully and fairly dealt with and that we take whatever steps we need to take to protect the reputation of Cycling Australia, Australian cyclists and Australian sport in general, particularly at the elite level, from the kind of damage which might be done if such allegations as those that have been raised were aired in any kind of irresponsible way. Obviously it is the right of members opposite to raise such allegations in these circumstances—

Senator Robert Ray—And they have been raised in a responsible way—and you know it!

Senator HUMPHRIES—and I accept that that is the case. I do want to make it clear, though, that we need to ensure that we do not sensationalise this issue, we do not jump to conclusions and we do not make assessments about the guilt or otherwise of parties involved in this exercise before the evidence is properly before us and the Australian community. Having noted the right of members opposite to raise such issues, I also think it is important for us to treat the processes for dealing with these issues, having been raised, with due respect and allow those processes to proceed.

The minister has made it clear already today in question time and subsequently that he expects to come back with an announcement about the appropriate way in which these matters should be investigated. I think that it behoves all of us to give those processes the chance to resolve the allegations that have been made to the satisfaction of all concerned. No-one would want to see a cover-up and no-one would want to see these allegations dealt with in anything less than a full and appropriate fashion, but none of us want to see the airing of such allegations detract from the efforts which not only cyclists but many other sportsmen and women are putting into their preparation for Athens. That is extremely important. It is important for us to support them in their preparation and not to undercut them.

Senator Faulkner said that this is a matter which we must sort out before the Olympics, and I fully agree. That means giving the inquiry process the clear air that it needs to do that. He also mentioned the massive risk which is faced by Australian sport, particularly Australian cycling, if this is not sorted out in that time frame. Nothing that the minister has said today suggests he is not completely aware of those circumstances and that risk. I heard Senator Lundy’s comments about the comments made by the director of the Australian Institute of Sport in the estimates committee and I know Senator Lundy has had some disagreement with Mr Peters in the past about a range of matters. Whatever institutional view one might take about the AIS or Mr Peters, it is important, as I said before, to let these allegations be properly examined. I am confident based on what the minister has said that that is going to occur.

This government has a clearly defined and well-supported policy of support for rooting out the use of drugs in sport. Only a couple of years ago the Compliance with Commitments Project of the Anti-Doping Convention issued a report in which it said:

In many respects and areas, the measures introduced by the relevant Australian body have been groundbreaking innovations. In many fields, these and other measures are now regarded as amongst the best of their kind. Australia can certainly claim to have one of the most, if not the most, rigorous anti-doping policy and programmes in the world.

Against that background, we should let these allegations be checked and investigated and
not jump to any conclusions before that process is complete.

Senator ROBERT RAY (3.22 p.m.)—Today I asked Senator Kemp, the minister for sport, whether equine growth hormones were a schedule 4 poison. He could not tell me; he took it on notice. I then asked him whether the world anti-doping body had indicated over the weekend that this was the first time they thought there was an allegation that athletes had taken this particular performance enhancing drug. He did not know and had to take it on notice. Finally, I asked whether Cycling Australia, his own department or the Australian Sports Commission had referred this matter to the police—that is, the use of an illegal substance rather than the performance enhancing aspect of it. Again, he had to take it on notice.

He made reference today to making a statement but did not indicate to this chamber when it would be. We have got no idea. Is he going to do it later today, tomorrow, later in the week or in a month’s time? We have no indication whatsoever. That is what worries me the most about this issue. It is not that Senator Kemp’s intentions are bad; I would never make that particular accusation when it comes to drugs in sport. It is the indolence, the lack of effort. This is an issue that now requires the minister to intervene with maximum force, not to just sit back and wait for departmental advice and then put out a nice statement in a few days time. This needs the minister to roll his sleeves up and get into it, because the clock is ticking. We are less than two months away from the start of the games in Athens, and that is the crucial issue.

Why do we regard this issue as serious? We regard it as serious because of our general position, but I also regard it as absolutely keeping the faith with those Australian athletes who, over the years at world championships and Olympics, have been betrayed by other countries who have either sponsored or allowed the use of performance enhancing drugs to continue. Australian cyclists won three silver medals in Munich and four in Barcelona. I would like to think that in each one of those seven cases those people were second-best in the world and that they had not been duded by people who had taken performance enhancing drugs. It would be a terrible thing to go through your life not knowing whether you were the best in the world or not, whether a gold medal should have been yours. On the whole and on balance, even though on occasions Australia has had to suspend people for taking performance enhancing drugs, we have much more often been the victim. Australian sport has traditionally been, drugs wise, far cleaner than many comparable countries.

I look at US athletics at the moment and the problems they have gone through in the last five years—the problems of cover-up, of people taking these things and going to the Sydney Olympics even though authorities knew they had been involved in unsavoury practices. We do not want to move into that area. I really wonder, firstly, why there was no independent investigation of the French matters when they first came to attention. That is when the independent inquiry should have occurred: straightaway. Secondly, when the matter was to go to the Court of Arbitration for Sport, why was the non-urgent box ticked? Was it ticked because they did not think French was a prospect for the Olympic team? Surely, this should have been resolved urgently. Thirdly, when evidence came forth from French that other people had injected themselves with either legal or illegal substances—let us not have closed minds on that at this stage—why was there not an immediate, on-the-spot, independent investigation? Why did it have to wait until Friday night for
Senator Faulkner to properly air these matters before we got some action on them?

We have not had an indication from the minister as to whether he knew about this prior to Friday. He said today that we should pass over the names. There is no way this opposition is going to get into naming names on this, because that would be most unfair to the individuals. It is slightly unfair to the rest of the team now that they may be under suspicion. That can be remedied by an immediate investigation. In closing, I have listened to the weasel words coming from Cycling Australia and from the Australian Sports Commission. They should be condemned for their weakness on this and for trying to move the blame on to others, including Senator Faulkner. All I can say is thank heavens for Senator Faulkner and thank heavens for John Coates and the very positive role this great leader in world sport has taken.

(The time expired)

Question agreed to.

Attorney-General’s: Child Sexual Offences

Senator BARTLETT (3.27 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Justice and Customs (Senator Ellison) to a question without notice asked by Senator Bartlett today relating to child sexual abuse.

That minister’s answer sadly, but perhaps not surprisingly, was grossly inadequate. I certainly do not in any way accuse the minister of not being genuine in his concern about child sexual abuse, but the fact is that there is more that this federal government can do. I have to say that I am getting very tired of the general response to a lot of national issues from this government—that being to blame the states. Sure, there is more that state governments can do, but to simply say, ‘We do not have the power,’ and, ‘It is up to them,’ and, ‘The Constitution limits us,’ is squibbing what is a crucial matter.

I do not dispute that there are constitutional impediments to the federal government in this area. Of course the federal government cannot unilaterally make the states change all their laws and reduce or remove the statute of limitations for child sexual abuse issues. But there are any number of levers and mechanisms that this federal government now has at its disposal to force or, at a minimum, strongly pressure state governments to act in this area. The fact that the federal government controls the purse strings in a whole range of areas is in itself quite a sufficient mechanism to require and ensure action in particular areas if it is serious enough. The Democrats’ view is that this issue is more than serious enough to require that sort of action.

I do acknowledge the minister’s statement that the government is setting up a national child sex offenders register. That is good—overdue, but welcome. The key issue of the statutes of limitations for child sexual abuse matters is one of the major impediments to bringing perpetrators of child abuse to justice. South Australia has removed the statute of limitations on the reporting of child sex abuse crimes—that is a start—but it has not removed all of the statutes of limitations. Other states are further behind. The actions in South Australia are welcome.

I should say, whilst addressing the topic, that the very overdue apology by the Anglican Church in Adelaide is a very good apology, and a very strong one. As someone who was very critical of Peter Hollingworth over this issue at the national level, when he was Governor-General, I must also be critical of Archbishop Ian George in this matter. He is somebody for whom I have had a lot of time in terms of his approach on issues like refugees and other social justice matters.
actions he has taken—or inactions—in this area are a big disappointment to me. To be consistent, I should be clearly on the record criticising both people. I commend, in particular, the couple of Anglican priests in Adelaide who eventually, after many attempts to get action through what might be called the proper process and the right channels, were forced to basically become whistleblowers. Their courage set in train the action that has finally led to some justice for some people—to at least some recognition of, and willingness to address, some of these crimes and to what seems to me a strong apology from the archdiocese. Within that apology the archdiocese specifically admits and concedes that it actually impeded people seeking justice.

We cannot rely on each individual organisation, on each individual diocese in each individual city, or on any other institution to address these issues as each allegation comes up. We need a national approach. We cannot even leave it to a state by state approach. The federal government does have the power to do more than it is doing. It has the opportunity to show leadership and it is failing to do so adequately. This is an issue of immense public concern. It costs our entire nation enormously in lost human potential, extreme human suffering and economically. We need to be doing a lot more at the national level. The Democrats certainly will keep the pressure on to make that happen.

Question agreed to.

PETITIONS

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

Media: Content

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

The Petition of the undersigned shows in view of slanderous and offensive statements appearing in the mass media we the undersigned would like the following statement to be read in the Senate:

“That slanderous, defamatory and offensive statements, oral or in writing, made about a community or a Nation or its Armed Forces, which are untrue and unsubstantiated are unacceptable, offensive and must not be made.”

Your Petitioners therefore request that the Senate should request the Federal Commissioner of the Human Rights and Equal Opportunity Commission to exercise his powers to stop such mass media publications, oral or in writing or in electronic media, to be made in the future.

by Senator Humphries (from 652 citizens).

Petition received.

NOTICES

Presentation

Senator Ridgeway to move on the next day of sitting:

That the Senate—

(a) congratulates Anangu Tours, an Aboriginal-owned tourist operation based at Uluru, who won the 2004 National Geographic world legacy heritage tourism award;

(b) notes that Anangu Tours has previously won Australian tourism awards for both Indigenous tourism and for heritage and culture and has been inducted into the Tourism Hall of Fame;

(c) notes also that Anangu Tours provides employment and training for local Anangu people and economic development for local communities; and

(d) calls on the Government to acknowledge the vital role these types of companies play in remote Australia and to honour the assurances given by the Minister for Small Business and Tourism (Mr Hockey) in the process of approving the Tourism Australia Bill 2004, to commit to the development and promotion of Indigenous tourism through its new body, Tourism Australia.

Senator Ridgeway to move on the next day of sitting:
That the Senate—
(a) notes with sadness the passing on 26 May 2004 of senior Wangurri elder and cultural leader, Mr Djerrkura;
(b) pays tribute to Mr Djerrkura as an advocate of economic development through his leadership of Yirrkala Business Enterprises which operated independently, providing employment and training to local Aboriginal people;
(c) notes that he was awarded the Order of Australia in 1984 and was involved in the following official positions during his life:
(i) Chairman of the Aboriginal and Torres Strait Islander Commission (ATSIC) Board of Commissioners,
(ii) Chairman of the Batchelor Institute of Indigenous Tertiary Education,
(iii) Chairman of ATSIC Commercial Development Corporation,
(iv) Northern Territory North Zone ATSIC Commissioner,
(v) Chairperson of the Miwatj Provincial Governing Council,
(vi) Director of the Board of the Indigenous Land Corporation,
(vii) board member of the Council for Aboriginal Reconciliation, and
(viii) board member of the National Australia Day Council;
as well as other key positions in Aboriginal organisations and in the former Department of Aboriginal Affairs; and
(d) acknowledges his outstanding contribution to public life in Australia, his cultural leadership and his work in trying to build bridges between Indigenous people and other Australians.

Senator Cherry to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) on 15 January 2004, 220 members of the British House of Commons and 85 members of the House of Lords issued a joint statement supporting the removal of the terrorist tag from the People's Mojahedin Organisation of Iran (PMOI), recognising that the POMI was ‘an essential part of the drive to halt the advance of fundamentalism in Iraq and the region’,
(ii) the British parliamentarians expressed the opinion that the deportation of any POMI members from Iraq would be contrary to international law,
(iii) on 8 June 2004, the majority of the Belgian Senate, by way of a statement signed by 41 senators, called on the European Union to remove the POMI from its list of terrorist organisations, and
(iv) on 10 June 2004, a majority of members of the Parliament of Luxembourg, in an all-party joint statement, called on the European Union to removed the POMI from its list of terrorist organisations; and
(b) calls on the Australian Government to:
(i) acknowledge the important role that the POMI has to play in halting the advance of fundamentalism in Iraq and the region,
(ii) call on the European Union, the United Kingdom and the United States of America to remove the POMI from their terrorist lists,
(iii) remove the POMI and its affiliate organisations from the Charter of the United Nations (Anti-terrorism—Persons and Entities) List, and
(iv) express its strong opposition to the decision of the Iraqi Governing Council to expel POMI members from Iraq, which would constitute a breach of international law and the Fourth Geneva Convention.

Senator Allison to move on the next day of sitting:
That the Environment, Communications, Information Technology and the Arts Legislation Committee whose recent examination of
estimates have been affected by the Government’s Energy White Paper reconvene during the first week of August 2004 to further consider the 2004-05 Budget estimates and report by 12 August 2004.

Senator Crossin to move on the next day of sitting:

That the Standing Committee for the Scrutiny of Bills be authorised to hold public meetings to take evidence for the committee’s inquiry into entry, search and seizure provisions in Commonwealth legislation.

Senator Brown to move on the next day of sitting:

That the Senate—
(a) notes the Government’s decision to implement a judicial review of the lease arrangements of Centenary House, as called for by an order of the Senate of 4 March 2004; and
(b) calls on the Government to act on other, more long-standing Senate resolutions calling for inquiries, namely:
(i) the order of the Senate of 15 May 2003 urging the establishment of a Royal Commission into child sexual abuse in Australia, and
(ii) the order of the Senate of 16 October 2003 calling for the establishment of a judicial inquiry into all aspects of the People Smuggling Disruption Program operated by the Commonwealth Government and agencies and, in particular, issues surrounding the sinking of the boat known as the SIEV X, with the loss of 353 lives.

Postponement

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Ridgeway for today, relating to the disallowance of the Lands Acquisition Amendment Regulations 2004, postponed till 23 June 2004.

Government business notice of motion no. 2 standing in the name of the Minister for Defence (Senator Hill) for today, relating to a proposal for capital works in the parliamentary zone, postponed till 24 June 2004.

Senator ALLISON (Victoria) (3.35 p.m.)—by leave—I move:

That general business notice of motion no. 898 standing in my name for today, proposing that certain legislation committees reconvene to further consider the 2004-05 Budget estimates, be postponed till the next day of sitting.

Question agreed to.

Withdrawal

Senator BROWN (Tasmania) (3.35 p.m.)—I withdraw general business notice of motion No. 908 standing in my name.

COMMITTEES

Free Trade Agreement Committee

Extension of Time

Senator MACKAY (Tasmania) (3.35 p.m.)—On behalf of Senator Cook, I move:

That the time for the presentation of the interim report of the Select Committee on the Free Trade Agreement between Australia and the United States of America be extended to 24 June 2004.
Foreign Affairs, Defence and Trade References Committee

Extension of Time

Senator MACKAY (Tasmania) (3.35 p.m.)—On behalf of Senator Hutchins, I move:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the performance of government agencies in the assessment and dissemination of security threats in South East Asia in the period 11 September 2001 to 12 October 2002 be extended to 5 August 2004.

Question agreed to.

PARLIAMENTARY FORUM ON RENEWABLE ENERGIES

Senator BROWN (Tasmania) (3.37 p.m.)—I move:

That the Senate—

(a) notes that 310 parliamentarians from 67 countries, including Australia, attended the international Parliamentary Forum on Renewable Energies in Bonn, Germany on 2 June 2004;

(b) notes the resolution adopted by the forum, which called for the shift to renewable energy and energy efficiency to be a key political priority in parliaments around the world and included:

(i) support for the establishment of an International Renewable Energy Agency as an intergovernmental organisation which governments could join at any time,

(ii) encouragement for countries that have not yet ratified the Kyoto Protocol to do so,

(iii) recognition that legislation is needed to develop the full potential of renewable energy, and

(iv) recognition that renewable energy can make a major contribution to overcoming economic disparities in many countries and in the global economy; and

(c) calls on the Australian Government to endorse the resolution of the Parliamentary Forum on Renewable Energies and to implement the measures it recommends.

Question agreed to.

HEALTH: INEQUITIES

Senator ALLISON (Victoria) (3.38 p.m.)—I move:

That the Senate—

(a) notes that:

(i) despite an overall improvement in average health status, trends in health statistics associated with the distribution of social, economic and cultural opportunities are worsening both within and between countries, and

(ii) widening inequalities are a barrier to Australia’s future social, economic and cultural development and that persistent coexistence of material poverty and cultural alienation in Australia poses an accumulating social risk; and

(b) calls on the Government to adopt the recommendations of the Public Health Association of Australia, and in particular to:

(i) give priority across government agencies to reducing socio-economically related health inequalities as a national goal,

(ii) provide health impact statements as part of the development of all major policies, whether economic, environmental or social in focus, and

(iii) provide funding through the National Health and Medical Research Council for research into health inequities and their socio-economic determinants.

Question agreed to.
INDIGENOUS AFFAIRS: LANDS ACQUISITION AMENDMENT REGULATIONS 2004

Senator RIDGEWAY (New South Wales) (3.38 p.m.)—I move:

That there be laid on the table by the Minister for Immigration and Multicultural and Indigenous Affairs, no later than 3 pm on 23 June 2004, the following documents relating to the Lands Acquisition Amendment Regulations 2004 (No. 2), as contained in Statutory Rules 2004 No. 82 and made under the Lands Acquisition Act 1989:

(a) any documents relating to the making of the relevant amendments to the Lands Acquisition Regulations 1989;

(b) any advice provided in relation to the decision to make the relevant amendments to the Lands Acquisition Regulations 1989;

(c) any advice provided in relation to the continued government control of title currently held by Indigenous people through the Aboriginal and Torres Strait Islander Commission (ATSIC) after ATSIC is abolished by legislation; and

(d) any other advice relating to the decision to make the relevant amendments.

Question agreed to.

PARLIAMENTARY SERVICE AMENDMENT BILL 2004

First Reading

The PRESIDENT (3.39 p.m.)—I move:

That the following bill be introduced:

A Bill for an Act to amend the Parliamentary Service Act 1999, and for related purposes.

Question agreed to.

The PRESIDENT (3.39 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

The PRESIDENT (3.39 p.m.)—I table the explanatory memorandum relating to the bill and 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—

PARLIAMENTARY SERVICE AMENDMENT BILL 2004

The bill I have just presented will amend the Parliamentary Service Act 1999 by providing for the creation of a statutory position of Parliamentary Librarian. It is a significant development in Parliamentary administration.

On 24 March 2004 the Speaker of the House of Representatives and I announced our intention to introduce such a bill.

Honourable Senators will recall resolutions of both Chambers in August 2003 to abolish the three joint Parliamentary departments and replace them with a new Department of Parliamentary Services. This was one of the key recommendations made by the Parliamentary Service Commissioner, Mr Andrew Podger AO, following his review of Parliamentary administration in 2002.

Another key recommendation was the creation of a statutory office of Parliamentary Librarian.

In the August resolutions, the Senate and the House expressed their support for the Presiding Officers in bringing forward amendments to the Act to provide for a statutory position of Parliamentary Librarian within the new joint department and conferring on the Parliamentary Librarian direct reporting responsibilities to the Presiding Officers and to the Library Committees of both Houses of Parliament.

This bill contains those amendments.

A focus of the bill is to protect the independent provision of library services to the Parliament. Throughout the history of the Parliament that independence has been central to the Parliamentary Library’s contributions to the deliberations of
the Parliament. It will be guaranteed by the package of amendments in this bill.

The continued independence of the Parliamentary Librarian is established by the legislative requirement that the Parliamentary Librarian’s functions must be performed in a timely, impartial and confidential manner and on the basis of equality of access for all Senators and Members.

The independence is reinforced by the need for the Parliamentary Librarian to have professional qualifications in librarianship or information management.

The independence is further underpinned by the direct reporting lines between the Parliamentary Librarian and the Presiding Officers and the Library Committees.

The appointment and termination provisions for the Parliamentary Librarian largely mirror those applying to the Secretary of the Department of Parliamentary Services. This ensures that, although the Parliamentary Librarian is within the joint Department, the Presiding Officers, rather than the Secretary of that Department, retain the final say in the appointment and termination of the Parliamentary Librarian.

These are new arrangements which, as a package, ensure the independence into the future of the Parliamentary Librarian and his or her important functions.

The bill provides that the Library Committee will have a significant role in advising the Presiding Officers on the resource agreement between the Parliamentary Librarian and the Secretary of the Department of Parliamentary Services. As well, the Parliamentary Librarian will report to the Library Committee at least once a year.

Honourable Senators, this bill is an important one for the Parliament and for parliamentary democracy in Australia. It goes to the provision and analysis of information for Senators and Members, which is the lifeblood of Parliamentary debate.

It answers the call of both Chambers to create an independent statutory position of Parliamentary Librarian. By ensuring that independence, this bill should help all of us better to perform our parliamentary and representational duties.

I commend the bill to the Senate.

Debate (on motion by Senator Mackay) adjourned.

MINISTER FOR DEFENCE

Censure Motion

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.40 p.m.)—I seek leave to bring forward for debate general business notice of motion No. 907, which stands in my name and in the names of the Leader of the Australian Democrats, Senator Bartlett, and Senator Brown. It is a motion to censure the Minister for Defence. I seek to do that to obviate the necessity for a motion to suspend standing orders. I understand that, while the censure motion may not be agreed on, the process is agreed.

Leave granted.

The PRESIDENT—Senator Faulkner, 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 clock accordingly.

Senator FAULKNER—I move:

That the Senate censures the Minister for Defence (Senator Hill) for his:

(a) failure to take seriously and respond adequately to the reports of abuse of Iraqi prisoners by United States of America personnel, including reports in June and July 2003 of concerns raised by Amnesty International;

(b) failure to acknowledge Australia’s legal and moral obligations to Iraqi prisoners in general and those captured by Australian forces in particular, noting that it is a crime under the Rome Statute of the International Criminal Court (to which Australia is a signatory) to commit outrages upon the personal dignity of prisoners;
(c) failure to take his accountability responsibilities seriously; and

(d) failure to correct the serious communications problems within Defence and between Defence and his office, which were revealed by the 'Children Overboard' affair.

Senator Hill’s handling of the prisoner abuse issue has been a disgrace. His handling deserves not just censure but sacking by the Prime Minister. He has failed consistently to take seriously and to respond adequately to the multiple reports of prisoner abuse going right back to June last year, when concerns raised by Amnesty International were first reported back to Canberra. He has failed to uphold or even acknowledge Australia’s responsibilities not just to those Iraqis captured by Australian forces but to Iraqi detainees more generally. He has made a joke of the concept of ministerial responsibility and he has been just plain incompetent in failing to deal with the communication problems in Defence that he undertook to fix and rectify in the wake of the children overboard scandal. Not only have these failures occurred on Senator Hill’s watch; he is still to offer a satisfactory explanation for them.

The only response we have had from Senator Hill and his colleagues is their vociferous and self-righteous defence of the Australian forces in Iraq, a defence against allegations that have never been made. We have never said or alleged that Australian forces have been involved in the abuse of prisoners in Iraq. There is nothing to justify such an allegation. The opposition do not and will not make any such accusation, but the reason I find it necessary to issue such a denial yet again is the government’s persistent dishonesty in deliberately behaving as though we have made such an accusation. They insist on putting up this straw man again and again and knocking it down again and again, when it is clear to everyone that it is a complete fabrication. It is obvious that the Prime Minister and his minions have issued instructions that, whenever the prisoner abuse issue is raised, ministers are to react by expressing outrage that anyone has dared to smear the good name of Aussie troops. If you doubt this, I invite you to listen to Senator Hill’s contribution when he takes the floor in a few minutes to speak on this censure motion. No doubt we will hear it again.

Throughout this prisoner abuse outrage Senator Hill has shown that he does not get it. He does not understand what all the fuss is about. There he was, on television yesterday morning, accepting responsibility—but responsibility for what? According to Senator Hill the government has made only one mistake throughout this whole saga—that is, that Senator Hill, the Prime Minister, the Chief of the Defence Force and the Secretary of Defence stated publicly that the reports of prisoner abuse had not come to Defence’s attention before January of this year, when they had. The abuses were reported by Amnesty International in June and July last year. They were reported by the Red Cross in October and November last year, and again in February this year. And reports of prisoner abuse were referred to in at least 25 situation reports to Canberra from Australian officials in Iraq.

Of itself that is a very serious mistake. It is massively misleading. Normally when a prime minister and ministers mislead parliament and the public there are severe consequences—somebody has to take the rap for misleading—but under Mr Howard ministerial responsibility is not what it used to be. Ministers are no longer responsible for the mistakes of their departments. They are not even responsible now for their own mistakes. It is apparently sufficient to mutter through gritted teeth—as we have seen Senator Hill do—a few words of regret and then move on to the next issue. In the view of the opposi-
tion, the misleading of parliament and the public is a serious matter, as is the failure to accept responsibility. But just as serious is Senator Hill’s and the government’s attitude to prisoner abuse. Their response on this has been hopelessly inadequate. It is as if, deep down, they regard such treatment of prisoners as the inevitable consequence of the war they have so foolishly taken us into: something to be regretted, certainly—especially when it is exposed to the public eye—but something that, in normal circumstances, when it happens behind closed doors, one would turn a blind eye to.

Was Piers Akerman speaking on behalf of the Howard government again yesterday, as he so often does, when he questioned why everyone was making such a fuss just because the interrogation of Iraqi prisoners was not up to, in his words, ‘boy scout standards’? If the interrogators had managed to extract useful intelligence then, according to Akerman, good luck to them. Such an attitude is outrageous. It is insidious and it is reprehensible. Let us just remind ourselves what we are dealing with. We are talking about torture. We are talking about turning dogs on naked, defenceless human beings. We are talking about brutal, inhuman, degrading treatment that flouts every relevant legal convention and standard—and we are talking about murder. These are heinous crimes and they were not confined to a couple of cell blocks at Abu Ghraib prison; similar abuses took place at Camp Cropper.

In relation to Abu Ghraib the abuses appear to have flourished under the regime of Major General Miller. He was sent to Baghdad because the methods he had employed at his most recent posting were regarded as having been very successful. His last posting was to Guantanamo Bay, so not surprisingly that has raised concerns about the treatment of detainees there as well. We are not just dealing with a couple of isolated incidents of abuse that happen to have been recorded on camera. It is critically important that the inquiry that has been instituted by the United States government gets to the bottom of these abuses: their extent, their cause, those who were responsible for committing them and those responsible for condoning and encouraging them.

We have seen massive failures on the part of our government in this situation. You have to look at so many issues here. Look, for example, at Senator Hill’s failure to take seriously and respond adequately to the Iraqi prisoner abuse revelations. The opposition believes there has been a gross failure by Senator Hill and the government to honour their obligations, under the Geneva conventions and the other relevant international instruments, towards Iraqi detainees in general and those captured by Australian forces in particular. That is the situation we face in relation to this censure motion.

I also want to talk about Senator Hill’s failure to discharge his accountability responsibilities. We have a situation where Senator Hill basically says, ‘The buck will never stop with me.’ He says, as a minister, that he will never accept responsibility. But the fact is that the buck has not stopped anywhere. The minister has still not explained how he reconciles the Prime Minister’s code of conduct with his failure, and that of his senior officials, over a period of 1½ days of questioning before a Senate estimates committee, to correct the record.

The Prime Minister’s code of conduct is clear. It requires that:

Ministers must be honest in their public dealings and should not intentionally mislead the Parliament or the public. Any misconception caused inadvertently should be corrected at the earliest opportunity.

That is Minister Hill’s obligation under the Prime Minister’s admittedly discredited code
of ministerial responsibility. That is the minister’s obligation. Yet we know from evidence provided by Senator Hill, by the Secretary of the Department of Defence, Mr Smith, and by General Cosgrove that by the evening of Sunday, 30 May they had all realised that Defence had indeed had access to reports of prisoner abuse at Abu Ghraib well before January this year. We know that Mr Smith and General Cosgrove had, in written briefs, informed the minister of these concerns. All three knew on Sunday, 30 May—this had been identified on that weekend. A formal brief had gone to Minister Hill and on that weekend all three knew, as did the Prime Minister, that the statement that had been issued the previous Friday in the name of Mr Smith and the name of General Cosgrove was incorrect in several particulars. That statement was wrong. So why then did Senator Hill ignore the very clear requirement in the ministerial code of conduct to correct the record ‘at the earliest opportunity’? Why did he ignore that responsibility? Why did he allow those mistakes and those misconceptions to stay on the public record at a time of intense public interest while the Senate estimates committee was in session for a day and a half?

I think I know the answer to that question. It has become pretty obvious why Senator Hill did not correct the record at the earliest opportunity, as he is obligated to do. He just took the view that if the Senate committee wanted to get the truth they would have to work for it and that if the Senate committee wanted to get to the bottom of this they would have to ask the right questions. He was never going to front up with the information. He was never going to tell the whole truth about these issues. He put all the onus on non-government senators to ask the right questions at that Senate estimates committee and, hopefully, if the right questions were asked—and they were—the truth would be winkled out. There is no explanation for this except for a contempt of the parliament by Senator Hill, and I say that Senator Hill is deserving of censure for that alone.

Senator Hill is demonstrating this same attitude in his approach to the report of the Defence task force. Dozens of Defence officials were working 24 hours a day for two weeks to turn up every relevant record relating to the abuse of Iraqi prisoners and they pieced together, I think, a comprehensive picture of who knew what, when they knew it and what action, if any, was taken as a consequence. They also specifically dealt with issues arising from the Senate estimates hearings. They produced a report of at least 61 pages in length with annexures equivalent to the size of nine Sydney telephone directories. What did Senator Hill do? He withheld that report on the basis that it was classified, apparently, and in its place he and his staff—not the department or the Defence Force—drafted a 5½-page statement to the Senate with three attached tables. He believes this discharges his obligation to provide an explanation to the Senate. Again he is showing contempt for the parliament and he is showing contempt for the public. Again I say, as would any reasonable person, this warrants censure.

In my speech to the Senate last Wednesday in response to Senator Hill’s so-called explanatory statement, I drew attention to his press release of 22 October 2002 claiming that confusion surrounding the ‘children overboard’ incident led to inaccurate information being given to the government. He said he had instructed Defence:

- to move quickly to ... ensure there is no repeat of the communication problems experienced ...
- He claimed to have already ensured:
- a clearer understanding of the incident reporting requirements through the chain of command and
the passing of such information to the Minister’s office.
I quote him again:
Ministers and decision makers within Defence
must be confident that the information they are
acting on is delivered in a timely and accurate
manner ...
He also accepted, and these are his words:
responsibility to ensure there are clear lines of
communication between the Minister’s office and
Defence.
When he was asked yesterday to explain why
after 20 months the same problems that he
had identified as giving rise to the ‘children
overboard’ scandal were still evident, he did
not have an answer—just a bit of dissem-
bling; just one further communication fail-
ure. That is the sort of response you get from
this minister. Here is a minister who under-
took to fix those problems 20 months ago
and who has quite patently failed in that task.

This case goes beyond a case for censure.
If Minister Hill had a shred of decency and
any respect at all for the conventions of min-
isterial responsibility, he would have re-
signed by now.

Opposition senators interjecting—

Senator FAULKNER—But—of course,
you are right—he has not got that sort of
respect for the conventions of ministerial
responsibility. We may not be able to force
Senator Hill to resign, but we are able to
censure him. I cannot think of a more war-
tanted censure motion. I cannot think of a
stronger case for censure in the 15 years that
I have been in the Senate. Censure is not a
strong enough sanction for Senator Hill. His
resignation should follow. He should walk
the walk to Mr Howard’s office and resign as
Minister for Defence. He has palpably failed.
Censure is not enough; resignation is appro-
priate. I commend the motion to the Senate.

Senator HILL (South Australia—
Minister for Defence) (4.01 p.m.)—One
thing certain with censures in the Senate
these days is that the government will lose,
and probably just as certain in the House of
Representatives is that the government will
win. The formal nature of the process was
demonstrated by the opposition and the
Greens giving notice of this motion last Fri-
day. Over the weekend, it was found that
Senator Bartlett had forgotten to be involved,
so the motion had to be redrawn for today. If
it were urgent, it would have been brought
on this morning or in question time or im-
mediately after question time—it was not.
I was first attacked on these issues on
11 May. It has taken until the last week of the
sittings, 21 June, for Labor, the Greens and
finally Senator Bartlett to get sufficiently
enraged to move this motion. But I guess if
the opposition abandons its opportunity to
scrutinise a budget the size and complexity
of Defence’s in the estimates it needs to jus-
tify its tactics. Anyway, it is three months
since I was last censured in the Senate, so I
guess I should not complain.
The tactics of Labor are interesting. Why
pick an issue that was not Australia’s issue—
certainly not in any primary sense? Austra-
lians did not administer the prisons. Austra-
lians did not provide the guards, military
police—civilian or any others. Australians
did not provide the interrogators. Australians
did not interrogate the prisoners that were
abused. Australia was not an occupying
power during the relevant periods, and Aus-
tralia did not detain prisoners. Where Austra-
lia was associated with the capture of prison-
ers, my consistent advice has been that they
were to be detained by the United States.
That was sensible because the United States
had the facilities to hold them—we did not.
And, unlike Labor, we had and still have
confidence in the values of the United States
and of its military. It was a sensible, practical
arrangement.
Maybe it is the innate anti-Americanism of modern day Labor, taken to new heights by its leader, Mr Latham, that is driving these tactics. No Labor leader has been so personally offensive towards the leader of a great and ally of Australia’s than has Mr Latham. Who will ever forget these words used by Mr Latham:

Bush himself is the most incompetent and dangerous president in living memory.

Imagine what it would be like if an American politician said that sort of thing about an Australian leader. You can also see the anti-Americanism in the first charge that is before us today: ‘failure to take seriously and respond adequately to the reports of abuse of Iraqi prisoners by United States of America personnel’. There are British forces on charge, but the Labor Party never attack Prime Minister Blair. Maybe it was the diversion they desired from a national security policy of isolation and retreat, which must appal all ordinary Australians.

Labor opposed the removal by force of Saddam Hussein—one of the worst and most cruel of modern dictators. He is someone who ran real torture chambers as an apparatus of state; someone who is believed to be responsible for the deaths of maybe 300,000 innocent people; someone who bombed his own people with chemical weapons—men, women and children; someone who invaded his neighbours and butchered innocent Kuwaitis; someone who was a menace to international peace and security; and someone who failed to accept the obligation that he satisfy the international community and destroy his weapons of mass destruction. Even more amazing is a Labor Party that says that it is not our responsibility to help the Iraqis in stabilising and rebuilding the country, and transferring it to a sovereign government.

Labor gives me a lecture on not taking the allegations against the United States seriously and in a second charge of my failing to acknowledge our moral obligations, but it will not accept the most basic responsibility itself—that is, to help someone in need. Whom does Labor expect to do this work—the heavy lifting to help the new government in Iraq in providing security so that ordinary Iraqis can have some hope for the future—presumably a coalition of others led by the United States of America?

The United States has led this coalition at great cost, with over 800 dead. Yet there has been no acknowledgment by Labor of the huge challenge and difficulties the United States has faced—no support and little sympathy, just criticism. And then there is the awful message that cut-and-run sends to terrorists targeting the United States, the British and those brave Iraqis trying to establish a new order of democracy, tolerance and respect for human rights. Insurgents do not blow themselves up; fanatics blow themselves up. For the same reasons that they attacked the United States on September 11 and they attacked Indonesians and Australians in Bali, they are attacking Iraq today. What would Labor do? They would have us turn our backs on our friends—old friends and new friends. If I were Labor and these were my policies I would be looking for a diversion. For a while Labor were determined to implicate the ADF in the prisoner abuse scandal: ‘Tut-tut,’ said the journalists, ‘Labor would not do that.’ But Senator Evans said it all on the ABC. Labor do not want it repeated, but I will remind the Senate what he said:

They—that is, the Australian government—weren’t interested, so they did not get the answers that revealed the involvement of Australian legal officers in the abuse scandal.

It is absolutely clear-cut. ‘We would never say that,’ said Senator Faulkner in the Senate
today. Has Senator Evans ever corrected the record? Has he ever come in here and made a public explanation on that particular matter? Of course not. What was he doing? He was repeating the *Sydney Morning Herald*’s guilty verdict—guilty until proven innocent.

Now that Labor have backtracked on the loose language used by Senator Evans, what are they really alleging? They say now that no Australians took part in the abuses, but they continue to infer and insinuate that ADF officers and Australian public servants had knowledge of these abuses and failed to act to prevent them. They insinuate that the ADF knew how serious these abuses were and failed to alert the government to them. It is a clever strategy, but it is a grubby one. You cannot allege a cover-up without implying that some improper activity is being covered up. What is now being alleged is that the government failed to take seriously and respond adequately to the reports of abuses. And in that there is a lot of catch-up being played.

Amnesty issued their report—which, on Friday anyway, was the sole basis of Senator Brown’s charge—in late July last year. They released it publicly with a press conference and a media release and they posted it on their web site. Yet Labor did not pursue it then and neither did Senator Brown. There was not one question to me in the second half of 2003. There were no media releases from Labor or Senator Brown and no outrage or even interest from the media at the time. Then, in January, the United States announced it was investigating the abuses that had occurred in Abu Ghraib. The parliament sat in February and March. Again there were no questions, no press releases and no demands. Where was the Labor Party’s selective outrage then? Why wasn’t Senator Brown—who, as we all know, is not shy of media stunts—making some mileage out of it then? What changed it all were the pictures at the end of April. Why did it change? Because Labor now had the pictures of abuse and it saw the opportunity to attack the United States. The fact that the United States had already launched its investigation in January, suspended or stood down a number of officers thought to be involved and laid the first charges in March was of no consequence to the ALP.

So now it was catch-up time. Labor and Senator Brown—and, as of today, Senator Bartlett—claimed something should have been done earlier. Alternatively, Labor could have commended the United States for their prompt actions and their determination to punish those responsible for criminal abuse. But, no, not this Labor Party. Interestingly, Labor has never said what the Australian government should have done as a result of the Amnesty report or the United States announcement in January. Senator Faulkner did not even say it today. The United States were already seriously embarrassed by the abuses. They were acting swiftly and appropriately on them. They certainly did not need us to be clever after the fact. That is the whole point: the United States did not need Australia or anyone else to tell them this sort of abuse was unacceptable. They knew it themselves and they were stamping it out. This takes us back to the Amnesty International report. Amnesty International issued a press release on 20 June 2003 headed: ‘Iraq: human rights must be the foundation for rebuilding’. This referred to its report entitled *Human rights and the economic reconstruction process in Iraq*. It argued:

... the goal of reconstruction should be to ensure the effective protection and realisation of human rights for all Iraqis.

That was all very laudable, but it was not about prisoner abuse. On 30 June there was another press release headed: ‘Iraq: the United States must ensure humane treatment and access to justice for Iraqi detainees’. It
was directed to Mr Paul Bremer, the head of the CPA. It was responded to by Mr Bremer. Amnesty International welcomed the exchange. This was reported back to Canberra. There were two Amnesty International documents—the ones which I have referred to—brought to the attention of my office.

Senator Brown and sections of the media are happy to state that the situation updates refer to other comments by Amnesty International. They do not like mentioning the second part of the equation—that being that both situation updates highlighted positive actions being taken by the CPA to improve judicial processes. The second of these situation updates quotes the Amnesty International press release:

Amnesty International delegates however welcomed statements by lawyers from the US military and the CPA that they intended to rapidly improve conditions and would eventually ensure that every detainee had access to lawyers within 72 hours.

Have we heard that from Senator Brown? Of course not. It is hard to see how Senator Brown could even argue that these called for a response by Australia. They were not about prisoner abuses. They were predominantly about process. Then, on 23 July 2002, Amnesty International issued a ‘Memorandum on concerns relating to law and order’. This was the memorandum that Amnesty International sent to Australian ministers almost 12 months later. It was directed to the Coalition Provisional Authority and those in the field. It is true that, in a few lines on page 7 of a 17-page report, Amnesty did claim to have received a number of reports of abuse. The report noted:

Amnesty International welcomes the explicit prohibition on the use of torture and cruel, inhuman or degrading treatment or punishment contained in Section 9 of CPA Memorandum Number 7.

The report again called on the CPA to ensure that the prohibition was absolutely respected. The report also spent some time discussing the physical condition of the prisons, with detainees said to be suffering from heat and inadequate washing and toilet facilities. On the whole it was a balanced report, giving credit to the coalition authority for some areas of improvement. How can that report lead to a censure of the Australian government 12 months later? So what other reports are Labor talking about when they accuse me of failing to take seriously and to respond adequately to the reports of abuse of Iraqi prisoners by United States personnel? They do not say. They do not identify specific reports in the charge but presumably they are the February report of the ICRC and maybe its working paper of October. What we know is that the ICRC works differently. It seeks to work confidentially with the party or parties to whom the reports are directed. Neither the February report nor the working paper of October was directed to Australia. Neither was provided to Australia. The first was to the joint military command, and we did not have a senior ranking officer in that command. The February report was to the Coalition Provisional Authority, the de facto government in Iraq, and the occupying powers, the United States and the United Kingdom.

In the case of the working paper, it was responded to by the United States military. An Australian military lawyer helped to draft that response and he facilitated a follow-up visit by the ICRC. The October working paper was not brought to the attention of the Australian government at the time. In the case of the February report, again, another Australian military lawyer facilitated the presentation of the report to the proper authorities and reported that it was being responded to appropriately. The February report was not brought to the attention of ministers. Why? Labor is suggesting some form of cover-up. The better answer is because it
was being responded to positively by the parties to which it was directed.

In any event, it is difficult to argue that presenting the February report of the ICRC to ministers in February this year could have in any way prevented abuses that occurred some four months before. As an aside, it is clear from the evidence that the small group of Australian lawyers working in dangerous and difficult circumstances did their best to improve the conditions for detainees, particularly in areas of overcrowding and access to families. The government thanks them for their service and their sensitivity to prisoners’ issues in very demanding circumstances. So the first charge of Senator Faulkner, and the only charge of Senator Brown as of Friday, is a nonsense.

In relation to the second charge, if Australia was not an occupying power and did not detain prisoners in terms of the Geneva convention then Australia was not subject to a legal obligation in relation to these specific allegations. We do accept an overall legal obligation to comply with the Geneva conventions and protocols to which we are a party. We also accept an overall obligation to treat humanely individuals who may not be protected by conventions. All the evidence before me—for example, in relation to our part in the capture of prisoners or to the transport of prisoners—is that the ADF complied with the laws of armed conflict and treated these individuals humanely, as I would expect.

On the wider moral issue, it is hard to accept a lecture on moral obligations from a Labor Party that wants to cut and run and leave the Iraqi people to the mercy of insurgents and terrorists. What I argued in the estimates committee hearings was that we all have a moral responsibility to help. The lives of Australian service personnel and officials are being put on the line to help and support the Iraqi people. The Australian government accepts the political responsibility for the service they provide. It is easy to moralise. The test is practice, not the rhetoric, and by its actions Australia and its service community can stand proud on this issue.

The third charge is a failure to take my accountability responsibilities seriously. I have answered questions in the Senate, I have answered dozens of questions on notice, I have fronted up to three full days of questioning on these issues in Defence estimates hearings and I have answered foreign affairs questions on the issues over another two days. I have responded in the Senate and I have tabled lists of Australian contacts with the issues. I have caused major searches to be made to ensure the best information is available. Mr President, if that is not accountability then I do not know what is. No-one is alleging, I am pleased to say, that I have misled the Senate. It is embarrassing enough to have made one public statement which turned out to be wrong, and I have expressed regrets in that regard.

I turn now to the fourth charge, which is that I have failed to correct serious communication problems in Defence. (Extension of time granted) Every time there is a perceived problem within government, the opposition simply churn out the old line, ‘It’s the children overboard again.’ They do so because they know it plays to the prejudices of some within the press gallery. The comparison in this case simply does not stand up. The ‘children overboard’ issue highlighted two communication problems: firstly, that information was provided to ministers outside the chain of command; and, secondly, that when that information proved to be incorrect no correction was issued, because information which would have highlighted the error did not flow efficiently between Defence and the minister’s office. These were the problems I sought to correct.
In the current case, information was sought by my office on my behalf and it was sourced through the appropriate chain of command. It is a matter of record that in this case the information was in parts incomplete and in other parts incorrect. But when that information was found to be incorrect, Defence was able to communicate that to my office and the record has been corrected through the estimates process. It is still a concern that incorrect information was supplied. There are clearly still shortcomings in this area that must and will be rectified.

What Labor has failed to do is to show how the provision of incorrect advice in May of this year either could have prevented or is in any way related to incidents of abuse that occurred in Abu Ghraib in October and November of last year.

One mistake is one too many but, whilst I do not expect fair play from Labor, I do think most people will balance one mistake against the huge successes of the Defence organisation in recent years. The flawless performance of the ADF in so many complex and demanding operations would not have been possible without the dedicated, competent and professional support of a mass of backroom people who make up the Defence organisation. They do not get the credit they deserve. They get no credit, just a bucketing from Labor. I believe that is grossly unfair.

In summary, this is a soft censure motion. It is not as if there are claims of conflict of interest or of misleading the parliament, or even a charge of incompetence. I can take it, but I regret that Labor cannot get behind the defence forces and the Defence organisation and give them the support they deserve as they continue to serve our national interests in the most demanding of circumstances.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.24 p.m.)—The deceit of the government continues, and nowhere more offensively and continually than in the coward’s approach of responding to legitimate attacks on their gross failures by suggesting that somehow they are attacks on the defence forces. Hiding behind the courage and integrity of our defence personnel is a very poor tactic and one which the Democrats strongly condemn. We will continue to criticise this government whenever they grossly misrepresent the Democrats, the Labor Party or anybody who is criticising them by turning it around and pretending that that criticism is an attack on our defence forces. It is clearly not.

If there is one thing the Senate and the Democrats have been very careful about, it is not to expand into attacks on the defence forces any attacks we make or criticisms we have about the government’s approach on defence issues. We will continue to criticise the government’s gross failures on defence policies, their gross failures in relation to Iraq and their gross deception of the Australian people without in any way attacking the integrity of our defence forces. They should remain free from being drawn into political debate in this country. It is a clear sign of the weakness of the government’s position that they continue to try to inappropriately drag the defence forces into political debate, hide behind them and falsely accuse others of somehow criticising them.

Questions have been continually asked in recent weeks, and particularly in the last few days, about whether or not the Minister for Defence should resign. I know that others have called for that. My view is that there is no point in the defence minister resigning for the failures in this area, because the deceit and the failure of duty permeate this entire government and go right to the top—to the Prime Minister. It is really for the Australian people to determine whether or not the Prime Minister should pay for his failures in the area of security, defence and foreign affairs.
Frankly, we will leave that choice to them in the near future.

Whoever the Australian people choose to be the government, the need for as strong as possible a Senate to keep a check on that government’s failures and dishonesty is highlighted more than ever by this incident. It has clearly been the Senate that has exposed the government’s failures in this area. I pay tribute to the efforts of Senator Faulkner, in particular, in exposing through the Senate estimates process their gross failures and continual deceit. The problem is that these failings go right back to the start. That is why it is not simply a matter of the defence minister’s failures; it goes right back to the start of the Prime Minister’s failed and disastrous adventure in Iraq. Minister Hill is right about one thing: people do make mistakes. We all make mistakes. The real problem is the failure to acknowledge those mistakes. The Prime Minister will not acknowledge any mistake, and that is why the real problem is that he is going to repeat the same mistakes again and again.

We have here a government that has cut and run. It has cut and run from its basic obligation to tell the truth to the Australian people and from its simple obligation to maintain respect for international law. It has cut and run from its simple requirement to recognise that it is an occupying power. We see Mr Howard happily and enthusiastically charging into Iraq, trashing international law and the United Nations, as part of an invading force. The second he is there he pretends he is not an occupying force. How hopeless a position is that! What a classic example of cutting and running—charging in as part of the invading force and, as soon as you are in there, pretending that you are not an occupying force and using the worst sort of slippery, legalistic doublespeak to continue to pretend that you are not an occupying force. On top of that, we have the ridiculous situation of continuing to pretend that we are not arresting people. We have huge Australian SAS squads capturing Iraqis and, just because one or two US people are there with them, they are saying, ‘They were actually captured by the US; they’re not our responsibility.’

Cutting and running from your responsibility is a pathetic approach and it is what this government has done. From day one it has set up a legal fiction to pretend that we have no obligation in Iraq to ensure that the occupying forces uphold international law and basic legal standards. The minister did it again in his contribution just now. He said Australia does not have any legal obligations because we are not an occupying force. He ignores the basic moral obligation. Of course we are an occupying force. We have this idea that you can just contract out—you can be part of an invading force, stay part of the coalition authority but say, ‘We’re not really occupying.’ It is cutting and running from your basic obligations and continuing to deliberately confuse the facts of the matter with extraneous arguments about other forces that have come in subsequently.

We were one of the small number of nations that were part of the invading force and, under international law, that makes us an occupying force and that makes us obliged to stay there to uphold international law while we are there and to restore security and infrastructure for the people. That, frankly, is why the Democrats—and this is one area where we have in part agreed with the government—have continued to acknowledge that we do need to stay there. We do need to maintain a presence until security is restored and until the new authority takes over, because that is a legal obligation as an occupying force. That is why we have not followed the calls from some others saying that Australian troops should withdraw straightaway or should have withdrawn months ago—because we do have that obli-
gation. We do not believe that we should cut and run from those obligations even though we did not support the invasion in the first place.

This continual pretence, this continual deceit, is the worst component of the government’s approach to this and it is why we have a clear situation where the Prime Minister, the Minister for Foreign Affairs and the Minister for Defence—all the ministers—saw no reason to explore or follow up any allegations. They were not interested and they were not looking when allegations came forward. ‘It is nothing to do with us,’ according to the government. ‘Just because we invaded the place, just because we are still there and just because we are involved in the capture of people, does not mean how they are treated has anything to do with us.’ How pathetic is that? What a total wiping of the slate of a most basic obligation.

Because of that legal fiction that this government has convinced itself of, and continues to try to deceive the Australian people with, it has shown no interest in following up these allegations. The minister made this clear at estimates. Other allegations were widely made public through the media—not just the photographs but other allegations of gross mistreatment, including sexual assault and rape of female prisoners. Did the minister follow that up? No. ‘Nothing to do with us,’ according to the minister, ‘why should we follow it up?’ How appalling is that? There is no interest in verifying the accuracy of strong allegations which clearly damage Australia’s reputation.

Just because Australian personnel are not involved in that mistreatment does not mean that our reputation is not damaged by these sorts of actions. Because we are an occupying power and because we are so clearly identified thanks to this Prime Minister as one of the strongest, if not the strongest, supporters of the invasion of Iraq, of course our nation’s reputation is affected by the behaviour of the occupying forces. So of course it is our responsibility and it is in our national interest to follow up these sorts of allegations to see what the truth is behind them. But none of that has happened and continues not to happen because this government still thinks it is nothing to do with it—no responsibility, no care. It was part of the invasion but wants none of the responsibility afterwards. You complain about Labor wanting to cut and run. You will stay the presence there, you are happy to have the form and the pretence, but when it comes to the substance underneath—actually following through with solid obligations and doing the hard stuff, actually confronting our allies there about some of these things—you are not interested. That is the sort of deceit, unfortunately, that has been part and parcel of this government’s approach.

They have pulled out the old anti-American criticism. When we quite clearly state a basic obvious fact, as I have just stated—this government has not taken seriously the reports of abuse by the United States—you get called anti-American. How pathetic a response is that? All they can do is come back with this sort of juvenile, undergraduate name-calling as a way to avoid the basic facts of the situation. It is a simple situation of acknowledging your responsibilities and all you get is schoolyard abuse and cheap schoolyard taunts of anti-Americanism while they hide behind the defence forces.

It is continually mentioned that this somehow or other has nothing to do with Australia. The continual cheap retort when you criticise the government’s approach is that you are a supporter of Saddam Hussein. And Minister Hill did it again, suggesting that critics of the government are actually apologists for Saddam Hussein, pretending after
the fact that this government actually went into Iraq because of their great commitment to the Iraqi people to relieve them from Saddam’s atrocities whilst they continue to turn a blind eye to many other regimes around the world that are committing atrocities. There is no suggestion from this government that they are going to suddenly be part of invading a whole range of other countries that commit atrocities, but of course supposedly those who criticise the government about this one are apologists for the atrocities of Saddam.

It is an entire web of deceit that this government has constructed and it is no surprise that the minister has been caught in it. But it is the entire government that has been caught in it. Of course the minister should be censured. Of course it is an absolute disgrace that the clear failures of communication that arose from the ‘children overboard’ debacle continue to appear and continue not to be addressed, and that is a matter of mismanagement. This government likes to pretend it is strong on defence and strong on security, but there is mismanagement of its own department—it has clear-cut expressions from intelligence officers within its own ranks saying there are major problems with the adequacy of intelligence gathering. All it can do is spout deceptive and dishonest rhetoric whilst ignoring the gross failures underneath its own regime. (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—I call Senator Ferguson.

Senator Brown—Mr Acting Deputy President, on a point of order: the speakers list which has been circulated in the chamber shows that I am speaking next and Senator Ferguson is speaking after that. I ask you to abide by that speakers list.

The ACTING DEPUTY PRESIDENT—

I am abiding by the speakers list that is in front of me at the moment, Senator Brown.

Senator Brown—Mr Acting Deputy President—

The ACTING DEPUTY PRESIDENT—

Is this another point of order? I have made a decision on the first point of order, Senator Brown. The list I have was revised at 3.15 p.m. and clearly has Senator Ferguson after Senator Bartlett and then you immediately after Senator Ferguson. Do you have a further point of order, Senator Brown?

Senator Brown—That list has not been circulated. Pursuant to contingent notice, I intend moving that so much of the standing orders be suspended as would prevent me from moving a motion relating to the conduct of the business of the Senate—namely, a motion to give precedence to the speakers list order as circulated in the Senate just after 2 p.m. This process cannot be dictated from the chair. This process must be in the hands of senators by agreement or it falls down. I am informed that Senator Hill moved the change in the speakers order. That is not his prerogative; it is solely the prerogative of the Senate by agreement.

The ACTING DEPUTY PRESIDENT—

Senator Brown, let me call you to order before you take up any more of the Senate’s time. You cannot move that motion halfway through a debate. My original ruling still stands that the list in front of the chair at 3.15 p.m. is the one which I will abide by.

Senator Ferguson—Mr Acting Deputy President, I would like to comment on that point of order. A longstanding convention in this place has been that a speaker from that side of the chamber is followed by a speaker from this side of the chamber. After the call goes to that side of the chamber, it comes to this side. There have been occasions in the past where people on this side have ceded their right to speak to someone on that side. I do not intend to cede that right to Senator Brown, because I intend to speak now.

CHAMBER
The ACTING DEPUTY PRESIDENT—That further augments the tradition of the Senate not to accept a motion of that type during the middle of a debate. Senator Brown, if you have anything to add by way of a further point of order, I am happy to listen to you.

Senator Brown—My point of order is whether, my having got to my feet before the honourable senator had begun his speech, you would reconsider the ruling you have just made—because it is a very important one. I draw your attention to the fact that I will be moving the motion at the end of this debate if you refuse to allow me to move the motion now. I believe that, from the chair, you ought to be guided by the list that is before all senators, not by some list which appears on your desk and is not available to senators.

The ACTING DEPUTY PRESIDENT—I am guided by the standing orders of this chamber. I call Senator Ferguson.

Senator FERGUSON (South Australia) (4.40 p.m.)—That is evidence of another stunt by Senator Brown, when he knows the normal procedure in this place. When Senator Hill commenced his remarks in response to Senator Faulkner’s censure motion today, he said that if there had been any urgency about this matter why did Senator Faulkner not move a motion to censure Senator Hill last Friday. After all the information that he gathered in estimates over a period of four or five days, Senator Faulkner could have moved a motion to censure—

Senator Faulkner—I gave notice on Friday.

The ACTING DEPUTY PRESIDENT—Senator Faulkner, if you are going to interject, please at least take your seat.

Senator FERGUSON—You could have suspended standing orders. Sit in your seat.

Senator Faulkner—You don’t know anything about the standing orders.

The ACTING DEPUTY PRESIDENT—Order! Senator Faulkner, that is an outrage.

Senator FERGUSON—When Senator Faulkner commenced his remarks today, he said that Senator Hill’s handling of the prisoner abuse scandal had been a disgrace. Nothing could be further from the truth. If there is any disgrace in this chamber, it is the way that Senator Faulkner, Senator Brown, Senator Bartlett and others have handled the so-called prisoner abuse scandal. The way they have handled it in this place is a disgrace. They have talked long about Senator Hill, and I will go through some of the points that have been made in the motion.

Senator Hill became the Minister for Defence shortly after the September 11 tragedy in New York. Since that time, our defence forces and this government have been constantly involved in the war against terrorism, in the conflict in Iraq and in the many other places around the world where our Australian Defence Force has served this country and the international community so well. Senator Hill has been at the helm all that time. Instead of censuring Senator Hill today, this motion ought to be congratulating Senator Hill on the leadership that he has shown over the past 2½ years as the Minister for Defence throughout these very difficult times. Senator Hill, the department and the defence forces under the CDF have done an outstanding job. All that has been said over the past month or so, particularly in Senate estimates, has done nothing for the standing of the defence forces in Australia because of the intense questioning that they have come under in hindsight. It is wonderful to have hindsight in these things. Part of the motion today to censure Senator Hill says:

(a) failure to take seriously and respond adequately to the reports of abuse of
Iraqi prisoners by United States of America personnel—
there is no mention of Australian personnel, of course—
including reports in June and July 2003 of concerns raised by Amnesty International;
Amnesty International’s reports were public documents. They were on the web site. Anybody could have seen them. Anybody could have read them. If senators on the other side were so concerned about what was happening in Abu Ghraib prison, why was it not raised? From the time of the Amnesty press release on 23 July 2003 until the publication of the photographs, Labor was silent on prison issues. Since that time Mr Rudd, who has been known to put out the odd press release, has put out 148 press releases—not one mentioned the Amnesty press release or anything to do with abuses in Abu Ghraib prison issue. Mr Rudd asked 26 questions without notice. Not one mentioned the Amnesty press release, any prisoner abuse or the Iraqi prisoner issue.

The shadow defence minister, Senator Evans, put out 73 press releases—not one mentioned the Amnesty International press release. Senator Evans asked 21 questions without notice—not one mentioned the Amnesty press release. That is how important the issue of prisoner abuse was to the leaders of the Labor Party. I cannot remember—and I may be wrong—Senator Brown, from 23 July onwards, raising the issue endlessly. I cannot remember Senator Bartlett raising the issue endlessly. He did not raise it at estimates last November from what I can remember.

On top of that, Mr Rudd, with such heralded publicity as he is wont to invite, visited Baghdad in November last year and met, amongst other people, Paul Bremer, the United States official in charge. He did not mention prison issues in any of his media interviews or releases from that visit, although he quite clearly discussed law and order and security issues during the visit. At the end of the visit Mr Rudd wrote a letter to the Prime Minister summing up his five key concerns. In that letter to the Prime Minister not once did he mention anything to do with the state of prisons or prisoner abuse in Abu Ghraib prison or in any of the other prisons.

The minister was supposed to have taken note of all these things—a public document that was on a web site. The Labor Party took no notice of it and others in this place took no notice of it, yet Senator Hill was supposed to have acted on it immediately. We all know it was not until those photographs were released, on hearing about the prison abuse for the first time, that Senator Hill asked questions of his Defence representatives.

In his contribution, Senator Bartlett talked about the gross failures of our defence forces and the Australian government. He is the only person in this place—with the possible exception of Senator Brown—who thinks that our defence forces have had gross failures or that the government has had gross failures. He suggested we had cut and run. The Australian government is making sure that Australian forces stay in Iraq. It is supporting the rebuilding of Iraq not only by having some defence forces there but also by providing lots of other help to make it happen as soon as possible—and Senator Bartlett calls that cutting and running.

It is no wonder that Senator Bartlett was a bit of a tail-end Charlie when it came to this motion. Senator Faulkner and Senator Brown gave notice of it so that it had a weekend of publicity—the only publicity that it will probably get, I might tell you, after Senator Faulkner’s lacklustre performance today—then Senator Bartlett decided that he wanted to be associated with it as well. This is the same Senator Bartlett who sat silently during
most of estimates while somebody else did the work of asking the questions. We have got to a stage here of trying to make some political capital out of our defence forces by innuendo—and I can only repeat that Senator Evans will come in here and deny that he has ever accused the Australian forces of being involved. Senator Evans in his response in ALP News Statements said:

The government has to accept responsibility for their actions. They have to accept responsibility for not asking the questions not seeking the information that would have revealed our lawyers’ involvement not only in the investigation of but in terms of developing policy on interrogation techniques inside Abu Ghraib prison.

If that is not linking our defence forces to the abuses that took place in Iraq, I simply do not know what is.

I have nothing but the highest regard for the Australian Defence Force. They have performed above and beyond the call of duty in the last two or three years under enormous pressure in supplying Defence Force personnel for the continuation of our involvement in East Timor, in Iraq, in Afghanistan, in Bougainville and in the Solomon Islands. They have done an outstanding job and they have been put under pressure in the past month or so by senators opposite trying to somehow denigrate their performances by linking them to the fact that there were human rights abuses in a United States controlled prison.

The United States have signed onto the Geneva convention, and so have we and we uphold it all the way. Those criminals within the United States forces who perpetrated these abuses are being brought to trial and will be punished for their crimes if they are proven guilty. That proves the system works. It proves the United States believes in the Geneva convention as well. In their rules of interrogation it says, above all, that the rules of the Geneva convention must be observed.

To attempt to censure a minister who has done an outstanding job over the past 2½ years stinks of politics just prior to an election when any sort of publicity, whether it is going to hurt our defence forces or not, is sought by the people opposite. This motion should be rejected.

Senator BROWN (Tasmania) (4.50 p.m.)—It is rare to hear such a nasty and falsified account of debate in the Senate as we just heard from Senator Ferguson, particularly as he was trying to allude to the fact there is not the utmost faith and support in the Defence Force of Australia on this side of the parliament. It was this government that used the defence forces of this great country of ours for a political purpose when, at the service of George W. Bush and without reference to this parliament, Prime Minister Howard decided to send Australian men and women good and true—in the service of the White House but not the prime service of this country—to Iraq. Opposite we have people who are prepared to be twisters in the debate about our defence forces and to use them for political purposes not only in debate but in actual deployment overseas for the purposes of Prime Minister Howard.

That said, the Minister for Defence should resign or be sacked. Senator Hill has again said, ‘I have made one mistake, and one mistake is too many.’ But that is not true. Senator Hill has serially misled the parliament and Senate committees about his knowledge and the government’s knowledge of the egregious and—to use Senator Ferguson’s own adjective—criminal behaviour that has occurred with regard to the prisoners in Iraq. Firstly, as Senator Faulkner has so clearly outlined, we had the minister effectively admitting that he and his department had misled the parliament and the people of Australia about knowledge of the abuses in Abu Ghraib. But since then and in the recent Senate estimates committees we have seen a
repeat of this failure coming out of Senator Hill’s studied ignorance of what is going on in Iraq. On 31 May I asked Senator Hill whether or not he knew about the Amnesty International report of torture and inhuman treatment in Iraq. The stage was set by an answer Mr Carmody gave to a question from Senator Hill. Senator Hill asked:

Did the strategic and policy area of the department address the Amnesty report?

Mr Carmody replied:

To my knowledge, we did not. I have no knowledge of Defence actually receiving the Amnesty report. Given that we were not responsible for any prisoners, I am not certain that we had a reason to follow it up.

Here is the primary problem. There is a mistaken belief that you can simply assign prisoners to some other entity when you have been the capturing party—and the primary capturing party—and then you will be absolved of your responsibilities under the Geneva convention. This is not so. But this came from government right down to the people representing Australia and Iraq, and it has been at the core of the problem. This is a studied government decision not to accept responsibility for prisoners taken by Australian Defence Force personnel in Iraq and to therefore be able to say, ‘We’re not responsible for what happens to those prisoners.’ But the Geneva conventions make it absolutely clear that Australia—and this is the state of Australia; the Howard government—is responsible for the treatment of prisoners where Australians take them captive, and that has happened in Iraq. I then pointed out:

There is always that responsibility with the taking of prisoners.

The Amnesty International report says, amongst other things, that Amnesty had:

… received a number of reports of torture or ill-treatment by Coalition Forces not confined to criminal suspects. Reported methods include prolonged sleep deprivation; prolonged restraint in painful positions, sometimes combined with exposure to loud music; prolonged hooding; and exposure to bright lights. Such treatment would amount to “torture or inhuman treatment” prohibited by the Fourth Geneva Convention and by international human rights law.

That is the Amnesty International report that was available to this government in July 2003. I went on to say to Senator Hill:

Surely that was a significant report to be placed before the government and the defence forces engaged in Iraq.

Senator Hill’s response on Monday, 31 May to the Senate inquiry was:

I think it is reasonable to assume that the joint command would have noted that report, as they have responsibility for the management of prison facilities, but I do not know whether they responded to it in any way.

I then asked Senator Hill:

I am asking specifically about when you or the government knew about it, what your response was to it and how you came to know about it?

Senator Hill replied:

My recollection is that the first time that I knew about it was when it was referred to on about 11 May—that is, 11 May this year—It might have even been you, Senator, who raised the Amnesty report.

There we have the responsible minister failing to recollect a report that flagged torture and inhuman treatment and breaches of the Geneva convention, which Australia maintains it upholds at all times. He could not recollect. Within a fortnight or so he did. We learnt last week that Senator Hill did know about it, because he had received ministerial situation reports from Iraq in June and July last year which flagged Amnesty’s concern about the treatment of Iraqis in custody and—to quote Irene Khan, the Secretary-General of Amnesty International, who was in Baghdad—‘the cruel and inhuman treat-
ment of prisoners’. That was known to Senator Hill mid last year, and he claims he forgot about it. Are we meant to accept that? If we believe it, we have a minister who is not fit to be in office. You cannot forget about reports flagging torture and inhuman treatment and breaches of the Geneva convention when you are the Minister for Defence. The truth is that he knew about it, but he did not think it mattered. The government felt that it was in an alliance with America and that America would protect it from any odour coming from this abuse.

But let it be made absolutely clear in this debate that, had the minister acted according to Australian standards—the standards of this nation, which upholds the Geneva convention—he would then have gone to his American counterpart and insisted that such behaviour stop then and there, that it not be repeated and that the US put in control management which would prevent further inhuman treatment and/or torture. We know that by that time it had included at least one death in the holding of Iraqis. But Defence Minister Hill did not act. Had he acted, Abu Ghraib might not have occurred. It is fair to say that, had a number of responsible people in the UK and US forces acted at that point, Abu Ghraib would not have occurred. But this does not lessen the responsibility of our Minister for Defence, who knows and has stated—as his defence chiefs have stated—that we uphold the Geneva convention at all times. Having not responded or having a memory close-down does not make him any less responsible. Having allowed his responsibility to uphold the Geneva convention to seize up because it was politically convenient for him does not make him any less responsible. This is concerning enough, but what is also clear is that the information about the Amnesty International reports last June and July also went to Prime Minister and Cabinet.

Here again we have the situation where, at first, it was declared to the committee asking questions that it was not known whether the Prime Minister would have been aware of it. In last week’s estimates hearing, Senator Hill said:

We know the Prime Minister got sent the Amnesty report in May of this year.

I asked:

Was the Prime Minister’s office alerted to the Amnesty report citing cruel and inhuman treatment in June-July last year?

Senator Hill responded:

I do not know that, except that it was a public document.

That is the old ‘try to slide away’. I asked:

Can you establish whether the Prime Minister’s office or department was acquainted with that report in June-July last year, as you were?

Senator Hill responded:

I will take it on notice, if that is what you want me to do?

That is dismissiveness, trying to get out of answering and being responsible for answering the question. I said, ‘Yes, I do.’ Of course, at a later hour on that day, we had General Cosgrove saying, ‘Can I offer a clarification?’ to which I responded, ‘Please do.’ General Cosgrove then said:

I said that we would not normally send these Operation Falconer situation updates to anyone other than the minister. We did during the war phase send the updates to a number of government departments. I have just had a look at the documents here. We sent them to a number of government departments, but not to the Prime Minister or his private office.

Note those words from General Cosgrove. I said thank you. Then, as Senator Evans will remember, he came in and asked the question I was next going to ask:

Which departments were they sent to?

General Cosgrove responded:
I just had a quick glance. They were sent to the Department of the Prime Minister and Cabinet, foreign affairs, ONA—

So, yes, they went to the Department of the Prime Minister and Cabinet, even though, again, there had been a very serious effort to divert the Senate inquiry from getting an answer to that question. Here is the awful rub: Prime Minister and Cabinet knew in June-July last year about torture and inhuman treatment occurring in the prisons in Iraq. Are we meant to believe that the Prime Minister did not know that? Is it expected that this Senate, let alone the average Australian, is going to believe that Prime Minister and Cabinet knew about torture and inhuman treatment and breaches of the Geneva convention in July last year but the Prime Minister did not? I do not believe it. I simply do not believe that any department could be so irresponsible as to know about such an important and terrible fact as that in July last year and not report it to the Prime Minister.

Of course, we have a Prime Minister who is so tactically used to the old dictum, ‘If you don’t ask, you won’t be told.’ The implication that goes with that is that you imply to your department, ‘If there is something troubling there that I would be better off not knowing about, do not tell me.’ This is a hallmark of Defence Minister Hill’s way of working as well, but it is not acceptable in a democracy. It is not acceptable to allow this situation to arise where people in the bureaucracy, departments or offices know when not to tell their leaders about something because it may, further down the line, embarrass that leader. It is no excuse. I will tell you why it is no excuse: the Prime Minister ought to have made it clear, when he was preparing for war and preparing to send the defence forces of Australia into this war the year before last, that the Geneva conventions were to be upheld at all times, that he was to be told of any contrary outcome and that he was to be told whenever Australian standards were breached in the coalition of the willing so that he could act on it.

That is the other side of the bargain with George W. Bush. Our Prime Minister said, ‘I am going to come to your support, using the Australian defence forces’—against the huge protests across Australia—‘and send our men and women to Iraq as part of the invasion and occupying forces.’ That is bad enough but, when the Prime Minister says, ‘Then we will leave them. We will not pass down the lines that at all times I am to be informed if, in this coalition, Australian standards are not upheld.’ We have a Prime Minister who is letting down the defence forces and letting down this country and, with him, the Minister for Defence.

Prime Minister John Howard and Minister for Defence Hill have let this nation down. They have, with knowledge, allowed the breaches of the Geneva convention by the senior partner in the coalition of the willing. They have looked at the ground, spun their feet, held their hands behind their back and tried to pretend that nothing was doing, when they should have responsibly stood for the rule of law for the right of our defence forces to report breaches of the Geneva convention. They should have absolutely, when their departments were informed by Amnesty International through a minute reporting on that, insisted that they be informed and they should have taken action. Prime Minister Howard has failed in his responsibility. Prime Minister Howard has let this country down, hand in hand with his Defence minister.

We have today a censure motion against the Minister for Defence, and that censure will be supported by the Greens, but the Prime Minister ought to be censured at this time as well. He has the numbers to defend himself from that, but he has let our democ-
racy down. He has turned a blind eye to egregious breaches of international law. In so doing, he deserves the censure of this nation. It is very easy for senators opposite to get up and say that they back the defence forces of this country in a way that other people do not. They are so wrong. We would never have allowed our defence forces to be in this situation in Iraq. The government did that for political purposes and then it failed its responsibility to them, to the coalition of the willing and to international law. This minister deserves more than censure; he should resign.

Senator CHRIS EVANS (Western Australia) (5.09 p.m.)—I rise to support this censure motion. I know it is a very inadequate response to the seriousness of the behaviour of the government, particularly by the Minister for Defence, Senator Hill, but it is the only response open to the Senate. The minister has described it as ‘political theatre’, but I think Australians appreciate the seriousness of the issues involved here. They appreciate the fact that the government has not been honest with them, that it has not come clean about its knowledge of the issues to do with Abu Ghraib prison and the abuse of Iraqi prisoners, and that no-one in government has taken responsibility for that. The minister said he would take responsibility, but none has been taken. I think the minister has been responsible for an act of political cowardice in not taking responsibility for this. We called for his resignation following his failures in these matters. He has chosen not to take that course, so now the Senate is left with no option but to move a censure.

I know some people will say, ‘That’s all very well, but what impact does it have?’ It is the only course the Senate can take. We have to try to hold the government accountable; we have to try to make sure that someone does take responsibility for what has occurred. It is true that, after the Howard government lost five or six ministers in its first couple of years, standards of ministerial responsibility were abandoned. No-one takes responsibility for anything inside the Howard government. They took a policy decision after losing five or six ministers in 18 months that no more were to go. It does not matter what you do now, you will be held inside the cabinet because the Howard government does not have any standards of ministerial responsibility any longer. So the Senate has no option but to move a censure to try to hold the government accountable.

It is true that we have much more information now on these matters than we had a couple of weeks ago, but none of that has been volunteered. The government have not come clean willingly with any of this information. It had to be dragged out of them piece by piece, during hour after hour of estimates hearings, when they have had this information for a very long time. None has been volunteered, none has willingly been made available and, despite the minister’s contribution today, there has been no attempt to come clean about what has occurred. We are now in a situation where the Senate does not have the ability to hear from Major O’Kane, or any of the other key witnesses involved—the key Australian legal officers who have knowledge of these matters.

We find that the 61-page fact finder report that the Prime Minister commissioned in order to clear the record has not been made available to the Senate or to the Australian people. What we have instead is a 5½-page summary, written in the minister’s office, written with a political spin and abusing the Labor Party and the media, but without the 61 pages of fact finding that the defence department undertook. Why shouldn’t we see that? If the government is happy to have the record cleared up, why shouldn’t we see those 61 pages with the tables and the addendums that make up the full report as to
what occurred inside Defence? If the government has nothing to hide, why didn’t it table that report? Instead, we have the minister’s own work. The reason we did not get the report on the Tuesday as promised was that the minister was in his office rewriting it, making sure that the 61 pages of fact were not presented. Instead, we got his 5½-page summary.

What we also got were his own tables. The minister decided that he did not want to provide Defence’s summary of all the information they found, that he would write his own report and that, in addition, he would draw up his own tables. So he was busy there, tabulating the information that he thought the Senate ought to have. One of the documents purports to be a summary of the reports coming back from Iraq about involvement with Abu Ghraib, prisoner abuse and the ICRC. It is supposed to be a table representing that, but it did not include Major O’Kane’s reports. The reports of the man who has been at the centre of the press coverage of all these issues, the man who was at the centre of the ICRC’s responses, were not included in the tables that the minister produced. He did not think they were relevant enough or important enough to be included. That is how slippery the government has been as it has sought to deny full information on these matters. The tables did not even include references to Major O’Kane’s reports.

Minister Hill decided to rewrite the 61-page report in his own hand and make it a 5½-page report with selected tables that were his idea of what he thought we should read. It was not what the fact finding report showed, not what the Prime Minister required, but what the minister thought we ought to see. Quite frankly, that is not good enough, and this will not go away until the government comes clean. His report did not include, for instance, the detailed situation report from Lieutenant Colonel Muggleton of 17 February, which expressed his concerns regarding the USA’s detention practices and the differences between those detention practices and the Australian detention practices.

The minister thought it was not appropriate for us to hear about Lieutenant Colonel Muggleton’s report and about his concerns. I think the Australian people want to hear about those concerns and they want to know why Lieutenant Colonel Muggleton’s report, in which he expressed his concerns back in February, has not been made available. What does the government have to hide? We are denied all these key documents, all these key witnesses and what we get is the minister’s own version—a 5½-page version—and his chosen tables which leave out much of the key information.

I think there are three key stages to the development of this issue. The first stage is the pre 10 May stage. That was when the government was receiving report after report about the concerns of Amnesty International and Human Rights Watch, about the visits by Australian legal officers to Abu Ghraib, their liaison with the Red Cross, the drafting of Brigadier General Karpinski’s response to Red Cross concerns, the sit reps coming in from our officers in the field and the O’Kane, Muggleton and Kelly reports—all this documentation that was coming into Defence, detailing the serious issues at stake about Abu Ghraib and prisoner abuse. We also had an Iraqi task force, consisting of officers from PM&C, Foreign Affairs and Trade, Defence and the Attorney-General’s Department.

All this information was coming in, but no-one was told—hear no evil, see no evil. Information did not reach any of the ministers. They were badly let down, it is claimed, by their departments. I guess you have to
say, ‘Maybe that’s right.’ If you are being really charitable you might say, ‘Maybe it was just a stuff-up.’ ‘Maybe,’ as Defence have said, ‘it was just a stuff-up.’ It has nothing to do with the dysfunctional nature of the minister’s relationship with Defence; it is just the fact there was a stuff-up. It has nothing to do with the fact that maybe people thought they should not provide this information up the chain because the government does not like to hear news that does not suit its own political view of the world. But the reality is that the government argued that it was a stuff-up.

I have serious concerns about that explanation. I am not sure that I accept that. But that was the explanation given pre 10 May. But if you do accept that, you cannot accept it after 10 May because we know that, from 10 May onwards, Senator Hill knew. After 10 May Senator Hill had all the relevant information at his fingertips. He was briefed. Why was he briefed? It was not because he was interested; it was not because he was concerned; it was not because he had any intention of doing anything about it, trying to insist that proper treatment occurred or getting to the bottom of why we failed to act to protect proper processes inside Iraq and meet our obligations under the Geneva convention. The reason he acted is that he had to come into parliament on 11 May and answer questions about it. And, in preparing for parliament, he was briefed on the Muggleton sit reps and he was briefed with a copy of the February International Committee of the Red Cross report.

From 10 February onwards, Minister Hill knew what he needed to know. He knew that there were grave abuse allegations regarding the treatment of those prisoners, and that we had those since February. It was all in the February ICRC report. We know that he had access to the February ICRC report, which details its October 2003 visit to the Abu Ghraib correctional facility, which details the abuse of prisoners and which details them being held naked in cells and being treated appallingly. It is all in that report. The minister had all that information as at 10 May. He had the Australian officers’ concerns about American practices of detention. He had the ICRC’s reports and Mr Bremner’s response to them and he had the description of the abuse at Abu Ghraib. I want to put on the record that the government have attempted to defend their inaction by saying, as the Prime Minister said to parliament on 27 May when he said that the ICRC report of October:

… covered general concerns about detainee conditions and treatment.

That is, the October report did not contain serious allegations of abuse. Minister Hill used terms like the Prime Minister did on 27 May in parliament, when he said the report:

… covered general concerns about detainee conditions and treatment.

That is just a lie; it is just not true. The February ICRC report reports on the October visit and it says things like:

… ICRC delegates directly witnessed and documented a variety of methods used to secure the cooperation of the persons deprived of their liberty with their interrogators. In particular they witnessed the practice of keeping persons deprived of their liberty completely naked in totally empty concrete cells and in total darkness, allegedly for several consecutive days. Upon witnessing such cases, the ICRC interrupted its visits and requested an explanation from the authorities.

That occurred back in October. The government knew in February at the latest about the standard of treatment. The report went on:

Several had been given women’s underwear to wear under their jumpsuit (men’s underwear was not distributed), which they felt to be humiliating …

And further:
The ICRC documented other forms of ill-treatment, usually combined with those described above, including threats, insults, verbal violence, sleep deprivation caused by the playing of loud music or constant light in cells devoid of windows, tight handcuffing with flexi-cuffs causing lesions and wounds around the wrists. Punishment included being made to walk in the corridors handcuffed and naked, or with women’s under-clothing on the head, or being handcuffed either dressed or naked to the bed bars or the cell door.

That statement appeared in the ICRC report in October. These sorts of abuses we later saw depicted in those horrible photos. But that was when the ICRC was actually doing its inspections. Of course, the worst of the abuses were not being perpetrated at that time because you had the Red Cross walking through the building. But, even while they were walking through the building in October, they were detailing that abuse. When the Prime Minister went into the parliament on 27 May and said, ‘The report covered general concerns about detainee conditions and treatment,’ that was not true. The Prime Minister was not being honest. Now, I do not think he knew. I do not think he had been briefed. I think that, when he went into parliament, he was acting on information that Senator Hill and his department had provided him with.

From 10 May onwards, Senator Hill allowed the Prime Minister to mislead Australia, to mislead the parliament and to continue to perpetuate the myth that they did not know. Senator Hill knew on 10 May. He was briefed by his department, he was briefed about Lieutenant Colonel Muggleton’s sit rep, which detailed the serious concerns, and he was briefed about the ICRC February report, which included a summary of its October visit and the abuse that I have just detailed. When Minister Hill came in here on 11 May he gave up the line that he had earlier run publicly on Lateline that he did not know anything and admitted that he took responsibility for knowing from February onwards. He said that he took responsibility for the government knowing from February onwards. What was that responsibility? It was nothing. He did not correct the record. He did not come clean and say, ‘We did know from February onwards.’ He thought he would get away with it, so he sat tight.

He allowed the Prime Minister to continue to mislead the Australian people because he made no attempt to correct the record and come clean about the abuse. He allowed the Prime Minister to continue to peddle the myth that the ICRC complaints in October were somehow about some minor matters. They were about the very sort of abuse that was revealed in the photos released later in April. They were about the fundamental abuse of the Geneva conventions, about abuse of prisoners through torture, making them wear women’s clothing, making them parade naked and chaining them to cell doors. It is all in there; it is all in the report that the minister had on 10 May. He had full knowledge of those issues from that date. What did he do? He did nothing. He did not attempt to correct the record. I think he hoped he would get away with it. He sat tight.

Then, of course, we had stage 3. We had the Sydney Morning Herald’s articles, which revealed Major O’Kane’s involvement. We had the Smith and Cosgrove press release, which turned out to be wrong. We had Senator Hill being briefed that in fact, despite the protestations to the contrary, the October Red Cross documents had been sitting in the R.G. Casey Building since Major O’Kane returned from Iraq earlier in the year. We had the PM again, on Sunday, 30 May, denying the fact that they had the October reports. Of course, by then, Senator Hill knew that they had them.
The Australian public continued to be misled when Senator Hill knew. I do not know what he thought. I think he thought he would just get away with it. He just sat on his hands while the PM continued to mislead. There was no correction and no admission. Then the estimates hearings started. Did they come clean then? No. On Monday, 31 May there was no correction and no admission. We see today that News Limited’s Mr McPhedran says that the minister intervened to stop a proper explanation being given by General Cosgrove and Mr Smith. Certainly, none was given. Piece by piece at the estimates hearings, we had to drag the information out. There were no revelations; there was no owning up and no confession of mistakes. Piece by piece, we had to drag it out.

What we do know is that, at some stage in all this, the PM had had enough. He was not going to allow his USA trip to be dogged by these allegations. He made it clear that he was going out at 1 p.m. before he went to the USA and he was going to come clean. He was going to go out and say he had been misled. We had the Prime Minister organise his press conference for the Tuesday before he jets off to America to see George Bush. So what happens? At 12.30 p.m., on the second day of estimates, General Cosgrove and Mr Smith made a humiliating apology and took the rap. Thirty minutes before the PM walked out to do his doorstep they said, ‘Game’s up. We accept the fact that we’ve been misleading the Australian public month after month.’

What we now know is that Senator Hill had full knowledge of this from 10 May onwards, so for 22 days he refused to come clean. He refused to own up and he refused to take any responsibility. In the end, the PM dropped him in it because the PM said, ‘I’m not going to cop this any more. I’ve clearly been misled, I’m not going to wear it, I’m going to go out there and say “Sorry, I’ve been misled; I’ve been set up by Defence.”’ But what we know now is that the department was made to take the rap. It was not Senator Hill. He sat there mute again. Smith and Cosgrove apologised. Senator Hill sat there: ‘Hear no evil, see no evil, nothing to do with me. I’m just the minister. It’s just a terrible mistake. Those public servants, aren’t they hopeless? Dear, oh dear, isn’t it terrible? They are just so hopeless. What can I do? I just battle on.’ That is not right.

What we know is that on 10 May Senator Hill had all the relevant information. He had been briefed. He knew the seriousness of the abuse. He knew that Australian Army officers had been sending back reports month after month expressing concerns and raising the issues, but he had been in denial. He had been hoping to get away with it. He thought that if he just sat there and the estimates did not go too well he would get away with it. In the end, the weight of evidence became too much and the Prime Minister said, ‘No, I’m out of this. I’m not coping this. You blokes have been feeding me a line that’s not right. I’ve been out there misleading the Australian public; I’m going to come clean. I’m not wearing the rap for this.’ He did not want to be dogged by that during his visit to the States. He went out and said ‘Game’s up, lads. I’ve been misled. I’m not wearing it. Defence has to take the rap.’ Thirty minutes before he did that Smith and Cosgrove read out a statement, an apology, which was not even typed. They had to apologise on the run, because they had to clear the air for the Prime Minister.

Where was Senator Hill in this? Senator Hill was missing in action. It was an act of gross political cowardice, because the responsibilities lay with him and he would not take them. He said he would take responsibility, but he has taken none. Even if you accept that it was a bungle at the start, he knew for 22 days and he did nothing to cor-
rect the record and nothing to bring the Australian public into the equation with an honest explanation. No wonder the Prime Minister is pretty dirty on him. He allowed the Prime Minister to hang out to dry for 22 days, hoping it would all go away. It did not. In the end the PM said, 'The game’s up. I’m out of here. You’ve got to cop this.' But has Senator Hill coped it? No way; it is nothing to do with him! (Time expired)

**Senator ALLISON (Victoria) (5.29 p.m.)—**Senator Hill deserves censure today for taking Australia into an illegal, preemptive strike on Iraq. He deserves censure for not taking responsibility for the abuse of prisoners at Abu Ghraib. Most of all, he deserves censure for the announcement he made yesterday. Australia is to be led by the nose, yet again, into a much more dangerous and much more expensive war but one that is every bit as futile and destabilising as the war in Iraq and every bit as appalling as the treatment of prisoners there. Early next month, the minister will sign a memo of understanding committing Australia to 25 years of cooperation with the US on missile defence. This is Ronald Reagan’s Star Wars. It is just as provocative, just as likely to promote the proliferation of nuclear weapons and just as dangerous to our relations with the rest of the world as the war in Iraq.

President Reagan conceived of Star Wars, President Clinton reignited the program and the Bush administration funds it at $9 billion a year. Minister Hill was admittedly not the first defence minister to come on board. In 1995 the ALP government cooperated on Project Dundee at Woomera—a project for tracking rockets and a precursor to MD. Pine Gap contributes to missile defence—collecting intelligence from the Middle East, Russia, China, South-East Asia and the Pacific. For 29 years Nurrungar has been a ballistic missile early warning ground station.

But Senator Hill is taking Australia into even more dangerous territory. This MOU locks Australia into a dangerous alliance for 25 years, starting with development, testing and evaluation of technologies for the missile defence program in over-the-horizon radar technology and ballistic early missile warning through ship and ground based sensors. In case anyone should think this is about defence, the US Space Command says in its Vision 2020 document that missile defence is part of a ‘war fighting system’. It also says:

Space is critical to both military and economic instruments of power—the main sources of national strength ... Thus, protecting our freedom to use space and having an ability to deny an enemy’s use of space will grow more important in the future.

This is a dangerous vision, a deadly vision. So far 8,000 nuclear physicists around the world have signed a commitment not to work on Star Wars research. But, to Mr Bush, space is the final frontier and the US has already spent $US95 billion on the project. Secret documents in the archives of the US Joint Chiefs of Staff are gradually being declassified and show that the US had planned to drop atomic bombs on Vietnam, North Korea, China and the Soviet Union in a first strike.

The US considered a surprise first strike on Russia with 737 nuclear bombs hitting simultaneously. The only reason they did not was that America had no defence against a retaliatory strike—but we are helping them to develop one. We are actively participating in a system that will allow the US to make a nuclear strike without fear of retaliation. In 1991 Newsweek magazine said that American generals had proposed to George Bush Sr an elaborate plan to use nuclear weapons against Iraq—a hydrogen bomb would be detonated over Baghdad to paralyse communications systems and then neutron bombs...
would be used against troop enforcements, followed by nuclear bunker busters.

It is said that the US did not use these so-called E-bombs in Iraq because China will soon have them, Russia already does have them and the US cannot protect itself against a retaliatory E-bomb attack. The US said it attacked Iraq because of its links with al-Qaeda—one of the many reasons for that first strike—but that turned out to be a lie. The US threatened to use nuclear bunker busters in Iraq, and Minister Hill admitted in answers to questions in this place and on notice that he did not even bother to ask President Bush if he was going to use these weapons or to urge him not to do so.

We understand that the next generation of nuclear weapons for use in outer space are called Excalibur. If that happens—and no doubt Minister Hill will not ask for assurances in the MOU that it should not—we will be able to look into the sky and know that there are hydrogen bombs overhead, permanently stationed in orbit. The US project, Prometheus, was given the go-ahead some time ago. This is an atomic rocket designed to go into space. According to Dr Kaku, an American nuclear physicist committed to peace, Star Wars will depend on mini-nuclear power stations for the energy needed to keep them in space. We will have killer satellite technology that could well be hydrogen bombs.

Nuclear war has been contained for 50 years, but times are different now. Russia was bankrupted by the nuclear arms race, leaving the US with an unprecedented military might. There are new nuclear arms players in Pakistan and possibly Iran and North Korea. Israel has nuclear missiles. We are now on the edge of another nuclear proliferation crisis and a new arms race. What does Minister Hill do? He signs Australia up to this madness, just as we were signed up to an illegal attack on Iraq. Will this be another no-questions-asked exercise? Will Australia bother to ask about killer satellites or mini-nuclear power stations in space? Will Minister Hill seek assurances that there will be no nuclear rockets for outer space?

Will Australia be part of Excalibur, or will we just turn a blind eye to the development of these weapons just as we have turned a blind eye to the abuse of prisoners in Abu Ghraib and to the reports that Iraq’s WMD were already destroyed before we joined the attack? Will we claim that all we did was help out with over-the-horizon radar technology and put sensors on our destroyers, just as we have claimed that all we did was hand over Iraqi prisoners? Minister Hill denies responsibility for the fact that they were abused. He says that we were not in charge of the prison. Minister Hill deserves our censure for blindly taking Australia into the most dangerous realm of warfare ever known and for again not having the will or the strength to say ‘No’ to President Bush.

Senator JOHNSTON (Western Australia) (5.35 p.m.)—We are talking about torture, brutal and degrading treatment and murder. It does not get much worse, according to Senator Faulkner. This motion to censure the Minister for Defence discloses that the public record raised these issues of torture, brutal and degrading treatment and murder back in June and July 2003. CNN raised these issues on 16 January this year, and it has taken until 11 May for this very poor excuse for an opposition to raise these issues. Yet this is about torture, brutal and degrading treatment and murder. Where were they? They were asleep as usual. The public record clearly raised these issues, but the opposition were asleep and now they are playing this game of catch-up.

They set out to undermine the Australian Defence Force in Iraq, but now they say, ‘We
never wanted to do that; this is not about the ADF.' They have no compunction—no problem at all—about bringing the ADF into the tawdry pool of political tricks and political point scoring. Senator Faulkner said today, and Senator Evans has said on numerous occasions recently, that this is not about the ADF. But, on 11 May, Senator Faulkner said:

Foreign Minister Downer has said Australia has no legal responsibility for any of the POWs in Iraq, including those captured by Australia. This completely ignores the fact that Australia, as one of the occupying powers, has obligations towards Iraqi prisoners in general and those taken captive by Australian forces in particular. We know, from Senate estimates, that the SAS was successful in capturing prisoners. All up, Australian troops captured more than 100 Iraqis. Exactly how many we do not know. The obligations for the protection of prisoners are outlined in the third Geneva convention and in the 1977 first optional protocol to the fourth Geneva convention. Article 3 prohibits occupying powers from allowing acts which constitute ‘outrages upon personal dignity, in particular humiliating and degrading treatment’.

There is a sloppy, vague assertion that the SAS have a responsibility with respect to the treatment that was subsequently disclosed at Abu Ghraib. Senator Faulkner deliberately put on the record an aspersion against the ADF, and now he is saying, ‘No, we didn’t intend to do that.’ This is a very dangerous game for the opposition to play.

There is a clear inference in what Senator Faulkner said and the way he said it. We all know that Senator Faulkner has great skills in saying things. From the way he said that, the inference is clearly to be drawn that the SAS have some ongoing responsibility with respect to these prisoners. It is very clear that when Senator Faulkner used the words ‘particular responsibility’ it was a very nasty inference against our ADF. Senator Evans has said on a number of occasions since that this is not about the ADF. On the AM program on the ABC, an accusation was put to him that he was implicating the ADF in the prisoner abuse scandal. He said:

... they weren’t interested, so they didn’t get the answers that revealed the involvement of Australian legal officers in the abuse scandal.

If they had found involvement in the abuse scandal, they would have been interested. They were looking to nail the Australian Defence Force lawyers in that instance. Senator Evans was caught red-handed when he said that. This is all about the Labor Party’s anti-American fervour. We all know what Mr Latham has said about President Bush. We all know that, on 11 May, when talking about the motion on Iraqi prisoners, Senator Faulkner said:

Firstly, we would have liked to see the motion directed not only at the United States but at all the occupying powers. The United States is by no means the only country in the dock over the abuse of Iraqi prisoners. There are also allegations of abuse by British forces. Our own government also shares obligations as an occupying power in relation to the humane treatment of all prisoners in Iraq—obligations which, I might add, it is remarkably reluctant to acknowledge.

Senator Faulkner needs to come back into this place and clarify what he said. His sloppy, vague innuendos and this classic, inference mudslinging need to be clarified. He needs to come back in here and say, ‘I was not accusing the Australian government or the Australian Defence Force of being involved in these matters.’

It is clear that these American service men and women on duty at night in Abu Ghraib were on a frolic of their own, conducting criminal activities for which they will be and have been prosecuted. I make the point also that, throughout all of this, there has not been anything said against the British Prime Minister and his forces. He appears to be the darling of the Labor Party. The facts are that Australia did not and does not administer any prisons in Iraq, Australia did not provide any
guards and the detainees in Abu Ghraib were not Australian prisoners. That is to the best of our knowledge. Notwithstanding what Senator Faulkner wants, it is a question of law. Australia is not an occupying power.

This is a kangaroo court. This is about an opposition that set out to attack what we are doing in Iraq in the context of the Leader of the Opposition saying that everything we have done in Iraq is symbolic. While there are terrorist activities and suicide bombings, we are participating in the reconstruction of social infrastructure, education, hospitals and transport, but the Leader of the Opposition says it is only symbolic. What is it? Senator Faulkner says we are in it up to our eyeballs, and the Leader of the Opposition, Mr Latham, says it is symbolic. They are making it up as they go along. This kangaroo court against the minister is a classic, desperate act by a very desperate group of people who now know that their cut-and-run strategy is coming back to bite them, as any reasonable student of politics would know. It is a plan devised on the run, with no consultation with opposition cabinet colleagues or senior members of the party.

What we have here is an opposition that now say that these are extremely serious acts of torture, brutal and degrading treatment and murder, yet throughout the parliamentary sittings in February there was no mention of it. We have the Amnesty International report dating back to June and July, but throughout the parliamentary sittings in March we heard not a mention. Then we come to the half-baked allegations in May. Now we can see that, once the photos were seen and the public’s attention was drawn to what had been going on, the opposition suddenly wanted to know about it. They have been asleep at the wheel. The fact is that they could have found out had they watched CNN from 16 January. It is just not enough that they want to capitalise on the photographs. As I have said, the opposition were simply asleep. This whole beat-up, this crazy attack on the minister, is a political stunt. (Time expired)

The PRESIDENT—Before I put the question I want to clarify a couple of matters that happened during the debate. My attention has been drawn to statements by the Acting Deputy President at the time relating to a call to speak from Senator Brown, I believe, during the censure debate. I point out that the speakers list that is circulated in the chamber really has no status other than as a guide to the chair. The procedure of the chair has always been, under Odgers’ Australian Senate Practice, that the chair allocates the call to speak in debate from one side to the other, unless it is the senator in charge of a bill or other matter or the leader of a party who stands to speak. I point out that the Acting Deputy President at the time was therefore correct in the way he allocated the call. He was also correct in holding that Senator Brown could not move a suspension of standing orders pursuant to contingent notice in the course of the debate. That can only be done between matters of business. I hope that clarifies those two rulings of the Acting Deputy President at the time.

Question put:
That the motion be agreed to.

The Senate divided. [5.51 p.m.]
(The President—Senator the Hon. Paul Calvert)

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

AYES

Allison, L.F.  Bartlett, A.J.J.
Bishop, T.M.  Brown, B.J.
Buckland, G. *  Campbell, G.
Carr, K.J.  Cherry, J.C.
Collins, J.M.A.  Conroy, S.M.
Cook, P.F.S.  Crossin, P.M.
MINISTERIAL STATEMENTS

Sport: Drug Testing

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.56 p.m.)—by leave—During the adjournment debate last Friday Senator Faulkner made a number of serious allegations relating to the cycling program at the Australian Institute of Sport. I indicated that I would respond early this week. The Australian government are tough on drugs in sport. We have a zero tolerance policy on doping in sport and are proud that our antidoping programs have helped set the standard for the world sporting community. The Australian Sports Commission, the Australian Sports Drug Agency, national sporting organisations and peak bodies like the Australian Olympic Committee and the Australian Commonwealth Games Association combine to ensure that Australia has the best drug education and testing program in the world.

We have been a driving force behind the establishment of the World Anti-Doping Agency and the development of the World Anti-Doping Code, which will, for the first time, ensure there are uniform best practice standards around the world in antidoping. This government has ensured that Australia is a recognised leader in the world fight against drugs in sport. For example, the Council of Europe concluded in 2001, ‘Australia can certainly claim to have one of the most, if not the most, rigorous antidoping policies and programs in the world.’ WADA has acknowledged Australia’s active role in the creation and acceptance of the World Anti-Doping Code and the Copenhagen declaration, through which governments signalled their acceptance of the code: Play True issue 1, 2004. In a letter to me dated 19 March 2003, Mr Richard Pound, the President of WADA, said, ‘We believe we owe a significant debt of gratitude to Australia for having demonstrated a level of confidence and comfort that made it possible for 51 countries to sign the Copenhagen declaration and accept the code,’ and, ‘We were fortunate to have Australia’s leadership setting the tone for the other continents.’

Let me briefly set out the facts of the French case. On 2 December material was discovered at the AIS Del Monte facility in Adelaide that implicated an AIS scholarship holder and member of Cycling Australia in a possible doping offence and a possible breach of the AIS scholarship-athlete agreement. This material was discovered by AIS...
staff who, I am advised, acted immediately and appropriately by notifying management at the facility who then notified the ASC executive, including the head of the AIS. Immediately the ASC, with the support of Cycling Australia, instituted a preliminary internal investigation in accordance with standard practice to establish whether a doping offence may have occurred. The report of the preliminary investigation, which was finalised by 18 December, recommended that an independent investigator be appointed.

The following day Mr Justin Stanwix, a senior lawyer experienced in antidoping matters, was appointed with the agreement of Cycling Australia. Mr Stanwix commenced work immediately before Christmas. He completed his investigation and reported his findings to the ASC and Cycling Australia on 29 January 2004. His report indicated that there was evidence that the cyclist Mark French had a case to answer for breaches of both the ASC and Cycling Australia’s antidoping policies. During the investigations Mr French made allegations of a broader culture of injecting vitamins at the AIS cycling program but repeatedly refused to identify the athletes allegedly involved. After reinterviewing athletes, coaches and staff, Mr Stanwix found no evidence to suggest a breach of antidoping policies by other athletes. However, he did find that two athletes had admitted to injecting vitamins on a small number of occasions, actions which do not breach antidoping policies but which are in breach of the AIS’s code of conduct.

I am advised that the two cyclists were reprimanded and that any further breach of the code of conduct could result in the termination of the scholarships. In addition to this, all AIS cycling program athletes were counselled about compliance with the AIS supplements policy by AIS staff. I am also advised that for privacy reasons it is not the practice of the AIS to release the names of athletes found to have breached an internal AIS code of conduct. After examining the report thoroughly and seeking legal advice, doping infraction notices were issued to Mr French on 9 February.

The matter then went to the Court of Arbitration for Sport for formal hearing. Mr French was found guilty of antidoping breaches and CAS imposed a ban of two years and a fine of $1,000. The athlete was given 21 days from the date of the award to lodge an appeal. In his submission to CAS the athlete for the first time made specific doping allegations against other named cyclists. This is the issue that is now the subject of public debate and I shall return to this matter later in my statement.

I have received a briefing on the report and have been assured that the report covered thoroughly the discovery of doping substances and materials at the AIS Del Monte establishment on 2 December 2003 and the possibility of more than one athlete being involved in doping activities. Further, I have been assured that actions taken by the ASC and Cycling Australia in response to the report were taken in accordance with their appropriate processes and doping policies. Charges, once laid, were heard by the independent Court of Arbitration for Sport, as required of Cycling Australia by AOC by-laws.

I would now like to deal with some of the claims made by Senator Faulkner in the Senate last week. Senator Faulkner stated as a matter of fact that there is a completely inappropriate culture at the AIS facility Del Monte in Adelaide and that supervision and management was clearly inadequate. He implies that this is a finding from the CAS award when in fact they are allegations made by Mr French. Let me state the facts. A full-time manager and house parents are on call 24 hours a day. The AIS cycling program
based at Del Monte includes the AIS Head Coach, Cycling Australia High Performance Manager and AIS Cycling Administrator. In addition, all AIS athletes, including those based at Del Monte, have access to qualified medical staff and psychologists throughout the duration of their AIS scholarship. Senator Faulkner also stated as a matter of fact:

... it is now known that at least four other cyclists used his room for the injection of both legal and prohibited substances, the latter including Testicomp and equine growth hormone.

This is not a proven fact but another allegation. Senator Faulkner asked whether I had been briefed on the progress of the case. I received regular updates from the ASC Chief Executive Officer, Mr Mark Peters. I am also advised the ASC Chairman, Mr Peter Bartels, was briefed on all developments. Cycling Australia, having jointly appointed the independent investigator and legal representative for the CAS hearing, has also been kept aware of all developments. It is not appropriate, however, for a minister to become involved in the day-to-day management of doping cases. This is best carried out at arm’s length from the government of the day.

Senator Faulkner has also said that, despite the considerable evidence, there have been no charges brought against any other athletes. As I have already made clear, Mr French has repeatedly refused to provide specific information that might allow charges to be laid. He failed to provide specific information at any time when the matter was first raised, during the preliminary investigation or during the subsequent independent investigation. It was only a week before the CAS hearing that Mr French submitted a statement to CAS containing the specific allegations. However, under the rules of CAS, the ASC cannot use the information without the approval of all parties involved in the case. Immediately after the conclusion of the CAS hearing, the ASC instructed its solicitors to write to Mr French seeking his permission to use this information for the purposes of a further investigation. Mr French gave his permission late this afternoon.

In question time today, Senator Ray asked for confirmation that equine growth hormone is a schedule 4 poison available for limited use and whether the matter had been referred to the appropriate authorities. I am advised that equine growth hormone is a schedule 4 poison. I am also advised that the ASC, after consultation with the Australian Federal Police, referred the matter formally to the head of the Drug and Organised Crime Investigative Branch of the South Australian Police on 11 March 2004. A copy of the independent investigator’s report was provided to the South Australian Police on 7 April 2004 at their request. In addition, on 2 March the ASC approached the Australian Customs Service to initiate a process for Customs to investigate any breach of their legislation. Senator Ray also asked whether I was aware that the World Anti-Doping Agency has described the current problems as the first occasion on which this highly dangerous drug has been used to dope an athlete or athletes. In this context, I note that the CAS arbitrator did not establish that Mr French had used equine growth hormone.

What is to be done? Senator Faulkner said in a speech last week:

... it is now known that at least four other cyclists used his room for the injection of both legal and prohibited substances ...

Later in his speech, he states:

... these activities involved up to six athletes locked in French’s room on several nights a week for a period of months.

The allegations relating to other athletes are of enormous concern and are being treated seriously, not least because they may have implications for the composition of Austra-
lia’s Olympic team. These allegations will be investigated without delay.

I can inform the Senate that, mindful of the Olympic selection issues raised, the ASC this morning convened a teleconference with Cycling Australia, the AOC and the Australian Commonwealth Games Association to discuss the terms of reference and timing constraints for an independent investigation. Specifically, the investigation will inquire into and provide recommendations on the allegations made by Mr French in his evidence given to CAS. I have asked that the investigation also examine and provide recommendations on whether there was any failure of management, systems or supervision at the Del Monte facility and whether the processes put in place by the ASC and other organisations in dealing with this matter were appropriate and effective. The investigator will report to the boards of the Australian Sports Commission and Cycling Australia and his report will be made public, subject to privacy or other legal requirements. However, I would remind the Senate that athletes, like all other Australians, are entitled to be considered innocent until proven guilty. I am pleased to announce that the Hon. Robert Anderson QC, a retired Justice of the Supreme Court of Western Australia, has agreed to conduct the investigation. Mr Anderson is an outstanding jurist and I am sure his appointment will be widely welcomed. I will announce the full terms of reference and the reporting date in the next few days.

In conclusion, I reiterate that the government is committed to its zero tolerance policy against doping in sport. A thorough investigation of these allegations will be undertaken to ensure that all of our athletes have a level playing field in all aspects of drug-free sport.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (6.07 p.m.)—by leave—I think the Senate is aware, but let me say again for the record in case it is not understood, that the number of serious allegations that the Minister for the Arts and Sport, Senator Kemp, has referred to contained in my speech last Friday are of course based on the reasons for judgment of the Court of Arbitration for Sport in this particular case. I have also indicated that that judgment is available. A range of other material, certainly not available to me, is accessible to the minister, the Sports Commission, the Australian Institute of Sport and Cycling Australia. I believe—and I have said this before—that there ought to have been action on this earlier. However, it is appropriate that an independent investigation be established into these matters. There is no other course of action to take when these sorts of allegations are contained in a judgment of the Court of Arbitration for Sport. That is appropriate.

The detail of the independent inquiry remains to be seen. It is not clear what the formal terms of reference are, although the minister has given a broad indication to the Senate of some of the issues that this particular inquiry will deal with. Of course, any such inquiry needs to be credible and independent. That is the key. It will report, as I understand it, to the boards of the Australian Sports Commission and Cycling Australia. This is obviously a decision that the minister has made. I believe that, whilst it is not inappropriate that copies of such a report go to both boards, it would not be inappropriate for such an inquiry to report directly to the minister, but Senator Kemp has indicated that such a report will be made public. That is appropriate. He has caveated his commitment in relation to certain privacy issues, and I do not think that is inappropriate in these circumstances. I assume it is the minister
who set the terms of reference for this report. Is that right, Minister?

Senator Kemp—I have outlined the broad terms and will be discussing the precise terms in the next couple of days.

Senator Faulkner—I thank the minister. As I have indicated, the broad terms have been outlined in the minister’s speech and the precise terms of reference will be provided at a later stage—the minister has said within a couple of days. It is essential that this matter be dealt with and finalised as soon as possible. I hope that the minister shares that sentiment. He says, ‘Absolutely,’ and I accept that he means that. I could not imagine anything worse than for these issues to become public on the eve of the Olympic Games. These issues have to be investigated and the outcomes have to be finalised prior to the Olympics, because no-one would want to see a situation where any such allegations had an impact on either our Olympic standing or our international standing. We cannot afford to have anything impact on our international standing as a country which has had a drug-free sporting environment. I do not think any reasonable person would disagree with that. Most would understand that any allegations that potentially damage Australian sport, and our reputation as a clean nation in sport, are of the most serious nature.

We need to see the terms of reference, and I hope they will be provided by the minister as soon as possible. It would be useful for the minister to indicate what powers of compulsion will apply to this particular inquiry. It will be interesting to see what powers to protect witnesses will be provided. It is important that other bodies be included in such a comprehensive process. The issues that my colleague Senator Ray asked about in question time today in relation to possible supply, possession and use of a schedule 4 drug are obviously matters which require the closest and most serious attention in any such inquiry.

There is, of course, a massive interest in the broad issue of duty of care to athletes. I cannot think of anything more important for those who have these very, very important responsibilities than the duty of care to athletes. I for one do not shy away from this for one moment. I would be very concerned if any culture or practice of drug-taking could flourish at a facility like the Del Monte facility of the AIS. When I read the judgment of the Court of Arbitration for Sport, I found what was occurring at that particular facility incredible. And I am not thinking about allegations; I am talking about matters that have been admitted by Mr French, the athlete who was before the Court of Arbitration for Sport.

I think it is important for the minister to indicate to the Senate whether the inquiry will be concluded prior to the deadline for the nomination of the Australian cycling squad for the Athens Olympics. As I understand it, that deadline is 9 July 2004. I hope, Minister, that you will be able to give that assurance to the Senate and to the public because that is what is necessary in this circumstance. It is absolutely essential in this circumstance. I will be looking forward to an inquiry process that is completely open and transparent so that all sport and all Australians can see that this matter has been properly investigated and so that full confidence can again be afforded to the clean status of Australian sport. I know that I am not alone in that sentiment. It is held very broadly in the sporting community. The people who have come to me as a former minister for sport and informed me of the judgment of the Court of Arbitration for Sport obviously strongly share that sentiment, and they are senior people in sport and the administration of sport in this country.
I do not think it was anything other than appropriate to involve the Australian Olympic Committee in this. When these serious allegations were made the first port of call for me was the Australian Olympic Committee and its president, Mr Coates. That is because we could not have a situation like this raised on the eve of or during the Olympic Games. I do not see that as a partisan sentiment in any sense. I would think that all Australians would want to ensure that there are no clouds hanging over any member of our Olympic team. I would hope that that would be—and I believe it would be—a bipartisan sentiment in this parliament as well.

There is obviously a major task to be done here. Serious allegations have been made. In my speech to the Senate on Friday I very faithfully reported some of the allegations that have been made via the partial judgment of the Court of Arbitration for Sport. The minister has not yet indicated to the Senate whether he is proposing to give leave to allow the tabling of that particular document. I do not know, Minister, whether you have given consideration to that.

Senator Kemp—Yes.

Senator Faulkner—The minister has indicated that it can now be tabled. I do note that it appears to be a document that has received quite wide circulation in at least the media—not as a result, I might say, of my actions or actions from my office. It is a document that is broadly available because a number of people have raised serious concerns about its content with me. I am pleased that an independent inquiry has been launched into these matters. I hope that the minister will be able to report further and very quickly on the issues that I have outlined. I certainly hope that it can conclude its work quickly. I hope as a result of this that Australia’s standing will be strengthened before the Olympic Games in Athens.

Documents

Auditor-General’s Reports
Report No. 54 of 2004-05

The Acting Deputy President

(Senator Watson)—Pursuant to standing order 166, I present a report of the Auditor-General which was presented to the President after the Senate adjourned on 18 June 2004. In accordance with the terms of the standing order, the publication of the document was authorised.

Senator Bartlett (Queensland—Leader of the Australian Democrats) (6.20 p.m.)—by leave—I move:

That the Senate take note of the document.

This is a report on the management of the detention centre contracts under the Department of Immigration and Multicultural and Indigenous Affairs. It is worth noting, as you have just said yourself, Mr Acting Deputy President, that it was tabled after the Senate adjourned at about 4.30 p.m. on Friday. It is a fairly typical but nonetheless inexcusable attempt by this government to hide what is clearly a disgraceful and damning report by the Auditor-General into the management of Australia’s immigration detention centres. A typical longstanding government practice—I think the phrase used in The West Wing ‘is taking out the trash’—is to put the report out late on Friday afternoon after the parliament has risen so nobody can speak to it and hope that people do not notice. Thankfully, some people in the press gallery did notice and have reported on it, and many people who follow what this government does in the area of immigration detention also noticed.

I will briefly touch on some of the conclusions of the Auditor-General’s report and its overall findings. The report said:

The ANAO concluded that DIMIA’s management of its contract with ACM—
that is, Australasian Correctional Management, which was the company running detention centres—
suffered from a lack of clearly identified and articulated requirements. Through the life of the contract, considerable time and resources were expended … managing the emerging issues from an increasing workload. However, DIMIA did not take the initiative and clarify its objectives. DIMIA decided not to amend the contract to establish clear expectations of the services to be delivered, or refine the standards it used to monitor and report on ACM’s performance. These shortcomings adversely affected DIMIA’s ability to: assess overall service delivery; determine the quality of service required and delivered in key areas; manage shared responsibilities; and establish priorities for improvement.

We are talking about an immigration detention centre here. It is to all intents and purposes a jail, except that it is for people who have not been convicted of any crime and, indeed, have not been charged with any offence. To have such failings in assessing overall service delivery and the quality of that service in key areas means that the detainees—very vulnerable people; asylum seekers—were in a situation where the performance of their jailors was not being properly monitored. The report states:

DIMIA’s overall objectives in contracting out detention services were not clearly, or consistently, articulated over the life of the contract.

… … …

DIMIA did not identify and document the risks associated with the private provision of detention services.

The private provision of jails or jail-like environments is very controversial. It has a pretty poor history. To go down this path without setting in place the associated risks is completely unacceptable. The report goes on to say:

… the contractual requirements lacked sufficient specificity to enable DIMIA to adequately monitor the quality and nature of the services provided by ACM.

Again, let us remember that these so-called services are the detention of asylum seekers. The report continued:

The ANAO concluded that there was a low level of assurance that the financial aspects of the contract operated as intended. Although there have been improvements in recent times, for the most part, financial performance measures and reporting in respect of the detention contract were limited. As well, DIMIA did not actively manage the savings share arrangements to protect the interests of the Commonwealth—

that is, the taxpayer. The report continued:

The costs of the contract itself, and contract administration increased over the life of the contract, and not always in proportion to the level of contracting activity. The ANAO notes that, over the life of the contract, the human resources used by DIMIA to manage the detention function, including contract monitoring, increased from a section in DIMIA with 15 staff to a division with 150.

This is taxpayers’ money that is being expended on a detention regime that the Democrats believe is not necessary. Think of the costs of 150 staff simply to manage the detention function alone. This is not to run the centres; this is just to oversee the operation of the contract. Also, the Audit Office report said:

While the contract provided a basis for infrastructure management, it lacked clarity about DIMIA and ACM responsibilities.

I suspect that that is not accidental. People who sought to raise concerns about specific instances in detention centres met with the continual frustration of being bounced backwards and forwards between the department and ACM about who was responsible for what issue. It is a bit like the finger-pointing between state and federal governments. You can never get anywhere, because it is always someone else’s responsibility. I suggest that it is probably no coincidence that that was
the way it panned out in this case. I should mention that ACM is no longer running detention centres. They are now run by a different company. Whether or not the situation has improved is another question.

Let us not forget that these are facilities—and I have visited all of the detention centres that are currently open in Australia—that in certain circumstances authorise strip-searching, effective solitary confinement or isolation, and the use of handcuffs and flexicuffs. This is a private company authorised under the Migration Act to operate what are supposedly—and what are still often called—processing and reception centres where people are put in isolation as a management technique. It is not even as punishment. If you tried to do it as punishment it would be illegal. There is no proper process for people to find out why they are being put in so-called management or isolation or to appeal against such decisions. It is completely outside any administrative overview mechanism. I have used the term ‘prison’ and drawn comparisons with the contracting out or privatising of the running of prisons, but with detention centres the contractors are actually far less accountable. Our prisons are established under state law. They are at least overseen by a consistent legal regime. There are proper procedures. If prison officers do not follow procedure—if they inappropriately discipline somebody or use punishment without following procedure—then there is legal recourse. There is no such luck for detainees under our detention regime.

I have been to the Nauru detention centre, which is not run by this company. It is run by the International Organization for Migration, which is an international non-government organisation. It was still contracted by DIMIA, but the big difference that I saw, having been to the Nauru centre twice, was not the facilities—though there were certainly differences there—but the attitude of the management. Certainly, there are some who criticise the management there. But I would say that their whole attitude is not of security and detention but of caring for the people that they have a responsibility to look after while a migration outcome is found for them. It is a very different attitude and it reflects very differently in the end result. It does not mean that there are not problems there. There are inevitably problems because there are still people who are locked away for years at a time, outside the legal process, with no understanding or hope about what their future holds. But this clearly shows why it is such a problem to have a correctional company—a security or prisons company—with a detention and security mindset running what are still called immigration reception and processing centres.

This Audit Office report highlights why that is a problem. These are places that have extremely ill people—traumatised people. Just last weekend in Baxter detention centre in Port Augusta a man overdosed. He had to be taken to Adelaide hospital in a very serious condition following that overdose. That is the sort of despair and desperation people are driven to as their only way out of these places. Many of these people have asked to return and are still not able to. There is no prospect of them returning and no avenue out into the Australian community. They are just trapped. The only way out is through complete psychological breakdown. Those sorts of people need a caring environment, not something that is run like a jail and not something that is set up in the appalling way this Audit Office report demonstrates.

Question agreed to.

Sitting suspended from 6.30 p.m. to 7.30 p.m.
BUDGET
Consideration by Legislation Committees
Additional Information
Senator McGauran (Victoria) (7.30 p.m.)—On behalf of the Chair of the Community Affairs Legislation Committee, Senator Knowles, I present additional information received by the committee relating to hearings on the 2003-04 additional estimates.

AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT (EXPORT CONTROL) BILL 2004
Report of Rural and Regional Affairs and Transport Legislation Committee
Senator McGauran (Victoria) (7.30 p.m.)—On behalf of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I present the report of the committee on the provisions of the Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill 2004, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

SUPERANNUATION BUDGET MEASURES BILL 2004
SUPERANNUATION LAWS AMENDMENT (2004 MEASURES No. 1) BILL 2004
SUPERANNUATION LAWS AMENDMENT (2004 MEASURES No. 2) BILL 2004
Report of Economics Legislation Committee
Senator McGauran (Victoria) (7.31 p.m.)—On behalf of the Chair of the Economics Legislation Committee, Senator Brandis, I present the report of the committee on the Superannuation Budget Measures Bill 2004 and two related bills, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

COMMITTEES
Foreign Affairs, Defence and Trade Committee: Joint Report
Senator McGauran (Victoria) (7.32 p.m.)—On behalf of the Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade, Senator Ferguson, I present the report of the committee entitled Australia’s Maritime Strategy. I seek leave to move a motion in relation to the report.

Leave not granted.

DELEGATION REPORTS
Parliamentary Delegation to the 12th Annual Meeting of the Asia Pacific Parliamentary Forum, Beijing
Senator Chapman (South Australia) (7.32 p.m.)—I seek leave to present a delegation report.

Leave not granted.
Employment, Workplace Relations and Education References Committee

Senator GEORGE CAMPBELL (New South Wales) (7.33 p.m.)—I present the report of the Employment, Workplace Relations and Education References Committee entitled Beyond Cole—The future of the construction industry: confrontation or co-operation? together with the Hansard record of proceedings and documents presented to the committee

Ordered that the report be printed.

Senator GEORGE CAMPBELL—I seek leave to move a motion in relation to the report.

Leave granted.

Senator GEORGE CAMPBELL—I move:

That the Senate take note of the report.

Tonight I table the Employment, Workplace Relations and Education References Committee’s report Beyond Cole—The future of the construction industry: confrontation or co-operation? This report represents Australia’s first federal parliamentary committee inquiry into the building and construction industry. It is written in the context of looking at radical legislation proposed by the government to create a separate industrial relations regime for construction workers. It chronicles one of the most biased, poorly drafted and downright simplistic pieces of legislation that has ever been brought to the attention of the Senate.

This legislation is a recipe for disaster. It threatens the stability of the industry and represents an intolerable assault on the rights of construction workers and the principle of employment equity. It is the natural successor to the politically motivated Cole royal commission, which saw the government attempt to use a royal commission in order to corrupt the public mind. For this reason, the Building and Construction Industry Improvement Bill 2003 has been roundly rejected by the committee majority.

This legislation represents a cynical attempt by the government to reincarnate numerous provisions and clauses from previously rejected legislation. It maintains the tradition of workplace relations ministers applying Orwellian titles to their bills. Unfortunately, though, this bill will do nothing to improve the lives of the employers, employees and customers of the building and construction industry. The inquiry elicited 125 submissions, with 141 people appearing as witnesses around the country at 14 public hearings. Submissions came from individuals and organisations on both sides of the industrial fence. The committee sought in vain for direct evidence from builders and developers in support of the proposed legislation. However, the vast majority broadly opposed aspects of the Building and Construction Industry Improvement Bill 2003 and many opposed the bill in its entirety.

The committee noted that evidence from industry bodies supporting the principles of the bill were highly critical of its details. This suggests widespread scepticism of the practicalities of the legislation. For instance, the submission received from the largest construction company, Multiplex, avoided endorsing the bill and proposed its own solution to industrial dispute resolution in the industry. In fact, developers and builders have been conspicuously quiet or unenthusiastic about the government’s legislation because this bill will do nothing to improve productivity or solve any of the problems that currently exist in the building industry. The report does not just comment on the bill, however; it also provides a thorough critique of the procedures and outcomes of the Cole royal commission from which this legislation
was spawned. The report attempts to cover the spectrum of industry related matters that will be affected by the bill if it is passed. The government seems to be taking a ‘try and try again’ attitude and approach to this area of policy.

At the heart of the bill is the notion that this industry is so troubled, unproductive and tainted with illegality that it requires the creation of a quarantined industrial relations regime. The whole industry, employers and employees alike—making up around seven per cent of the workforce—will be fenced off from the rest of the working population and work, as in a gulag, under a much more exacting and proscriptive structure. Numerous submissions, not to mention evidence given before the committee, show that no one in the industry is sure exactly where the fence is.

The committee majority found no compelling evidence that the situation in the building industry is so dire, either in terms of productivity or industrial relations, as to justify such extreme measures. The inquiry showed that the conclusions of the Cole royal commission, which underpin this bill, were not just incorrect; they were diametrically opposed to the true problems facing the industry.

Commissioner Cole concluded that occupational health and safety disputes were being used by unions for spurious or intimidatory reasons. However, witness after witness told us about dangerous working conditions and a lack of occupational health and safety inspectors in some states and territories. Commissioner Cole recommended an expansion of the powers of royal commissions. The committee heard numerous witnesses call into question Commissioner Cole’s adherence to standards of procedural fairness and natural justice. Indeed, instead of recommending an expansion of the power of royal commissions, as Commissioner Cole did, we are directing that the Senate investigate the possibility of amending the Royal Commissions Act to ensure some measure of protection for the civil rights of witnesses called before such commissions.

Commissioner Cole warned against practices such as pattern bargaining and project agreements, whereas the committee found that these agreements bring certainty to parties on both sides and ensure industrial harmony and fairness in tendering. Commissioner Cole alleged a culture of lawlessness in the building industry—which is so entrenched as to require that it be regulated separately under the supervision of a powerful building industry task force—whereas the committee was presented with evidence that in 2000-01 an average building worker engaged in industrial action for less than half a day per year.

The committee majority found that most players in the industry are pragmatic and practical people who just want to get on with their jobs. This bill, instead of getting rid of any industrial difficulties, is likely to provoke major industrial confrontation that will cause considerable damage to the industry and the economy. Commissioner Cole largely ignored some of the more pressing issues in the industry, such as skills shortages, workers compensation and entitlements, tax avoidance schemes and phoenix companies.

In short, evidence presented to the committee contradicted almost every conclusion made by Commissioner Cole. If Commissioner Cole’s conclusions are wrong then this bill, if passed, would be wrong also. Instead of simplifying the process, this bill would make the laws governing the industry unnecessarily complex. The only people who would benefit would be industrial relations lawyers. Our inquiry was never able to find
out who actually called for a royal commis-
sion into this industry. No witness we heard
from asked for it and very few people were
consulted before it was established.

In its report the committee was forced to
rely on speculation because it was not able to
put government assumptions about the ef-
facts of its proposed legislation through the
appropriate inquiry processes. As a conse-
quence of the Minister for Employment and
Workplace Relations declining the commit-
tee’s invitation to appear before it, we were
unable to question him on policy details of
the bill and the likely consequences of cer-
tain provisions of the bill. Departmental offi-
cers who appeared for the government could
not be expected to answer questions that go
to the heart of policy, explaining the reasons
behind ministerial policy, let alone speculate
on the likely effects of the bill’s passage on
the state of the industry.

In essence, the government has escaped
effective scrutiny by both houses in the con-
sideration of this bill. The result has been a
failure in political processes and a textbook
example of how not to make public policy.
The future of the building and construction
industry will not be secured by an ideologi-
cal agenda, driven by a government intent on
confrontation with the labour movement at
any cost; rather, the future of the industry
will depend on a cooperative arrangement
between capital and labour.

Finally, I must reluctantly comment on the
unacceptable and disappointing behaviour of
at least one government senator during the
course of the inquiry. He made a number of
baseless claims, accusing the unions of in-
timidating witnesses who wished to appear
before the hearings. Allegations were also
made that I, as the committee’s chair and,
indirectly, the secretariat, unduly influenced
the choosing of witnesses and the allocation
of days for committee hearings. These accu-
sations were made without any evidence and
signified the desperation of the government
at the fact that the vast majority of witnesses
who appeared before the committee were
highly critical of the proposed legislation.
The government did not like the outcome, so
they smeared the process.

Finally, I would like to thank the secre-
tariat of the Senate Employment, Workplace
Relations and Education References Com-
mittee, particularly its secretary, John Carter,
and research officer, Vanessa Horton, for
their hard work and dedication during this
inquiry. As always, their professionalism is
beyond reproach.

Senator JOHNSTON (Western Australia)
(7.43 p.m.)—I wish to speak to the report of
the Senate Employment, Workplace Rela-
tions and Education References Committee
entitled Beyond Cole—The future of the con-
struction industry: confrontation or co-
operation? I also wish to speak to the gov-
ernment senators’ report contained within the
printed volume. The majority report of the
references committee is of course an ex-
tremely conservative document. It is im-
mersed in the ways of old Labor and the re-
luctance of the affiliates of the trade union
movement, particularly the building and con-
struction industry unions, to embrace the sort
of reform that almost every other industry in
Australia has embraced. The situation is that
the opposition party is affiliated with the
unions, and this affiliation was extraordinar-
ily evident throughout the committee’s hear-
ings.

We know that the Cole royal commission
was called due largely to the response of a
Mr Sutton, who is the New South Wales sec-
retary of the CFMEU. He indicated that there
was an involvement in his union of a certain
Mr Domican, who is a renowned and well-
known, may I say, underworld figure. Of
course, the minister responded to this by say-
ing. ‘All right, if I have a senior union official raising the involvement of a renowned underworld figure in the building and construction industry, we’ll have a royal commission.’ That is what we did. Of course, the thing about the royal commission is that it was the first time that anybody had taken any great time or trouble to look at the conduct of these building unions on commercial building and construction sites, principally in CBDs, in each of the capital cities in Australia.

What were we on about with the Cole royal commission? In Victoria last year two union officers of the CFMEU were confronted in their office when shots were fired and every window in the building in Carlton was broken and blown out. Further shots were fired at the Swanston Street headquarters of the CFMEU in Melbourne and bullets were fired throughout the building. I also draw your attention to the fact that the secretary of the New South Wales AMU, Mr Doug Cameron, has been twice assaulted at his home over the past two years. I put it to Mr Cameron, who gave evidence, that this was not a matter of him parking on his neighbour’s verge or a tree hanging over an adjoining fence; this was about industrial muscle, industrial power and the exertion of nefarious industrial activity against him. He refused to engage with this: ‘I don’t know; I’ve reported it to the police and I don’t want to be drawn on what the reason is.’ Everybody knows what is going on in this industry and the Labor senators in this place covered it up.

Let us talk about Mr Paddy McCrudden, a Victorian member of the CEPU, who suffered severe injuries and spent nine hours in the emergency department of Geelong Hospital after being viciously bashed during a union strategy meeting in Victoria. I ask you: is this the conduct that we can expect in a reputable industry? Let me talk about Mr Peter Harries, member of the CFMEU, who required several stitches to a severe facial cut as a result of a union related assault in Newcastle last year. These are the sorts of activities that confronted the committee. No matter how hard you try, you will not find them reported in the majority report of this committee. These are the sorts of things that the affiliated party to these unions does not want you to know about. It does not want Australia to know about them. It is absolutely outrageous conduct and indicative of a wider malaise of lawlessness in this industry costing the Australian taxpayer, investors and builders millions and billions of dollars.

The government’s determination to confront the issue of union lawlessness in the construction industry has provoked mild fury in the Labor movement. I can tell you we saw union member after union member to the point where I said to three commercial witnesses: ‘How is it that the state secretary of the CFMEU has your submission? Which of you gave your submission to the state secretary of the CFMEU? Come on, put your hands up.’ And the three of them very gingerly put their hands up. I said: ‘Why would you do such a thing? Why would you disclose your submission to our committee to the state secretary when you are in private business?’ The reply was: ‘We don’t really have an answer for that.’ Vague and uncertain, they were the classic victims of standover tactics. Witness after witness was put before us through the CFMEU. It was a parade; it was a charade.

The mild fury in the Labor movement is certainly the result of touching a tender nerve because of the strains and pressures it exerts on the affiliation ties. Labor senators have devoted much energy on this committee to affirming and reinforcing ties with the CFMEU, CEPU and other unions affected by this legislation. In other words, the jig is up and they do not like it. The tactics of intimi-
dation in this industry, which are impossible to paper over, are not stories that the Labor Party likes to hear. Inevitably, they would rather not know, or be seen not to know, about these things and there is no alternative to assuming an attitude of denial.

Ten minutes does not do justice to what I have seen over the course of the last six months. But, as an example of union power, I was questioning the state secretary of the CFMEU in Western Australia and he was telling us how one of the state members of parliament, who is a minister, was a person who had not done his bidding. Her name was Alannah MacTiernan. I said to him, ‘What had she done to lose your support on state executive?’ He was just about to tell me and—guess what—the chair ruled my question out of order. We were just getting to the length and breadth, the extent, of the power of a union in Western Australia to control elected representatives of the public—her seat is Armadale—and the question was ruled out of order, because I tell you it is a tender nerve and we were getting far too close to the bone. This is the flavour of this inquiry.

This problem has been around for a very long time. Let me quote Senator Peter Cook from 1990:

Friends, this industry is going to have to bite the bullet at last. If this country wants to be efficient and productive, everybody has to undergo the reform process—and most especially an industry which has such pressuring and demonstrable need for it.

Nothing has changed. Senator Cook acknowledged the need to reform this industry way back in 1990 but did nothing about it, and this government has been confronted with the difficult task of doing it. This legislation is very sound and solid legislation with which to do it.

A careful reading of the majority report reveals what a conservative document it is. Opposition senators are more comfortable living with the certainties of the past than embracing changes to secure future needs of the construction industry. Thus no solution is offered in the opposition report for the chronic problems faced by builders and contractors to deal with trade union extortion and intimidation. Let me say that we heard legions of it. Witness after witness came along and said: ‘We can’t get contractors to come to your committee because they will be intimidated.’

It would be extremely difficult for the opposition to agree on how the reform of the building industry could be done; therefore, it is better to say that the problem does not exist. Indeed, the majority report says precisely that: the Cole royal commission was just a fantasy. The intimidation and brutalisation of people in the building and construction industry by the CFMEU in particular does not occur, according to senators opposite. I have to say that that is an insult to intelligence. The last point I want to make is that the ILO conventions were put to us many times.

Senator MURRAY (Western Australia) (7.53 p.m.)—I rise to take note of the tabling of the report entitled Beyond Cole—The future of the construction industry: confrontation or co-operation? I commence by thanking the secretariat in particular for their hard work in what was a very complex, emotive and difficult task. I also want to acknowledge my appreciation to the chair of the committee. I thought he handled the inquiry rather well, given the tensions that surround this issue.

The Cole royal commission in both origin and conduct increased the temperature and allegations surrounding the building and construction industry. Political tension be-
tween the coalition government and the Labor Party concerning building unions and their conduct has been high both before and since the commission. Although these political tensions have been clearly apparent in the committee’s work, looked at objectively the committee has done a considerable service to the BCI—the building and construction industry—not just in putting some balance into the assessment of Cole but in addressing issues and perspectives insufficiently covered by Commissioner Cole.

My impression is of a diverse range of reactions to the proposed Building and Construction Industry Improvement Bill 2003. As a generalisation, peak employer groups strongly support the proposed legislation and Cole, present union officials in a devilish light and are louder about stronger workplace relations law than about OHS, entitlements, rorts and tax avoidance. Key unions in the ACTU are strongly opposed to the bill and Cole, present union officials in an angelic light but share Cole’s concerns about OHS, entitlements, rorts and tax avoidance. Some companies are convinced that the bill is in their interest, some are not and most are silent onlookers. Many who have seen me privately would not appear before the committee but are adamant that the Workplace Relations Act is not curbing unacceptable behaviour in the industry. Other observers, such as academics and law firms, have strongly criticised the bill. Much media commentary has focused on an anti-union bias in Cole and the bill.

There was much criticism about the Cole royal commission and, therefore, the legitimacy of the bill in dealing with the problems of the BCI. However legitimate the criticism may be of the motivations for directions taken and selectivity of the Cole royal commission, the Cole report properly drew attention to unacceptable industrial practice that challenged the rule of law, undermined the intent of the Workplace Relations Act and adversely affected productivity, efficiency and competition.

The Democrats strongly support the need for greater compliance with the law and more effective law enforcement. The royal commission identified weaknesses in the current mechanisms of enforcing law of general application, including criminal law, industrial relations law, civil law, tax law and state law. Therefore another question we considered during this inquiry was: if one of the key findings of the commission was a weakness in current enforcement mechanisms, how will creating new workplace relations laws solve a problem that has been identified as failure of the market regulators across these fields of law? The committee heard evidence from witness after witness, whether they were industry or union, that regulatory failure was a critical issue, if not the critical issue, facing the BCI.

The Democrats support a system where all Australians—employers and employees alike—would have the same industrial relations rights and obligations regardless of where they lived. Supporting industry specific regulators would fly in the face of the Democrats’ beliefs. We are philosophically, practically and politically antagonistic to the idea of an industry specific regulator. In addition, we believe that it would be a waste of resources to establish an industry specific regulator if better regulation enforcement of the law meant that after a few years they were no longer needed.

The Democrats support one of the central propositions behind the Building and Construction Industry Improvement Bill 2003 and the Building and Construction Industry Improvement (Consequential and Transitional) Bill 2003—that is, greater regulation and enforcement of workplace relations law is necessary. We do not support the second
central proposition behind the bills that industry specific legislation and sweeping new workplace relations law provisions are necessary to achieve this aim. The building and construction industry improvement bills will be opposed outright by the Australian Democrats. They cannot be salvaged or amended. The problems in the industry and in other industries would be far better addressed by enforcement of existing law and the creation of a well-resourced, independent, national workplace relations regulator.

We are of the opinion that, as for other sectors of the economy such as ACCC, APRA, ASIC, ATO, greater regulation and enforcement of workplace relations law is desirable of itself as a market mechanism and as a social service mechanism and that folding ineffective departmental inspectorates, the Employment Advocate and so on into a standard regulatory body would considerably advance regulatory practice in industrial relations in Australia. We believe that workplace relations law is only as strong as its enforcement and that its enforcement is weak in the BCI. The lack of a well-resourced, active regulator with standard regulatory powers, plus inadequate penalties, is the prime cause of ineffective application and observance of existing law. The Senate inquiry reinforced the fact that better enforcement mechanisms and not new wide-ranging industrial laws were needed. The Democrats believe that there has been enough evidence before the Senate to support the need for an independent national workplace relations regulator.

Lawlessness might not be the best way to describe non-compliance with the law. The laws do exist, but whether it is tax or workers compensation avoidance or blatant disregard for the Corporations Law, the problem is weak enforcement. While it is quite wrong to characterise the BCI as an industry where the rule of law does not apply, criminality, corruption and thuggery have to be addressed where they exist.

The Senate inquiry also highlighted the problems of having different industrial relations jurisdictions for the industry as well as the desire for a unitary system. The Democrats have consistently argued for years now that we need one industrial relations system, not six. We have a small population, yet we have nine governments and a ridiculous overlap of laws and regulations. There are areas of policy and jurisdiction that the states no longer have sensible involvement in. Like finance, corporations and trade practices law, labour law is one of those areas. The Democrats believe that a unitary system does not have to be achieved with an all or nothing outcome. We strongly urge whichever party is in power in the next term to seriously consider the efficiencies and benefits that can be derived from a unitary industrial relations system.

Having highlighted the Democrats’ preference for addressing general mechanisms, the Democrats are not against targeting a problem in the short term. We supported the extension of the life of the interim national building industry task force and would not be opposed to increasing its information gathering powers on a temporary basis while the government worked towards establishing a national workplace relations regulator. We would also support providing additional resources to bodies such as the ACCC, ATO, AIRC, and probably ASIC, to focus on BCI hotspots.

We support the committee’s majority recommendation No. 1 and its other recommendations either in full or, in the case of recommendation No. 2, by assessing any legislation on its merits. Our key recommendations are: to oppose the building and construction industry improvement bills; to establish an independent national workplace
relations regulator; to include merit based appointments provisions in any legislation created to establish a national workplace relations regulator; to increase penalty provisions under the Workplace Relations Act for all industries; to include whistleblower protection provisions in the WRA; to increase the powers and capacity of the Industrial Relations Commission to make good faith bargaining orders, to resolve disputes on their merits and to make more determinations; and to amend the Workplace Relations Act to enable genuine project agreements to be reached and certified for major projects. Further, we recommend that the government consider legislating a definition of ‘employee’ into the Workplace Relations Act 1996; that the building industry task force play a more active role in pursuing the underpayment of employee entitlements; that the Commonwealth Electoral Act and the Workplace Relations Act be amended to ensure that democratic control of donations remains with members of registered organisations and shareholders; that donations are capped; that donations with strings attached are prohibited; and, that there be better disclosure requirements.

We believe the Commonwealth Electoral Act and the Workplace Relations Act should be amended as appropriate to ensure democratic control remains vested in the members of political parties and not in the hands of unions or of business. We believe a national unitary industrial relations system should be introduced. In conclusion, we have today announced that we reject the building and construction industry bills. We have offered the remedy of a national regulator and, in the interim, we have agreed to make a number of amendments to the Workplace Relations Act to fulfil our recommendations or some of those.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (8.03 p.m.)—I rise to speak on the Senate Employment and Workplace Relations Committee’s report entitled Beyond Cole—The future of the construction industry: confrontation or co-operation? It raises a significant issue. The area of workplace relations, as most senators would be aware, is one where the Democrats are perpetually in a balance of power role. It is the one area above all else where the old divide between Labor and the conservatives from years gone by is still very much in place. We need to consider the best approach for each issue. The approach that my colleague Senator Murray has just detailed highlights a few key aspects of this inquiry and the process behind it. The inquiry stemmed from the Cole royal commission into the building industry. The Democrats’ position, as announced by Senator Murray, is that the bills arising from the commission are not salvageable and should be voted down at the second reading. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator McLucas)—The President has received a letter from a party leader seeking to vary the membership of various committees.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.06 p.m.)—by leave—I move:

That Senator Barnett be appointed as a participating member of the Community Affairs References Committee and the Legal and Constitutional Legislation and References Committees.

Question agreed to.
TREASURY LEGISLATION AMENDMENT (PROFESSIONAL STANDARDS) BILL 2003

First Reading

Bill received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.06 p.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.06 p.m.)—I table a revised explanatory memorandum relating to the bill and 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—

TREASURY LEGISLATION AMENDMENT (PROFESSIONAL STANDARDS) BILL 2003

The purpose of this bill is to amend the Trade Practices Act 1974 and other relevant Commonwealth legislation to support professional standards laws which are currently in force in New South Wales and Western Australia, and which other jurisdictions are expected to adopt in due course.

Professional standards laws seek to minimise damages claims against professionals through improved professional standards—by requiring risk management strategies, compulsory insurance cover, professional education and appropriate complaints and disciplinary mechanisms—in return for caps on the liability of professionals who are covered by schemes which have been gazetted under the relevant state or territory professional standards law.

It is important to note that this capped liability will only apply to claims for economic loss and not to claims for personal injury and death.

The amendments made by this bill will establish a structure under which the Commonwealth, by prescribing schemes under State or Territory professional standards legislation, can support those laws by allowing liability under the relevant Commonwealth legislative provisions to be capped.

Ultimately this will benefit professionals and consumers alike, as professional standards laws will ensure that professionals hold adequate insurance, and this will serve to protect the interests of the community at large. There is also an unequivocal benefit to consumers flowing from the risk management strategies, professional education and disciplinary procedures embodied in professional standards schemes.


Amendments to the bill were moved in the debate in the House of Representatives. The amendments clarify the operation of the implied statutory warranty provisions in the Trade Practices Act 1974 and the Australian Securities and Investments Commission Act 2001. These amendments seek to ensure that state and territory reforms of the law of contract are not undermined.

I commend this bill to the Senate.

Debate (on motion by Senator Crossin) adjourned.

Ordered that the resumption of the debate on the bill be made an order of the day for a later hour.

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.07 p.m.)—I move:

That intervening business be postponed till after consideration of government business order of the day No. 6 (Veterans’ Entitlements (Clarke Review) Bill 2004).
Question agreed to.

VETERANS’ ENTITLEMENTS (CLARKE REVIEW) BILL 2004

Second Reading

Debate resumed from 13 June, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator MARK BISHOP (Western Australia) (8.07 p.m.)—The purpose of the Veterans’ Entitlements (Clarke Review) Bill 2004 is to implement the government’s response to the review of veterans’ entitlements conducted by the committee chaired by Mr Justice Clarke. This review had its genesis as an election policy of the government in 2001. The review commenced in 2002, reported back in February 2003 and, thereafter, languished in the government’s pigeonhole for 12 months until April this year. At that time, the government’s backbench revolted over the mean and tricky response and the Prime Minister was humiliated, and rightly so. A second response was made a fortnight later, which was far more generous than the originally agreed package.

I do not want to go through all of this sorry saga again, except to say that the whole Clarke review was unnecessary. It was nothing but a stalling device to avoid three years of pressure from the veteran community for reform to policy. As we can now see, the government’s response has also been strung out to the eve of the next election. Effectively this government of seven years, which should have known all of the detail in one of the oldest and most stable of portfolios, chose to stall. More deviously, though, the government also misled and deceived the veteran community. In short, the veteran community were conned into believing that they were being genuinely consulted. They believed that good things would flow and they participated in their thousands. But they were duped. There was not the slightest intention to do anything, hence the government’s first, minimal response.

As we know, the proof of this pudding was in the eating. Half of Justice Clarke’s 109 recommendations were for no change so, clearly, reviewing those issues was a waste of time. The government and its advisers knew that before they started. Of the remainder, the government was dragged, screaming, to accept fewer than 10, and none of these recommendations is novel in any way. The government could have acted at any time during its seven-year reign to accept all of them. But, no, veterans had to be subjected to this elaborate process to keep them quiet until the next election eve.

Let me now deal with the specifics of this bill. Firstly, the provision of rent assistance to war widows on the income support supplement is fully supported. To be frank, had the government not accepted this recommendation, Labor would have. It was our top election priority simply because it addressed perhaps one of the most needy groups in the veteran community. This was a very overdue reform. Next, the bill will extend the $25,000 grant to ex-prisoners of war of Korea, and their widows. We support that simply on the grounds of equity. It can only be wondered why, given the modest cost, this was not done at the same time as the original grant to prisoners of war of Japan. As many have pointed out, this leaves POWs of the Germans out in the cold. So the government, having decided on this discriminatory approach, will remain under pressure to extend the grants.

The increase in the funeral benefit is, of course, a token gesture. Increasing the benefit from $574 to $1,000 barely bridges the gap in the cost of a funeral. Of course, this benefit is enjoyed by only a minority of veterans so it is of no great cost; nevertheless, we support the increase because it is better
than nothing. We also support the minor extensions of the Veterans’ Entitlements Act to cover the RAAF crews who served in the Berlin airlift and on the Thai-Malay border, as well as a few mine-sweeping and bomb disposal personnel. In doing so, it must be said that the retrospective reviews of service for the purpose of extending veterans’ benefits has now become a farce. This is tragic in a way because hundreds of thousands of Australians who genuinely risked their lives overseas have always enjoyed a few privileges not available to others and that tradition has now been destroyed. The irrefutable evidence is that the dilution of qualifying service as a policy is quite deliberate. That evidence is contained elsewhere in this bill, and I will come to that issue shortly.

The final elements provided for in this bill concern the indexation of the TPI special rate and the so-called exemption of the disability pension from the means test at Centrelink. As the Senate will be aware, the TPI federation has been campaigning for five years at least to have their special rate pension indexed by male average total weekly earnings as well as by the CPI, which is the current index used. The reason is that they believe the special rate ought to keep pace with the standard of living rather than with the cost of living. They claim that this would bring some consistency with other pensions of income support, such as the age pension, the service pension and the widows pension. That is logical, assuming that the special rate is defined in full as an income support pension.

The government’s view is that only two-thirds of the special rate is income support—that is, the above general rate, which is that part which the government asserts is paid for not being able to work, hence the description of income support or economic compensation that is used by the government. The other one-third is called the general rate and is considered by the government to be non-economic compensation. It is not income but compensation for pain, suffering and loss of lifestyle. This benefit is paid to over 100,000 veterans and ex-service people, of whom only 29,000 are TPI. That is the government’s construction, hence the indexation only of the above general rate. That is not a novel rationale because it was also identified by Justice Toose as a policy issue in June 1975. Professor Baume was also attracted by the principles, as was Justice Clarke. Nevertheless the TPI community is incensed, and understandably so.

If this redefinition were logical, it would apply across the board. At least, that would be a reasonable expectation. But, no, it does not. In the exemption of the special rate from the means test at Centrelink, the whole of the special rate is treated as income. So TPIs logically ask, ‘If it is all defined as income for that purpose, then why not for indexation as well?’ That is a very good question and one that DVA will not answer. Their answer at estimates on 1 June this year was that it was their priority to get rid of the differential flowing from qualifying service. The government’s view is that TPIs should get the same whether they are veterans or not—that is, TPIs paid an income support pension by Centrelink because they are not veterans with qualifying service should be paid the same as veterans with qualifying service paid the service pension by DVA. At least we have the real policy explanation, but it means that effectively the government has a contradiction in the definition of income.

Obviously there is no policy. What is asserted as policy with respect to indexation is simply a convenience to save money; yet if it had been applied to the exemption of the disability pension from the means test it would have saved even more money. If veterans are confused, they are in very good company. This simply shows how deter-
mined the government has been to get rid of the qualifying service differential between the two groups of TPIs. Given that there is no policy with respect to the definition of income for the TPI special rate, one can only conclude that, to be consistent, the full special rate should be indexed by MTAWE, as the TPIs claim. It is for that reason that Labor will support the Democrats’ proposed second reading amendment. We are appalled at the lack of policy rigour. It is clear why veterans policy under this government is such a shambles. It is no wonder veterans do not understand it, because there is simply no consistency. If it is to be a policy free-for-all, we should all forget this pretence. That is obviously the government’s view.

That brings me to the final item in this bill, which is simply the greatest administrative mess and disaster I have ever seen. When Labor and the Democrats began urging in this place, without success, that the disability pension be exempted from the means test at Centrelink, we simply intended that it be made an exclusion under section 8(8) of the Social Security Act. Effectively, this would have been one line of text. It would simply have provided that any disability pension paid by DVA to any ex-serviceperson would be disregarded as income. What we have instead is the continuation of its inclusion as income in the means test but the payment of a refund by DVA to all the people affected. This refund, paid every fortnight, will be adjusted as any other payment would be to changing levels of income from other sources. Instead of taking one line of text, this provision to pay Defence Force income support allowance—DFISA—takes 14 A4 pages of typed text. The irony is that this new DFISA has to be excluded from the means test under the Social Security Act, which will be done by an amendment to section 8(8). So effectively the whole issue returns to where it started.

The DFISA—that is, the value of the deduction for disability pension—still needs to be exempted from the Social Security Act. It is without doubt one of the most complicated and unnecessary pieces of legislation I have ever seen.

I raise this matter in some detail not just because it is appalling policy and administration but because it needs to be put on the record. This is administrative bungling and incompetence, across portfolios, of the very worst kind. The complexity of the legislation is frightening, and I suggest that there are very few in the bureaucracy who have much of an understanding of it at all. This is evidenced by the fact that the bill as passed by the House of Representatives contained none of these provisions. No-one knew how to do it. Only in the last week have we received 19 pages of amendments. There can be little doubt that the sheer complexity will mean that there will be many oversights and subsequent amendments.

Whatever petty bureaucratic infighting may have gone on between the smokestacks of DVA and Family and Community Services, the end result is that DVA gets to implement another system of payments. This will cost over $8 million over four years, just to start with. No doubt many struggling families of veterans could have been helped with that money. It would, for example, be enough to provide 1,330 new long-term bursaries. It would pay for the restoration of home care to its proper level. It would pay for 660 gold cards. No doubt it would also pay for many aids and appliances that are now being refused by DVA as part of its clampdown.

I will explain to the Senate, which has been asked to agree to this monstrosity, and to ex-service people how this mess is intended to work. In short, anyone in receipt of a disability pension paid by DVA who also
receives any benefit from Centrelink will receive a DFISA payment, as will anyone on a Centrelink benefit with a partner whose disability pension is included in combined income. Anybody, including students whose parental income is used in the means test, could be affected. People who are currently means tested out of a Centrelink benefit may also now find themselves eligible for a part-pension at least. The benefits from this vary. For some TPIs, because the whole of the special rate is currently counted as income, the DFISA refund will be over $250 per fortnight. For others with lower level disability pensions it could be more modest. That, at least, is the good news from this proposal.

I also emphasise that all Centrelink payments may be affected. These include the age pension, disability support pension, wives pension, carer payment, bereavement allowance, the widows B pension, parenting payment, youth allowance, Austudy, Newstart, mature age allowance, sickness allowance, special benefit payment, partner allowance and the special needs pension. Both family tax benefit A and B will be affected. Also affected will be those who, from time to time, receive one-off allowances such as drought assistance. Then there are knock-on effects to the pension bonus scheme, remote area allowance, widows on income support supplement and rent assistance. For some of these, especially widows on income support supplements paid by DVA, the Veterans' Entitlements Act is to be amended as well.

Many war widows will also be affected. There are implications for portability rules and the new provisions for deductibility. Yes, believe it or not, people will be able to pay their bills by direct deduction from their DFISA. Then there are the tax implications. The original bill proposed that DFISA be taxable. This amendment sensibly provides that its tax status will be aligned with the benefit being paid. Fortunately, most pensioners are protected and will not be affected because of the tax rebate to pensioners. Nevertheless, some will be affected. However, the majority of Centrelink benefits I listed earlier are not taxed. The age pension is, though. So those ex-servicepeople with high levels of income do need to be careful.

In conclusion, it should be obvious from what I have just said that this is just about the most complex piece of legislation many of us have had to deal with, particularly in this portfolio area. Just imagine how veterans are supposed to understand it. How will they possibly know whether their payments are correct? How can they be sure that the calculations are right and that the DVA and Centrelink systems are properly coordinated and integrated? I think the best advice for the DVA is to clear the decks over the next six months and get ready for a broadside of complaints and inquiries. I end my comments here but note that I will return to some of these themes in more detail when we come to the government amendments in committee.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (8.24 p.m.)—I speak on behalf of the Australian Democrats to this Veterans’ Entitlements (Clarke Review) Bill 2004. This bill seeks to implement some of the recommendations of the Clarke review. The Clarke review committee was asked to consider perceived anomalies in access to veterans entitlements and the level of benefits and support provided to veteran disability pensioners. The Democrats supported the review because we have long recognised, and indeed have long called upon the government to redress, anomalies in access to veterans entitlements and the level of benefits and support provided to veterans.

The Clarke report was released in January 2003. It is a disgrace that it has taken the
government well over a year, close to 18 months now, to respond to its recommendations and bring this bill on for debate in the Senate—and we now have a significant number of amendments, 19 pages of amendments, before us this evening. Regrettably, this seems to be the pattern of this government. The Clarke review itself was a long time coming, let alone the government’s response. We are still waiting for the 1991 Gulf War health study, and the new military compensation scheme, which was promised in 1996, was only passed in this place a month or so ago. A more cynical mind might conclude that the Prime Minister has repeatedly exploited service men and women for political gain—being quick to send young Australians to war but slow to recognise the debt this incurs on behalf of the nation, and even slower in addressing the legitimate concerns of veterans.

The Australian Democrats did not support the Prime Minister’s sending of Australian troops to Iraq without the endorsement of the Australian parliament, but we do wholeheartedly support the right of those troops to be properly compensated and treated fairly upon their return when they can no longer serve. We continue to do so. This bill, as far as it represents that, is welcome. I am sure we would all like wars to cease so that we no longer need to have veterans—and I am sure veterans themselves, or potential veterans, would welcome that more than anybody so they do not have to pay the price that they do. Whilst ever we have troops who put themselves on the line to fight for our country, we have a special obligation to ensure that we do not just pat them on the back when they come back, give them a nice medal and let the Prime Minister or other ministers stand next to them to get their photo taken. We recognise our responsibility to continue to support them in the many years ahead—where, often times, they will have direct consequences to deal with as a result of their service.

After years of ignoring the calls from veterans and their families, and 16 or more months after the Clarke report was released—and potentially on the eve of an election—we finally have the government committing themselves to addressing some veterans’ needs and ironically calling on the Senate for swift passage of these amendments. Swift is not the word that comes to mind when contemplating the years it has taken the government to come this far. The payment of compensation for veteran prisoners of war interned by North Korea, or to their widows, is welcome. Our involvement in the Korean War first commenced in 1950, meaning these veterans have waited more than half a century for this compensation. The Korean War was dangerous for Australian troops. The North Koreans had no organised prisoner of war system. During 1950 the North Korean People’s Army simply moved POWs into primitive living conditions in camps or caves if they survived the death marches.

Later, from April 1951 through to the end of the war, the Chinese communist forces took control of almost all POWs. Unfortunately, these forces did not accept the Geneva convention and many POWs were physically abused and subjected to brainwashing techniques. Whilst a one-off payment of $25,000 does not take away the suffering these veterans and their families have endured, it recognises their having endured numerous violations—inadequate food, clothing and shelter; poor medical treatment; loss of life; and the terror and pain of interrogation—whilst wounded and separated from their comrades and families. It is also ironic that we should compensate victims of the failure of occupying forces to abide by the Geneva convention at a time when we have become painfully aware of failures by
occupying forces in Iraq to similarly abide by that convention.

For many years now the Democrats have been calling for the erosion in the value of veterans compensation to be reversed and for the TPI to be benchmarked to try and turn around this decline in its value. Regrettably, while this bill addresses the erosion, it only does so by half. The TPI has long been known as the special rate pension, and this is what TPI recipients believe they are receiving. It was never commonly referred to as ‘general rate plus above general rate’, but this is what the government have now decided to rely upon in indexing only the above general rate to both the consumer price index and the 25 per cent male total average weekly earnings benchmark.

The Democrats believe that special rate is aptly named. It is paid to a veteran whose employability is affected by their war or defence caused disabilities alone and where the veteran is further assessed as unable to undertake remunerative work for more than eight hours a week as a result of their service related incapacity alone. TPI veterans did not all return safely and they certainly paid a very high price, a direct personal price, to the cost of their health and their ability to work, entirely due to their service to our country. This bill does not link the special TPI rates to male total average weekly earnings and CPI as veterans were led to believe it would. This bill provides that only the rate paid above general rate TPI will be linked to MTAWE and CPI. The general rate remains indexed only to CPI and will continue to erode as it has for years.

In short, I believe TPI veterans have been short-changed, because the government has decided that only 62 per cent of the TPI will be MTAWE linked. We believe that these are not meritorious arguments. Even less meritorious is that the general disability pension, not being a primary income support, must be limited to the CPI. This is insulting to veterans. We are talking about Australian men and women who entered the forces fit, healthy and able to work long, productive lives. They left in a far different state, and now the government is quibbling about small increases.

In June last year I attended a rally being held out the front of this Parliament House of hundreds of totally and permanently incapacitated, or TPI, veterans and their partners and supporters from around Australia. The rally was organised by the TPI Federation as a result of this government taking no heed of the plight of TPI veterans in last year’s budget. Twelve months later they are still seeking a fair deal, which this bill does not fully provide.

To make it worse, just over a year ago, on 15 May, I heard the Prime Minister on Perth radio say about TPI benefits that somebody with eligible service on average got between 90 per cent and 115 per cent of male average weekly earnings, which is somewhere in the order of $44,000 a year. This was simply not true. It is another example of the Prime Minister and the government misleading the Australian people into thinking that the average TPI veteran got around $44,000 a year when they get less than half of that. That is simply unacceptable. TPI is currently about 45 per cent of the average weekly wage, and this proportion has been reducing for many years. We should not be giving the false impression that somehow TPI veterans are rolling in clover and doing very well when clearly that is not the case. As a further slap in the face to TPI veterans and their families, what the government is now doing will only rectify half the wrong and half the erosion of the value of the TPI. In the words of one TPI organisation:
War veteran TPIs have been thrown a bone. It is, however, a bone pretty much devoid of meat.

The Democrats’ policy, which is reflected in our second reading amendment, is that the whole TPI should be indexed to MTAWE and CPI—whichever is the greater.

It is pleasing to welcome the government’s finally correcting the longstanding and very frustrating anomaly whereby a war disability pension is included as income in assessing social security payments to veterans. Its effect on the rate of social security payments has been a longstanding concern to the veteran community. This was never fair as it discriminated veterans from those who received the service pension. The Democrats have long called for this anomaly to be addressed. Indeed, we even proposed the very simple one-line amendment to the Social Security Act that was required to fix the anomaly. At least on one occasion, possibly more, amendments seeking to address that anomaly were passed by the Senate but not accepted by the government and, therefore, have not passed into legislation. It is only now, through the very long overdue action of the government, that it is finally being addressed.

But again, as Senator Bishop was just explaining, whereas a very minor amendment to section 8 of the Social Security Act would exempt the war disability pension and achieve the aim of fair payment to veterans who receive social security payments, this government have decided that keeping it simple is not the way to go and instead have devised a complicated, convoluted and error-prone method of payment for an area of payments from Centrelink which is already facing lots of problems with complexity and people receiving incorrect payments and having to go through a lot of difficulty and distress to sort out their entitlements. To introduce a totally unnecessary level of complexity is quite astonishing.

Compare a simple one-line amendment to one act with the proposal that for each veteran Centrelink must manually calculate the difference between the primary payment of social security the veteran receives under social security law and the social security payment the veteran would receive if the disability pension were not counted as income in the assessment of their social security payment and if the disability pension income test for rent assistance were applicable. Centrelink then tells the Department of Veterans’ Affairs how much it has calculated the veteran should receive. The Department of Veterans’ Affairs then pays the veteran through the Defence Force income support allowance. Where the veteran is not on social security payments because they have been previously excluded by the income test but would now be eligible, Centrelink must create a phantom record for the above purpose of calculation. I think I need to read through that a few times myself to make sure that I understand it, and that is represented in close to 20 pages of amendments in contrast to what could have been one single line.

A simple alternative has been disregarded for complex arrangements which will leave veterans confused—and I must add, many other people—and have most of us struggling to manually calculate correct entitlement, and the whole process being fraught with danger of underpayment and overpayment with veterans utterly reliant on two government agencies paying them the correct rate. It creates yet a further supplement to the already complicated veterans’ payment system. Why the government have chosen this method of administration is beyond belief. We do not want to hold up this amendment because we know how long veterans have been waiting for this issue to be addressed, but we call on the government to be realistic and to simplify the process. These veterans without qualifying service already receive
their social security income support. How much simpler it would be to just pay them the correct rate via that system.

The Australian Democrats welcome the remainder of this bill, including the provision that rent assistance will now be payable in addition to the ceiling rate of service pension or income support supplement that is payable to a war widow or widower. Many veterans already struggle to meet their private rent commitments, and this will mean that their rent assistance will not be subjected to the income support ceiling and will more realistically address the financial burden of paying rent. We further welcome the increase in the maximum amount of funeral benefit from $572 to $1,000, which will ease the burden of funeral costs to families of certain veterans. Both this and the removal of the ceiling on rent assistance are measures called for by the Democrats for some time and which are long overdue.

Of course not all dependants of veterans will benefit from any of these changes. Partners of many veterans will continue to be excluded from benefits rightly due to them because the definition of dependant does not include same-sex partners. The Democrats have before moved amendments to insert into the Veterans’ Entitlements Act a definition of wholly dependent partner. The legislation provides that a partner can only be of the opposite sex, and our amendments have aimed to remove that discrimination and requirement. The Democrats remain concerned that, notwithstanding that gay and lesbian personnel have legally served in the Australian armed forces since 1992—and many gay and lesbian people served in the Australian armed forces prior to that date—there are no entitlements for, or even recognition of, their partners. Our position is simple: all defence personnel have the right to have their partner of choice recognised. The continual discrimination against people purely on the basis of who they happen to fall in love with is utterly unacceptable. It is an issue that is not necessarily front and centre of every single veterans organisation but it is certainly one that is starting to be raised by some organisations in some of the submissions to Senate committee inquiries and hearings that we have been having into various veterans entitlements issues.

I close today by noting that not all the recommendations of the Clarke report have been accepted by this government. We are not unused to seeing the government cherry pick from reports and reviews relating to veterans and reject worthwhile recommendations of reports they have commissioned. The Democrats give notice that the Clarke report is not a closed story. We will continue to agitate the government and future governments for greater health care measures, gold card entitlement and definition of service. I move the Democrat second reading amendment in my name:

At the end of the motion add:

“but the Senate

(a) is of the view that the harsh and unsatisfactory indexation arrangements for totally and permanently incapacitated veterans require immediate adjustment so that these veterans obtain the full benefits of indexation to all components of their pension; and

(b) condemns the Government for missing this opportunity of settling fair index arrangements for those veterans who are totally and permanently incapacitated.”

Through that we call on the government and future governments to address that failure.

I would like to also pay tribute to, and note the contribution and efforts of, many veterans service organisations who have fought long and hard for many of these measures to be implemented. Whilst I have focused on some of the failings in relation to these areas before us this evening and areas
where there is still work to be done, it must be acknowledged that significant advances are being made via this legislation. A lot of the credit for that must go to the tireless work of many veterans and their representative organisations. Being a member of parliament and of the Senate, I have no doubt that, without the tireless, continual and many times frustrating advocacy of many of those groups, the achievements that have been gained through this legislation tonight would not be there. It is a tribute to all of their work and efforts. They will continue with many other issues, and I am sure all of us will continue to hear from them about their areas of concern. The vast majority of these people work for no pay, out of recognition of the contribution not just of their colleagues that they served with but of war veterans stretching back through our nation’s history. This contribution on top of the contribution they have already made as serving personnel is something that should be acknowledged.

I also make the point that these areas being addressed tonight are ones that the Democrats and others in the opposition in the Senate in some cases have long pressured the government for. They are also I believe as a result of the role and the work of the Senate in continually shining the spotlight on failures of the government and areas of need in the community. This once again illustrates the fact that, whomever people choose to be in government, they also need to ensure that they have a Senate operating strongly and effectively to keep the pressure on the government to provide the opportunity for the veterans organisations to have a voice.

I reaffirm the Democrats’ commitments to ensure that veterans groups continue to have a voice, that their concerns are expressed through Senate committee inquiries and that some of their views are reflected through questions, statements and the work of our party in the Senate. I believe it is an area where the Democrats’ record should be noted, particularly in relation to the work of the potential alternatives on the cross-benches. It is important that all of the issues that need to be addressed are examined by the Senate. Whilst the deployment of troops often gets a lot of media, the focus on what happens to veterans once they have returned does not always get the public attention it deserves. It is up to institutions like the Senate to ensure that the spotlight is kept on these issues, where it deserves to be. I note the benefits of this bill. Once again it is a tribute and a due reward or recognition of the work of so many veterans and their organisations over a long period of time.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (8.44 p.m.)—It is a great pleasure to sum up tonight on the Veterans’ Entitlements (Clarke Review) Bill 2004. I agree with Senator Bartlett that a great deal of effort has gone into bringing the concerns of veterans to the government’s attention. The people responsible are to be commended in many respects for the way in which they have conducted themselves in relation to the Clarke review bill. So it is a particular pleasure to now sum up this bill and to eventually get it passed. The bill will give effect to the changes announced on 2 March 2004 in response to the Clarke review of veterans entitlements. The bill will grant a $25,000 payment to all surviving prisoners of war of the Korean forces and to their widows or widowers who were alive on 1 July 2003. This payment is in recognition of the extremely inhuman conditions that they experienced—similar to the harsh conditions experienced by prisoners of war of the Japanese during World War II.

The bill implements two significant measures to address key issues for persons in receipt of the disability pension. The new indexation arrangements will mean that those
most disabled will have that portion of their disability pension that is paid above 100 per cent of the general rate indexed by the same proportion as the service pension and the war widows and widowers pension. This new indexation arrangement will take into consideration both the consumer price index and male total average weekly earnings. The resultant increase in pensions will be backdated to 20 March 2004.

The government certainly does not support the second reading amendment moved by Senator Bartlett. The special rate for TPI pension consists of two components. The larger amount is the above the general rate component, which reflects a veteran’s inability to work for more than eight hours a week. It is this economic loss component that has now been linked to the male total average weekly earnings when indexation adjustments are being calculated. The second component is the general rate, which is compensation for the medical impairment and loss of lifestyle that may be paid without reference to a veteran’s ability to undertake remunerative work. As there is no economic loss element it is not appropriate to index this component by a wage index. As such, it will continue to be indexed by movements in the consumer price index.

All disability pensions are tax free and payable for life, together with health care benefits that may include the gold card. From 20 September 2004 the government will introduce the Defence Force income support supplement or DFISA. This measure will address the concern regarding the inclusion of disability pension as income for pensions and benefits paid to recipients and their partners under social security law. The new allowance will be equal to the difference between the amount of income support a person receives under social security law and the amount that person would receive if the disability pension were not counted as income in the assessment of their social security payment and a disability pension income test for rent assistance were applicable. It is expected that more than 19,000 disability pensioners and their partners will benefit from this measure.

During the debate it was raised that it may be seen that by supplementing social security payments to compensate for the inclusion of the Veterans’ Entitlements Act disability pension as income the government is diminishing the value of qualifying service for service pensioners. However, veterans with qualifying service and their partners do sometimes need to access social security payments if they do not meet the requirements for service pension. DFISA will mean that all veterans with and without qualifying service can receive income support entitlements without VEADP impacting on their payment. Veterans with qualifying service will continue to have access to the age service pension five years earlier than those without qualifying service. Their partners will continue to have access to partner service pensions from 50 years of age, or earlier in some cases. Veterans with qualifying service will continue to enjoy the benefit of Veterans’ Entitlements Act disability pension exemptions for aged care fees. Extended eligibility to the gold card is another benefit available to veterans with qualifying service.

In the course of the second reading debate the government was asked why it decided against a straight exemption of the VEADP from social security law. DFISA is a supplement for veterans and their partners and as such is delivered by the DVA payment systems, as are all veterans payments. The payment of DFISA under the Veterans’ Entitlements Act also ensures that a precedent is not set in social security law that will enable other groups to have their compensation payments excluded from the assessment of social security payments. War widows and
widowers will benefit from the measure to pay rent assistance in addition to the ceiling rate of income support supplement or service pension. This measure will assist those war widows and widowers who are renting privately. War widows and widowers will be able to benefit from this measure from as early as 1 January 2005. The maximum amount of funeral benefit will be increased from $572 to $1,000 with effect from 1 July 2004. This increase will assist families with the cost of the funeral for their late veteran relative.

Finally, this bill will extend operational service to personnel involved in minesweeping and bomb clearance operations after World War II who have qualifying service. This addresses an anomaly where a small number of personnel received the medal necessary to be eligible for qualifying service but were not veterans, because their service fell outside the operational service periods specified in the Veterans’ Entitlements Act. As Senator Bartlett has mentioned, the government has some amendments, which I will speak to in the committee stage. In conclusion, in the government’s view this bill delivers a generous and responsible package of measures that will enhance the benefits and support available to veterans, war widows and war widowers. I thank Senators Bishop and Bartlett for their contributions and I commend the bill to the Senate.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (8.52 p.m.)—by leave—I move government amendments (1), (3) and (5) and requests (2) and (4) on sheet PL234:

(1) Title, page 1 (line 4), omit “related”, substitute “other”.

(3) Clause 2, page 2 (at the end of the table), add:

| 8. Schedule 6 | At the same time as section 3 of the Military Rehabilitation and Compensation Act 2004 commences. |

(5) Page 19 (after line 20), at the end of the Bill, add:

Schedule 6—MRCA-related amendments

Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004

1 Subsection 7(1) (note)
Omit “section 9A”, substitute “sections 9A and 70A”.

2 Subsection 7(2) (note 1)
Omit “section 9A”, substitute “sections 9A and 70A”.

3 Subsection 8(1) (note)
Omit “section 9A”, substitute “sections 9A and 70A”.

4 Subsection 8(2) (note 1)
Omit “section 9A”, substitute “sections 9A and 70A”.

Veterans’ Entitlements Act 1986

5 At the end of subsections 70(4), (5) and (5A)
Add:

Note: After the MRCA commencement date, compensation is provided under the MRCA (instead of this Act) for some new defence-caused injuries, diseases and deaths: see section 70A.

6 After section 70
Insert:

70A Most defence-caused injuries, diseases and deaths of members of the Defence Force no longer covered by this Act

(1) An injury, disease or death of a member of the Forces, or any other member or former member of the
Defence Force, is taken not to be defence-caused if:

(a) the injury is sustained, the disease is contracted, or the death occurs, on or after the MRCA commencement date; and

(b) the injury, disease or death either:
   (i) relates to service rendered by the member on or after that date; or
   (ii) relates to service rendered by the member before, and on or after, that date.

Note 1: After the MRCA commencement date, compensation is provided under the MRCA (instead of this Act) for such injuries, diseases and deaths.

Note 2: The other members (or former members) of the Defence Force mentioned in subsection (1) are or were also members of a Peacekeeping Force.

(2) An injury or disease of a member of the Forces, or any other member or former member of the Defence Force, that has been aggravated, or materially contributed to, by service is taken not to be defence-caused if:

(a) the aggravation or material contribution occurs on or after the MRCA commencement date (even if the original injury is sustained, or the original disease is contracted, before that date); and

(b) the aggravation or material contribution either:
   (i) relates to service rendered by the member on or after that date; or
   (ii) relates to service rendered by the member before, and on or after, that date; and

(c) if section 12 of the CTPA applies to the member—after receiving a notice under that section, the member makes a claim under section 319 of the MRCA (or continues with a claim already made under that section) in respect of the aggravated injury or disease.

Note 1: After the MRCA commencement date, compensation is provided under the MRCA (instead of this Act) for such aggravations and material contributions.

Note 2: The other members (or former members) of the Defence Force mentioned in subsection (2) are or were also members of a Peacekeeping Force.

(3) To avoid doubt, service is rendered before, and on or after, the MRCA commencement date whether the service spans the commencement date or is rendered during separate periods before and on or after that date.

Requests—
That the House of Representatives be requested to make the following amendments:

(2) Clause 2, page 2 (table item 3), omit the table item, substitute:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Schedule 2, items 1 to 14</td>
<td>20 September 2004. 20 September 2004</td>
</tr>
<tr>
<td>3A. Schedule 2, item 15</td>
<td>The day on which this Act receives the Royal Assent.</td>
</tr>
<tr>
<td>3B. Schedule 2, items 16 to 18</td>
<td>20 September 2004. 20 September 2004</td>
</tr>
<tr>
<td>3C. Schedule 2, items 19 and 20</td>
<td>The later of: (a) the start of 20 September 2004; and (b) immediately after the commencement of item 4 of Schedule 1 to the Veterans' Entitlements Amendment (Direct Deductions and Other Measures) Act 2004. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.</td>
</tr>
<tr>
<td>3D. Schedule 2, items 21 to 44</td>
<td>20 September 2004. 20 September 2004</td>
</tr>
</tbody>
</table>
(4) Schedule 2, page 10 (line 2) to page 14 (line 10), omit the Schedule, substitute:

Schedule 2—Defence Force Income Support Allowance

Part 1—Amendment of the Veterans’ Entitlements Act 1986

1 Subsection 5H(1) (paragraph (b) of the definition of adjusted income)
Repeal the paragraph, substitute:

(b) a payment that is disability pension under paragraph (d) of the definition of disability pension in section 5Q payable to the person;

2 Subsection 5H(1) (paragraphs (cc), (cd) and (ce) of the definition of adjusted income)
Repeal the paragraphs.

3 After paragraph 5H(8)(f)
Insert:

(g) a payment under Part VIIAB, including a payment made under regulations made under that Part;

4 Subsection 5Q(1)
Insert:

Defence Force Income Support Allowance or DFISA means Defence Force Income Support Allowance under Part VIIAB.

5 Subsection 5Q(1)
Insert:

DFISA bonus means DFISA bonus under Part VIIAB.

6 At the end of paragraph 45TC(1)(e)
Add:

Note: Even though the person may not have actually received an amount of social security pension or benefit because the rate of the pension or benefit was nil, in some cases the person will be taken to have received the pension or benefit if adjusted disability pension (within the meaning of section 118NA) was payable to the person or the person’s partner: see subsection 23(1D) of the Social Security Act.

7 After subparagraph 45TC(1)(f)(i)
Insert:

(ia) DFISA bonus; or

8 At the end of paragraph 45TC(2)(e)
Add:

Note: Even though the person may not have actually received an amount of social security pension or benefit because the rate of the pension or benefit was nil, in some cases the person will be taken to have received the pension or benefit if adjusted disability pension (within the meaning of section 118NA) was payable to the person or the person’s partner: see subsection 23(1D) of the Social Security Act.

9 After subparagraph 45TC(2)(f)(i)
Insert:

(ia) DFISA bonus; or

10 At the end of paragraph 45TC(3)(e)
Add:

Note: Even though the person may not have actually received an amount of social security pension or benefit because the rate of the pension or benefit was nil, in some cases the person will be taken to have received the pension or benefit if adjusted disability pension (within the meaning of section 118NA) was payable to the person or the person’s partner: see subsection 23(1D) of the Social Security Act.

11 After subparagraph 45TC(3)(f)(i)
Insert:

(ia) DFISA bonus; or
12 At the end of section 53J
Add:

Note: Even though the partner may not actually have been receiving an amount of social security pension because the rate of the pension was nil, in some cases the partner will have been taken to be receiving the pension if adjusted disability pension (within the meaning of section 118NA) was payable to the person or the partner: see subsection 23(1D) of the Social Security Act.

13 At the end of section 53M
Add:

(7) If DFISA was payable to the partner in relation to a social security pension the partner was receiving, then the rate of that pension on the last day of the last pension period that ended before the day of the partner’s death is increased by the rate of DFISA that was payable to the partner on that day.

14 Paragraph 53NA(1)(a)
After “pension” (first occurring), insert “, DFISA”.

15 After Part VIIA
Insert:

Part VIIAB—Defence Force Income Support Allowance and related payments
Division 1—Introduction

118N Simplified outline
The following is a simplified outline of this Part:

This Part is about payment of:

(a) Defence Force Income Support Allowance (DFISA); and
(b) DFISA bonus; and
(c) DFISA-like payments under regulations made under this Part.

DFISA—see Division 2
DFISA is payable to a person if the rate of the person’s social security pension or benefit has been reduced (including to nil) because the person, or the person’s partner, has been paid adjusted disability pension (within the meaning of this Part).

Payment of DFISA is automatic: a person does not need to make a claim for it.

DFISA bonus—see Division 3
DFISA bonus is payable to a person if the amount of the person’s social security pension bonus has been reduced (including to nil) because the person, or the person’s partner, has been paid adjusted disability pension (within the meaning of this Part).

Payment of DFISA bonus is also automatic.

DFISA-like payments—see Division 4
Regulations made under this Part may provide for DFISA-like payments to be paid to a person if adjusted disability pension (within the meaning of this Part) payable to the person, or the person’s partner, reduces the amount of a payment payable to the person under a Commonwealth Act, regulations or an instrument made under such an Act, or a Commonwealth administered program.

118NA Definitions
In this Part:

adjusted disability pension means:

(a) a pension under Part II or IV (other than a pension that is payable under section 30 to a dependant of a deceased veteran); or
(b) temporary incapacity allowance under Part VI; or
(c) a pension payable because of subsection 4(6) or (8B) of the Veterans’ Entitlements (Transitional Provisions and Consequential Amendments) Act 1986 (other than a pension payable in respect of a child); or
(d) a payment (either as a weekly amount or a lump sum) under section 68, 71, 75 or 80 of the MRCA (permanent impairment); or
(e) a payment of a Special Rate Disability Pension under Part 6 of Chapter 4 of the MRCA.

amount includes a nil amount.
excluded amount means an amount that is not income for the purposes of the Social Security Act because of subsection 8(8) of that Act.
partner has the same meaning as in subsection 4(1) of the Social Security Act.
rate includes a nil rate.
social security age pension means age pension under Part 2.2 of the Social Security Act.
social security pension bonus means pension bonus under Part 2.2A of the Social Security Act.

Division 2—Defence Force Income Support Allowance
Subdivision A—Payment of Defence Force Income Support Allowance
118NB Payment of Defence Force Income Support Allowance

(1) Defence Force Income Support Allowance (DFISA) is payable to a person each day on or after 20 September 2004 if:
(a) adjusted disability pension is payable to the person, or the person’s partner, on that day; and
(b) social security pension or social security benefit (the primary payment) is payable to the person on that day; and
(c) the adjusted disability pension reduces (including to nil) the rate of the primary payment on that day.

Note 1: For adjusted disability pension and partner see section 118NA.

Note 2: For social security pension and social security benefit see section 5Q.

Note 3: Even though the person may not actually be paid an amount of social security pension or benefit because the rate of the pension or benefit is nil, in some cases the pension or benefit will be taken to be payable to the person if adjusted disability pension is payable to the person or the person’s partner: see subsection 23(1D) of the Social Security Act.

(2) However, DFISA is not payable to the person on that day if:
(a) the rate of DFISA would be nil; or
(b) section 1129, 1130B or 1131 of the Social Security Act (financial hardship) applies to the person in relation to the primary payment; or
(c) before that day:
(i) the person had elected not to be covered by this Division; and
(ii) that election had not been withdrawn.

(3) An election, or a withdrawal of an election, under paragraph (2)(c):
(a) must be by document lodged at an office of the Department in Australia in accordance with section 5T; and
(b) is taken to have been made on a day determined under that section.

Subdivision B—Rate of Defence Force Income Support Allowance
118NC Rate of Defence Force Income Support Allowance

DFISA rate where primary payment is neither compensation affected nor prescribed
Method Statement 1

Step 1. Work out the daily provisional payment rate for the primary payment on that day.

Note: For daily provisional payment rate see subsection (4).

Step 2. Work out what would have been the daily provisional payment rate (the notional rate) for the primary payment on that day if both of the following assumptions were made:

First assumption
The first assumption is that the adjusted disability pension payable to the person, or the person's partner, were an excluded amount (see section 118NA).

Note: This will mean the adjusted disability pension will not be treated as income when calculating the notional rate.

Second assumption
The second assumption is that, if an amount of rent assistance was included in the primary payment, that amount were reduced (but not to less than nil) by the rent reduction amount.

Method Statement 2

Step 1. Work out the daily provisional payment rate for the primary payment on that day.

Note: For daily provisional payment rate see subsection (4).

Step 2. Work out the amount by which Part 3.14 of the Social Security Act reduces the daily primary payment rate on that day.

Step 3. Subtract the amount in step 2 from the rate in step 1.

Step 4. Work out what would have been the daily provisional payment rate (the notional rate) for the primary payment on that day if the 2 assumptions referred to in step 2 of method statement 1 in subsection (1) were made.

Step 5. Work out the amount by which Part 3.14 of the Social Security Act would have reduced the notional rate.
rate on that day if that rate had been the daily primary payment rate.

Step 6. Subtract the amount in step 5 from the rate in step 4.

Step 7. Subtract the amount in step 3 from the amount in step 6. The difference is the rate of DFISA on that day.

Regulations may prescribe other ways of calculating rate of DFISA

(3) The regulations may prescribe a social security pension or social security benefit for the purposes of this section. If the regulations do so, the regulations must also prescribe the method to work out the daily rate of DFISA that is payable in relation to that pension or benefit.

Note: For social security pension and social security benefit see section 5Q.

Definitions

(4) In this section:

daily provisional payment rate means the provisional payment rate, provisional annual payment rate or provisional fortnightly payment rate referred to in the Rate Calculator used under the Social Security Act to work out the rate of the primary payment, converted to a daily rate by dividing the rate by 364 (for a provisional annual payment rate) or 14 (for a provisional fortnightly payment rate).

rent assistance has the same meaning as in the Social Security Act.

rent reduction amount is the amount that would be a person’s income reduction under the Social Security Act if that income reduction were worked out by applying the same income test or ordinary income test that was used under that Act in calculating the person’s primary payment, but applying that test on the basis that the adjusted disability pension payable to the person, or the person’s partner, were the person’s only ordinary income for the purposes of that Act.

Subdivision C—Special rules for the Social Security Act

118ND Bereavement payments under the Social Security Act

Increase of bereavement payments to take account of DFISA

(1) If, immediately before a person dies:

(a) a social security pension or social security benefit was payable to the person; and

(b) DFISA was payable to the person;

then, for the purposes of the bereavement payment provisions of the Social Security Act, the rate of the pension or benefit that, if the person had not died, would have been payable to the person on a day during the bereavement period is increased by the rate of DFISA that would also have been payable to the person on that day.

Note 1: For social security pension and social security benefit see section 5Q.

Note 2: For bereavement payment provision and bereavement period see subsection (4).

DFISA paid to person after the person dies

(2) If:

(a) a person is qualified for payments under a bereavement payment provision of the Social Security Act in relation to the death of the person’s partner; and

(b) after the person’s partner died, an amount of DFISA to which the partner would have been entitled if the partner had not died has been paid under this Part; and

(c) the Social Security Secretary is not satisfied that the person has not had the benefit of the DFISA amount;

the following provisions have effect:
(d) the DFISA amount is not recoverable from the person or from the personal representative of the person’s partner, except to the extent (if any) that the DFISA amount exceeds the amount payable to the person under the bereavement payment provision;

(e) the amount payable to the person under the bereavement payment provision is to be reduced by the DFISA amount.

Note: For bereavement payment provision and Social Security Secretary see subsection (4).

Financial institutions not liable

(3) If:

(a) a person is qualified for payments under a bereavement payment provision of the Social Security Act in relation to the death of the person’s partner; and

(b) the amount of DFISA to which the person’s partner would have been entitled if the person’s partner had not died has been paid under this Part into an account with a financial institution within the bereavement period referred to in the bereavement payment provision; and

(c) the financial institution pays to the person, out of the account, an amount not exceeding the total of the DFISA amounts paid as mentioned in paragraph (b); the financial institution is, in spite of anything in any other law, not liable to any action, claim or demand by the Commonwealth, the personal representative of the person’s partner or anyone else in respect of the payment of that money to the person.

Definitions

(4) In this section:

bereavement payment provisions of the Social Security Act means the following provisions of that Act:

(a) Division 9 of Part 2.2 (age pension);

(b) Division 10 of Part 2.3 (disability support pension);

(c) Division 9 of Part 2.4 (wife pension);

(d) Division 9 of Part 2.5 (carer payment);

(e) Division 9 of Part 2.7 (bereavement allowance);

(f) Division 9 of Part 2.8 (widow B pension);

(g) Division 9 of Part 2.10 (parenting payment);

(h) Division 10 of Part 2.11 (youth allowance);

(i) Division 10 of Part 2.11A (austudy);

(j) Division 9 of Part 2.12 (newstart);

(k) Division 11 of Part 2.12B (mature age allowance);

(l) Division 9 of Part 2.14 (sickness allowance);

(m) Division 9 of Part 2.15 (special benefit);

(n) Division 9 of Part 2.15A (partner allowance);

(o) Division 10 of Part 2.16 (special needs pension).

bereavement period has the meaning given by subsection 21(2) of the Social Security Act.

Social Security Secretary means the Secretary of the Department administered by the Minister who administers the Social Security Act.

118NE Remote Area Allowance under the Social Security Act

(1) If, on a day that is on or after 20 September 2004:
(a) adjusted disability pension is payable to a person or a person’s partner; and
(b) a social security pension or social security benefit is payable to the person; and
(c) the rate of the social security pension or social security benefit is nil; and
(d) the rate of the social security pension or social security benefit would not be nil if the 2 assumptions (that relate to the adjusted disability pension) referred to in step 2 of method statement 1 in subsection 118NC(1) were made;
then, for the purposes of the remote area allowance provisions of the Social Security Act, the rate of the social security pension or social security benefit on that day is taken to be greater than nil.

Definitions

(2) In this section:
remote area allowance provisions of the Social Security Act means the following provisions of that Act:

(a) point 1064-H1;
(b) point 1065-E1;
(c) point 1066-H1;
(d) point 1066A-H1;
(e) point 1066B-F1;
(f) point 1067G-K1;
(g) point 1067L-F1;
(h) point 1068-J1;
(i) point 1068A-F1;
(j) point 1068B-G1.

Division 3—DFISA bonus

Subdivision A—Payment of DFISA bonus

118NF Payment of DFISA bonus

(1) DFISA bonus is payable to a person if:
(a) on a day (the critical day) that is on or after 20 September 2004, adjusted disability pension is payable to the person or the person’s partner; and
(b) on the critical day, social security age pension becomes payable to the person; and
(c) on or after the critical day, social security pension bonus is granted to the person in relation to that age pension; and
(d) the adjusted disability pension reduces (including to nil) the amount of that pension bonus.

Note: For adjusted disability pension, partner, social security age pension and social security pension bonus see section 118NA.

(2) However, DFISA bonus is not payable to the person if, on the critical day, section 1129 of the Social Security Act (financial hardship) applies to the person in relation to that age pension.

118NG When DFISA bonus is to be paid

DFISA bonus is to be paid on:

(a) the first pension payday after the social security pension bonus was granted; or
(b) if the Commission considers it is not practicable to pay the DFISA bonus on that payday—the next practicable day.

Note: For pension payday see section 5Q.

118NH Payment of bonus after death

(1) This section sets out the only circumstances in which DFISA bonus will be payable after the death of the person concerned.

DFISA bonus payable before person dies

(2) If:
(a) DFISA bonus is payable to a person; and
(b) the person dies; and
(c) at the time of the person’s death, the person had not received the DFISA bonus;
the bonus is payable to the legal personal representative of the person.

Liability of Commonwealth

(3) If DFISA bonus is paid under subsection (2), the Commonwealth has no further liability to any person in respect of that bonus.

Subdivision B—Amount of DFISA bonus

118NI Amount of DFISA bonus

(1) The amount of DFISA bonus for a person is worked out as follows:

Method Statement

Step 1. Work out the amount of social security pension bonus payable to the person.

Step 2. Work out the amount of social security pension bonus (the notional pension bonus) that would have been payable to the person if the adjusted disability pension payable to the person, or the person’s partner, were an excluded amount.

Note: For excluded amount see section 118NA.

Step 3. Subtract the amount of the pension bonus under step 1 from the amount of the notional pension bonus in step 2. The difference is the amount of the DFISA bonus.

Division 4—DFISA-like payments etc. under regulations

118NJ DFISA-like payments etc. under regulations

DFISA-like payments

(1) The regulations may make provision for and in relation to a payment (DFISA-like payment) to a person on a day that is on or after 20 September 2004 if:

(a) adjusted disability pension is payable to the person, or the person’s partner, on that day; and

(b) either:
   (i) a payment (the primary payment) under a Commonwealth scheme is payable to the person on that day but, because of the adjusted disability pension, the rate of the primary payment is reduced (including to nil); or
   (ii) apart from the adjusted disability pension, a payment (the primary payment) under a Commonwealth scheme would be payable to the person on that day.

Note 1: For adjusted disability pension and partner see section 118NA.

Secondary benefits

(2) The regulations may also make provision for and in relation to a payment, or the provision of a non-financial benefit, to the person on a day that is on or after 20 September 2004 if:

(a) a payment (other than the primary payment) or a non-financial benefit is not payable or provided to the person on that day under the Commonwealth scheme or another Commonwealth scheme, but only because the primary payment is not payable to the person on that day; and

(b) the primary payment is not payable to the person on that day, but only because adjusted disability pension is payable to the person, or the person’s partner, on that day; and

(c) a DFISA-like payment is payable to the person on that day.

(3) In this section:

Commonwealth scheme means:

(a) an Act; or
(b) regulations or an instrument made under an Act; or
(c) a program administered by the Commonwealth.

16 After subsection 121(6)
Insert:
(6A) For a pension that is DFISA:
(a) each instalment is to be rounded to the nearest cent (rounding half a cent upwards); and
(b) subsections (3), (4) and (6) do not apply.

17 Subsection 122A(2) (definition of pension)
After “Act”, insert “or DFISA bonus”.

18 Before section 123
Insert:
122C Payment of DFISA outside Australia
If DFISA is payable to a person who is physically outside Australia, then it may be paid:
(a) in the manner determined by the Commission; and
(b) in the instalments determined by the Commission.

122D Deductions of DFISA and DFISA bonus paid to Commissioner of Taxation

Deductions from DFISA because of notice from the Commissioner of Taxation
(1) The Commission must, in accordance with Subdivision 260-A in Schedule 1 to the Taxation Administration Act 1953, for the purpose of enabling the collection of an amount that is, or may become, payable by a recipient of a DFISA bonus:
(a) make a deduction from the bonus payable to the recipient; and
(b) pay the amount deducted to the Commissioner of Taxation.

Deduction from DFISA bonus because of recipient's request to do so
(2) The Commission may make deductions from instalments of DFISA payable to a person if the person, by document lodged at an office of the Department in Australia in accordance with section 5T, requests the Commission:
(a) to make those deductions; and
(b) to pay the deductions to be deducted to the Commissioner of Taxation.

The Commission must pay to the Commissioner of Taxation an amount deducted under this subsection.

Deduction from DFISA because of notice from the Commissioner of Taxation
(3) The Commission must, in accordance with Subdivision 260-A in Schedule 1 to the Taxation Administration Act 1953, for the purpose of enabling the collection of an amount that is, or may become, payable by a recipient of a DFISA bonus:
(a) make deductions from instalments of DFISA payable to the recipient; and
(b) pay the amount deducted to the Commissioner of Taxation.

The Commission must pay to the Commissioner of Taxation an amount deducted under this subsection.

Deduction from DFISA bonus because of recipient's request to do so
(4) The Commission may make a deduction from a DFISA bonus payable to a person if the person, by document lodged at an office of the Department in Australia in accordance with section 5T, requests the Commission:
(a) to make the deduction; and
(b) to pay the amount to be deducted to the Commissioner of Taxation.

The Commission must pay to the Commissioner of Taxation an amount deducted under this subsection.
122E Payments of DFISA at recipient’s request

(1) A DFISA recipient may, by document lodged at an office of the Department in Australia in accordance with section 5T, request the Commission to make deductions from instalments of DFISA for the purpose of making payments included in a class of payments approved by the Minister.

(2) If such a request is made, the Commission may make the deductions and, if it does so, is to pay the amounts deducted in accordance with the request.

(3) The Minister may, by writing, approve classes of payments for the purposes of this section.

(4) An approval is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

19 Subsection 122D(3)
Repeal the subsection.

Note: If item 4 of Schedule 1 to the Veterans’ Entitlements Amendment (Direct Deductions and Other Measures) Act 2004 does not commence, this item does not commence at all. See item 3C of the table in subsection 2(1).

20 Section 122E
Repeal the section.

Note: If item 4 of Schedule 1 to the Veterans’ Entitlements Amendment (Direct Deductions and Other Measures) Act 2004 does not commence, this item does not commence at all. See item 3C of the table in subsection 2(1).

21 At the end of section 199
Add:
; and (e) payments made under Part VIIAB, and payments and benefits made under regulations made under that Part.

22 Point SCH6-C1 of Schedule 6
Repeal the point, substitute:

Application

SCH6-C1 Points SCH6-C2 to SCH6-C11 and point SCH6-C15 apply to a person who is in receipt of a service pension or an income support supplement. Points SCH6-C13 and SCH6-C14 apply only to a person who is in receipt of a service pension. Points SCH6-C14B and SCH6-C14C apply only to a person who is in receipt of an income support supplement.

23 Point SCH6-C2 of Schedule 6
Omit “to SCH6-C15 (which apply only to a person who is in receipt of a service pension)”, substitute “and SCH6-C14 (which apply only to a person who is in receipt of a service pension) and points SCH6-C14B and SCH6-C14C (which apply only to a person who is in receipt of an income support supplement),”.

24 Paragraph SCH6-C7(c) of Schedule 6
Repeal the paragraph, substitute:

(c) whether or not the person, or the person’s partner, receives one or more of the following payments:

(i) disability pension;

(ii) permanent impairment compensation;

(iii) adjusted disability pension.

25 Point SCH6-C7 of Schedule 6 (note 2)
After “For”, insert “adjusted disability pension and”.

26 Point SCH6-C12 of Schedule 6
Omit “to SCH6-C15”, substitute “and SCH6-C14”.

27 After point SCH6-C14 of Schedule 6
Insert:

Application

SCH6-C14A Points SCH6-C14B and SCH6-C14C apply only to a person who is in receipt of an income support supplement. If such a person, or the partner of such a person, receives adjusted disability pension, the amount of rent assistance worked out
under Table C-2 may be reduced under point SCH6-C14B.

Note: For adjusted disability pension see point SCH6-C16.

Effect of adjusted disability pension on rate of rent assistance
SCH6-C14B This is how to work out the effect of a person’s adjusted disability pension on the person’s rate of rent assistance:

Method statement

Step 1. Work out the annual rate of the person’s adjusted disability pension; the result is the person’s disability income.

Note 1: For adjusted disability pension see point SCH6-C16.

Note 2: For the treatment of the amount of adjusted disability pension of members of a couple see point SCH6-C14C.

Step 2. Work out the person’s rent assistance free area (see point SCH6-C15 below).

Step 3. Work out whether the person’s disability income exceeds the person’s rent assistance free area.

Step 4. If the person’s disability income does not exceed the person’s rent assistance free area, the person’s rate of rent assistance worked out under Table C-2 is not affected.

Step 5. If the person’s disability income exceeds the person’s rent assistance free area, take the person’s rent assistance free area away from the person’s disability income: the result is the person’s disability income excess.

Step 6. Multiply the person’s disability income excess by 0.4; the result is the rent assistance reduction amount.

Step 7. Take the person’s rent assistance reduction amount away from the rate of rent assistance worked out under Table C-2: the result is the person’s rate of rent assistance.

Disability income
SCH6-C14C If a person is a member of a couple, the person’s disability income for the purposes of SCH6-C14B is worked out as follows:

(a) if each member of the couple receives adjusted disability pension—by adding the couple’s annual rates of adjusted disability pension and dividing the result by 2;

(b) if only one member of the couple receives adjusted disability pension—by dividing the member’s annual rate of adjusted disability pension by 2:

Note: For adjusted disability pension see point SCH6-C16.

28 Point SCH6-C16 of Schedule 6
Insert:

adjusted disability pension has the same meaning as in section 118NA.

Part 2—Amendment of other Acts
A New Tax System (Family Assistance) Act 1999
29 Subsection 3(1) (paragraph (a) of the definition of receiving)
After “subsections”, insert “23(1D).”.

30 After paragraph 7(h) of Schedule 3
Insert:

(ha) Defence Force Income Support Allowance under Part VIIAB of the Veterans’ Entitlements Act 1986;

Income Tax Assessment Act 1936
31 At the end of subsection 202EA(5)
Add:


Income Tax Assessment Act 1997
32 Subsection 52-65(1)
After “pension bonus”, insert “or DFISA bonus”.

CHAMBER
33 Subsection 52-65(1A)
After “Part IIIAB”, insert “, or DFISA bonus under Part VIIAB,”.

34 Section 52-65 (after table item 5.1)
Insert:

| 5A.1 | Defence Force Income Support Allowance: the social security pension or social security benefit that is also payable to you on the day this allowance is payable to you is exempt from income tax under section 52-10 | Exempt | Not applicable |

35 Section 52-75 (after table item 5)
Insert:

| 5A | Defence Force Income Support Allowance | Part VIIAB | Not applicable |

Social Security Act 1991
36 At the end of paragraph 8(8)(y)
Add:

or (x) a payment under Part VIIAB (DFISA) of that Act (including a payment made under regulations made under that Part);

37 Subsection 23(1)
Insert:


38 After subsection 23(1C)
Insert:

(1D) If, on a day that is on or after 20 September 2004:

(a) adjusted disability pension (within the meaning of section 118NA of the Veterans’ Entitlements Act) is payable to a person or a person’s partner; and

(b) apart from this subsection, a social security pension or social security benefit is not payable to the person, but only because the rate of the pension or benefit would be nil; and

(c) the rate of the social security pension or social security benefit would not be nil if the 2 assumptions (that relate to the adjusted disability pension) referred to in step 2 of method statement 1 in subsection 118NC(1) of the Veterans’ Entitlements Act were made;

then, despite any other provision of this Act:

(e) the social security pension or social security benefit is taken to be payable to the person on that day; and

(f) the person is taken to be receiving the social security pension or social security benefit on that day.

Note: This subsection overrides provisions of this Act (for example, sections 44 and 98) that provide that a social security pension or social security benefit is not payable where the rate of the pension or benefit would be nil, but only where the rate would not be nil if the 2 assumptions referred to in paragraph (c) were made.

39 At the end of paragraph 92C(e)
Add:

Note: Even though the person may not have actually received an amount of social security pension or benefit because the rate of the pension or benefit was nil, in some cases the person will be taken to have received the pension or benefit if adjusted disability pension (within the meaning of section 118NA of the Veterans’
Entitlements Act) was payable to the person or the person’s partner: see subsection 23(1D) of this Act.

40 At the end of paragraph 92C(f) Add:

; or (iii) DFISA bonus under Part VIIAB of the Veterans’ Entitlements Act.

41 After subparagraph 1134(1)(e)(i) Insert:

(ia) if DFISA under Part VIIAB of the Veterans’ Entitlement Act is payable to the person—the maximum payment rate less the DFISA rate; or

42 Paragraph 1134(1)(e) Omit “lower”, substitute “lowest”.

Part 3—Application and transitional provisions

43 Application of amendments in this Schedule

(1) The amendments made by items 1, 2, 22, 23, 24, 25, 26, 27 and 28 of this Schedule apply in relation to payments under the Veterans’ Entitlements Act 1986 payable on or after 20 September 2004.

(2) The amendment made by item 29 of this Schedule applies in relation to social security payments under the Social Security Act 1991 payable on or after 20 September 2004.

44 Transitional: claims made for social security pension or benefit that are not determined before 20 September 2004 If:

(a) on a day (the claim day) that is before 20 September 2004, a person made a claim for a social security pension or a social security benefit; and

(b) on the claim day, adjusted disability pension (within the meaning of section 118NA of the Veterans’ Entitlements Act 1986 (as amended by this Schedule)) was payable to the person or the person’s partner; and

(c) before 20 September 2004, a determination on the claim had not been made; and

(d) apart from this item, the claim would be rejected on or after 20 September 2004, but only because the rate of the pension or benefit would be nil; and

(e) the rate of the pension or benefit would not be nil if the 2 assumptions (that relate to the adjusted disability pension) referred to in step 2 of method statement 1 in subsection 118NC(1) of that Act (as amended by this Schedule) were made;

then, despite any provision of the Social Security (Administration Act) 1999, the claim is taken to have been made on 20 September 2004.

Statement of reasons: why certain amendments should be moved as requests

Section 53 of the Constitution is as follows:

Powers of the Houses in respect of legislation

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation; by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives
may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Amendment (4)

Amendment (4) omits Schedule 2 to the Bill and substitutes a new Schedule 2 in its place. There are a number of provisions in the new Schedule 2 which increase the proposed charge or burden on the people.

Increase to VEA standing appropriation: VEA income support supplements

- The effect of items 1 and 2 of Schedule 2 will be to exempt certain types of pensions payable under the Veterans’ Entitlements Act 1986 (the VEA) and the Military Rehabilitation and Compensation Act 2004 from income testing when calculating amounts of income support supplements payable under the VEA. This will increase the amount of income support supplement payable. Income support supplements are paid out of the Consolidated Revenue Fund under the standing appropriation in section 199 of the VEA. The amendment is covered by section 53 because the amount paid out under section 199 of the VEA will be increased, which will increase the charge or burden on the people.

Increase to VEA standing appropriation: VEA bereavement payments

- The effect of item 13 of Schedule 2 will be to increase the amount of bereavement payments payable under the VEA. Bereavement payments are paid out of the Consolidated Revenue Fund under the standing appropriation in section 199 of the VEA. The amendment is covered by section 53 because the amount paid out under section 199 of the VEA will be increased, which will increase the charge or burden on the people.

Increase to VEA standing appropriation: VEA DFISA etc.

- Item 15 of Schedule 2 inserts a new Part VIIAB into the VEA. That Part provides for 2 new payments (DFISA and DFISA bonus), and allows the regulations to provide new payments and non-financial benefits. Because of the amendment in item 21 of Schedule 2, those payments and benefits will be paid out of the Consolidated Revenue Fund under the standing appropriation in section 199 of the VEA. The amendment is covered by section 53 because the amount paid out under section 199 of the VEA will be increased, which will increase the charge or burden on the people.

Increase to SSAA standing appropriation: SSA bereavement payments

- Section 118ND (which is in Part VIIAB of the VEA inserted by item 15 of Schedule 2) increases the amount of bereavement payment payable under the Social Security Act 1991 (the SSA). Bereavement payments are paid out of the Consolidated Revenue Fund under the standing appropriation in section 242 of the Social Security (Administration) Act 1999 (the SSAA). The amendment is covered by section 53 because the amount paid out under section 242 of the SSAA will be increased, which will increase the charge or burden on the people.

Increase to SSAA standing appropriation: SSA remote area allowance

- The effect of section 118NE (which is in Part VIIAB of the VEA inserted by item 15 of Schedule 2) will be to expand eligibility for remote area allowance under the SSA. Remote area allowances are paid out of the Consolidated Revenue Fund under the standing appropriation in section 242 of the SSAA. The amendment is covered by section 53 because the amount paid out under section 242 of the SSAA will be increased, which will increase the charge or burden on the people.

Increase to SSAA standing appropriation: SSA pensions and benefits

- The effect of item 38 of Schedule 2 will be to expand eligibility for social security pension and social security benefit under the SSA. Those pensions and benefits are paid out of the Consolidated Revenue Fund under the standing appropriation in section 242 of the SSAA. The amendment is covered by section
53 because the amount paid out under section 242 of the SSAA will be increased, which will increase the charge or burden on the people.

Consequential amendments
Amendments (1) and (2) are consequential on amendment (4) mentioned above.

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000

Amendments (2) and (4)
The Senate has long treated amendments which would result in increased expenditure from a standing appropriation as requests.

If it is correct that amendment (4) will result in increased expenditure out of a standing appropriation, as stated in the statement of reasons by the Office of Parliamentary Counsel, it is in accordance with the precedents of the Senate that that amendment be moved as a request.

Amendment (2) appears to bring forward the operation of one of the items in the Schedule in amendment (4) and therefore should also be moved as a request for the same reason.

Amendment (1)
This amendment merely amends the long title of the bill, and therefore should not be moved as a request.

Senator COONAN—These amendments and requests to the Veterans’ Entitlements (Clarke Review) Bill 2004 will clarify and expand on the interim amendments that were contained in schedule 2 of the bill to introduce the Defence Force income support allowance that will be payable from 20 September 2004. The need to replace the interim amendments arose because the policy issues surrounding the introduction of the allowance were complex and the amendments required a considerable amount of further development and consideration. The Defence Force income support allowance, DFISA, will be payable to the recipients of disability pension and their partners whose social security pension or benefit is reduced or not payable because of the payment of disability pension by the Department of Veterans’ Affairs. The underlying policy intent is that the payment of DFISA will result in the same outcome for the recipient as would have been achieved if payments of disability pension by the Department of Veterans’ Affairs were exempted from the social security income test but included in the calculation of rent assistance.

The major amendments to the bill will include the following changes. First is the inclusion of certain payments under the Military Rehabilitation and Compensation Act in the definition of disability pension. Second is the replacement of the method statement for the calculation of the rate of DFISA with two method statements. The method statements will not be applicable where the pension or benefit is a prescribed payment. The first method statement will apply when the social security pension or benefit is not offset by any compensation payment. The second method payment is to apply where the social security pension or benefit is offset by the receipt of a compensation payment. The third change is the inclusion of regulation-making powers to provide for the payment of DFISA to persons receiving a prescribed payment that has been reduced or is not payable because of the receipt of disability pension. Payments that may be prescribed could include saved payments of a now defunct social security pension or benefit payable under the current or the previous Social Security Act. Other regulation-making powers have been included to provide for the payment of a DFISA-like payment to a person in receipt of a payment under a Commonwealth scheme where the payment is reduced or not payable because of the receipt of disability pension.

Fourth is the inclusion of provisions for the payment of a DFISA bonus. A DFISA bonus will be payable where disability pen-
sion has had an effect on the pension bonus payable under the Social Security Act. Fifth are provisions which will cater for the inclusion of DFISA in bereavement payments under the Social Security Act or the Veterans’ Entitlements Act. Sixth are amendments to the income support supplement provisions to exclude the disability pension from the income test and to apply the disability pension income test to rent assistance. Seventh are amendments to the Social Security Act 1991 to provide that persons who are in receipt of DFISA or are eligible to receive the payment are to be regarded as being in receipt of the social security pension or benefit to which the payment of DFISA would relate.

Eighth are amendments to the A New Tax System (Family Assistance) Act 1999 to ensure that DFISA recipients are treated in the same manner as other social security payment recipients in relation to payments of the family tax benefit and child-care benefit. Ninth are amendments to the Income Tax Assessment Act in 1936 and 1937 linking the taxable status of DFISA to the taxable status of the social security pension or benefit to which the payment relates and the inclusion of DFISA in the provision that allows for an exemption from the provision of tax file numbers by recipients of certain social security and veterans’ affairs payments.

The amendments will also include a new schedule 6 for the bill. The amendments included in the new schedule will prevent certain members of the Australian Defence Force from having dual eligibility under both the Military Rehabilitation and Compensation Act 2004 and the Veterans’ Entitlements Act 1986 for injuries, disease or death that may arise from events occurring during defence service or after 1 July 2004.

Senator MARK BISHOP (Western Australia) (8.57 p.m.)—The opposition have already indicated that we are happy to take these amendments and requests together. There are five amendments and requests proposed by the government in this package. Amendment (1) is simply a word substitution for the purposes of correctness. Request (2) is, in large part, a contingent provision to cover the highly unlikely possibility that the Veterans’ Entitlements Amendment (Direct Deductions and Other Measures) Bill 2004—which is stuck, for some unknown reason, in the House of Representatives—does not get passage. This is a ridiculous situation. That direct deductions bill was introduced into the parliament on 25 March this year. It is a non-controversial bill, and we have been happy to give it that status. We recognise that, apart from a myriad of technical changes it makes, it is also quite beneficial to veterans. That bill provides for the first time for veterans and war widows to have regular payments deducted from their pensions—for example, rent payable to a public housing authority. There is absolutely no reason why that bill should be delayed at all. The bill, stalled in the House since 25 March, allows veterans and war widows the facility to have those deductions made by DVA. Hence we have this quite unnecessary contingent provision with respect to the Defence Force income support allowance in particular—nothing but minor government bungling. Labor support that direct deductions bill. We are happy for it to be given non-controversial status to ensure its speedy passage.

Amendment (3) is simply about the timing of commencement on which no comment is necessary. It simply makes a cross-reference to the new Military Rehabilitation and Compensation Act which must have been overlooked. Request (4) is, however, a different kettle of fish. I have already expressed serious criticism of this request, which puts in place the Defence Force income support allowance. Apart from the administrative and
policy shortcomings, which I have already described as incompetent, this request should also be offensive to the parliament.

Request (4) is 14 pages in length. It replaces, in full, four pages in the bill that was passed by the House. Obviously, the original bill was grossly incomplete, and yet the government said nothing. In its haste, the government took a punt that, by pressing for speedy passage and urging support in the interest of veterans, the parliament could be fooled. The House certainly was, so now we are faced with this gigantic patch up to make the DFISA work. I believe this process is offensive to the parliament. It means that the House has been taken for granted. No member of that House, voting on a bill involving millions of dollars of taxpayers’ money, had any idea of what they were doing. The Parliamentary Library did not pick it up in the Bills Digest, simply because the matter is so complex.

Having made that protest, let me summarise our other objections to this request for amendment. First, it is completely unnecessary. If the outcome desired, regardless of the policy merits, was to exempt disability pension paid under the Veterans’ Entitlements Act from the income means test under the Social Security Act, a one-line amendment to section 8 would have been sufficient. Instead, we have 14 pages of legislation which only two or three souls alive understand in full, and that may be a premature assessment. We have the expenditure of $8 million over the next four years for DVA to implement it. It is nothing but absolute waste.

We do not need to know about the inter-departmental dog fight that must have produced this diabolical result. We do not even need to know about incompetence at the most senior levels of the bureaucracy and in the cabinet. The desired outcome was dead simple. Nor was this a new proposal that caught everyone by surprise. We on this side have tried to introduce this proposal by amendment a number of times. The government, as part of an earlier election platform, promised to review it. It did so, though the result has been a secret since 1998 or thereabouts.

The Department of Family and Community Services and DVA certainly ought to have known all the implications for the drafting of this law, but sadly this cannot have been the case. After years of consideration the preparation has not been done right up until after the bill has been passed by the House. It is clear that the route chosen is extraordinarily complex—14 pages of a request says so. It is not possible to give a full description of the provisions of request (4) in the time available. The EM deals thoroughly with it, though I daresay it is unintelligible to many. Let me therefore select just a few issues that may help people listening to or reading the debate.

First, as I have said, more than 15 social security benefits are affected. They are listed on page 9 of the amendments under subdivision C, clause 118ND(4). The existence of the pension bonus scheme means there also has to be a DFISA bonus. Provision is made for this by clause 118NF. This effectively means that if a person defers their pension uptake, and so attracts the pension bonus, that same provision will effect DFISA. They will also be entitled to a DFISA bonus. That is fair and consistent, but again shows just how complex this area is.

I also draw attention to special provisions in clause 118NE, referring to the remote area allowance, which is also affected. Also, 118NJ refers to ‘DFISA-like payments’. That is a reference to payments such as drought relief, which we know are ad hoc and so cannot be referenced in the bill. That will be done by regulation. Going into further detail,
clause 122C provides for DFISA to be payable to those residing overseas. Clause 122D authorises deductions to be made payable to the tax office by notice or by request. Similarly, in 122E deductions to other payees can be made at an individual’s request.

As another technicality, it should also be pointed out that there are war widows with income support supplement whose supplement may be reduced because they have remarried to another, whose disability pension affects her pension. In this circumstance, the ISS will be restored under the VEA so a DFISA will not be necessary. These amendments to the VEA are made at item 1. Just to make this a bit more complicated, there are of course war widows who are veterans in their own right but who also receive the income support supplement. Their own disability pension, we presume, is not counted already, but do we presume that the disability pension of a new partner will now also be exempted from the income test? The minister might like to advise on that.

Bereavement payments are also affected, so provision is made under clause 118ND for bereavement payments payable under the Social Security Act to be paid, including the DFISA amount. In other words, there will be no seven fortnights of DFISA after deaths. Instead, the social security pension bereavement payments for those seven pays will be increased by the amount of DFISA that would have been paid. This just shows how absurd this entire issue is. That was the simple solution that could have been applied to the whole proposal, not just to bereavement payments. The minister might like to tell the chamber how this inconsistency can be tolerated. If we are to have a ridiculous model like this then let us be consistent. Why can’t there be bereavement payments for DFISA in its own right? At least that would be consistent with the entire, misguided rationale.

Provision is also made in this request for recipients of benefits under the safety net in the Military Rehabilitation and Compensation Act. In short, the special rate safety net will also be covered by a DFISA payment in the event that there are some ex-service people receiving social security payments. I would add, though, that in most cases other income support payments from Defence would preclude that.

I referred in the second reading debate to the taxation issue. I understand that the provisions in this bill that provide for tax to be paid only where the Centrelink benefit is taxable are contingent on agreement from the tax office. Minister, some confirmation from you that the agreement is in writing would be useful so that these amendments and requests can be legitimised. Finally, in request (4) there are transitional arrangements to cover applications that are in process when this bill becomes law.

Amendment (5) is essentially a technical amendment clarifying the termination of the Veterans’ Entitlement Act for all injuries incurred on service after 1 July next. The EM suggests that there has been some doubt about the effectiveness of previous legislation to achieve this purpose. To that extent, we also agree to this amendment, to put the matter beyond doubt.

In conclusion, we only support these amendments and requests because we do not want to see this bill delayed. We want to see these payments made as soon as possible. I must add, though, that if the one single amendment had been made to the Social Security Act, as Labor would have done, this would have been law some weeks ago. Indeed, we could have moved an amendment to do just that but, as sensible as that would be, it would only cause delay. We support these amendments and requests.

CHAMBER
Senator BARTLETT (Queensland—Leader of the Australian Democrats) (9.07 p.m.)—The approach and the view of the Democrats are very similar to that just outlined by the Labor spokesperson on veterans affairs, Senator Bishop. There are five amendments and requests here. Four of them are small, but one is extremely convoluted and long, detailing the workings of the Defence Force income support allowance. Not only are there about 16 pages of amendments and requests, but it takes over 20 pages to explain it in the explanatory memorandum as well.

I gave a short explanation in my speech on the second reading of the Veterans’ Entitlements (Clarke Review) Bill 2004 about the Defence Force income support allowance. A person will receive an amount equal to the difference between the actual primary payment a person receives under social security law and the notional primary payment a person would receive if an adjusted disability pension was not counted as ordinary income in the assessment of the notional primary payment and an adjusted disability pension income test for rent assistance was applicable. It is not overly clear, but I guess the bottom line is that it is addressing an anomaly that has been around for a long period, where a person’s adjusted disability pension has been included as income in assessing their entitlement under the Social Security Act. It was indeed an anomaly that was noted in the coalition’s policy pronouncements, before they were first elected, leading up to the 1996 election. Having acknowledged the anomaly and then to come forward with an extraordinarily complicated 16-page request for amendment to address it after having had eight years to think about it is pretty poor.

Before I entered parliament, as some senators would know, I worked as an adviser to other senators. I was once an adviser on social security issues. I think former minister Graham Richardson was social security minister in 1991 or 1992. He made a pledge to attempt to introduce a plain English version of the Social Security Act. Whatever advances he may have made in that time—and which have been made since—have gone backwards a very long way all of a sudden, just with one request for amendment, because ‘plain English’ this request sure is not. I have no idea why this mechanism has been used. I do not know whether there is a turf war, or something like that, between the social security department and the Department of Veterans’ Affairs as to who has overall control of the beneficiary.

Apart from the request for amendment being convoluted and complicated—and I think as a basic principle that is bad law and we want to try to avoid that—it does increase the risk of error, and the last thing people need, particularly veterans, in amongst everything else is errors in payment of their entitlement. It is certainly not the best way of doing it. We are convinced there is a better way of doing it. Indeed, I think both the Democrats and the opposition have done it better in the past, in moving amendments and in seeking to address this anomaly. The alternative to supporting the request now is having the bill not go through at all and having the anomaly continue to not be addressed after many years of waiting. With those choices before us, we will not oppose the amendments and requests. But the Democrats do think it is unfortunate, to put it mildly, that this particular mechanism has been chosen to address what is really not that complicated an anomaly.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (9.11 p.m.)—I note the support for the amendments and requests, and I do not propose to take issue with every matter raised by my colleagues Senators Bishop and Bartlett. In respect of Senator Bishop’s comments
concerning war widows, I am advised that the disability pension counts as income for a war widow receiving income support supplement. Also, if they are remarried to a veteran with a disability pension, his disability pension also counts as income. So these amendments and requests will address this matter and result in the disability pension being excluded from income support supplement but counted in respect of rent. In respect of Senator Bishop’s other comment in relation to the tax office, I am advised that there is a commitment in writing. I table a supplementary explanatory memorandum relating to the government’s requests for amendments to be moved to this bill. The memorandum was circulated in the chamber on 17 June 2004.

The TEMPORARY CHAIRMAN (Senator Bolkus)—The question is that amendments (1), (3) and (5) and requests (2) and (4), be agreed to.

Question agreed to.

Senator GREIG (Western Australia) (9.13 p.m.)—by leave—I move Democrats amendments (1), (2) and (3) on sheet 4217:

(i) the person is living with another person (in this paragraph called the partner);
(ii) the person is not legally married to the partner;
(iii) the person and the partner are, in the Commission’s opinion (formed as mentioned in section 11A), in an interdependence relationship.

(3) Schedule 1, page 8 (after line 4), before item 1, insert:

1C After subsection 5R(3)
Insert:

(3A) The determinations made under subsection (3) are to be applied to individual cases only and not to classes of persons.

The Veterans’ Entitlements (Clarke Review) Bill 2004 before us brings a number of beneficial changes to veterans, their partners and dependants. However, not all dependants of veterans will benefit from any of these changes. Partners of many veterans continue to be excluded from benefits rightly due to them because of the definition of ‘dependant’, which does not include same-sex partners. We Australian Democrats have a long-standing commitment to removing discrimination against same-sex couples and people in other family relationships, and that includes veterans.

We have done so without success for many years because we know that eventually the government will have to deal with these issues, often because of our agitation and tenacious persistence with them. It was a government somewhat kicking and screaming which, after at least a decade of pressure from the Democrats and some others in the community, finally faced up to the issue of recognition of same-sex relationships within superannuation. All things being equal, much of that discrimination will be removed by the end of this week. But we do not stop with superannuation and tonight we continue with
our campaign to remove discrimination against same-sex couples in other areas and, in particular, in the veteran community.

We Democrats are therefore moving amendments to insert into section 5E(1) of the Veterans’ Entitlement Act a definition of wholly dependent partner. The legislation currently provides that a partner can only be of the opposite sex and our amendments will remove that requirement. We are concerned that, notwithstanding that gay and lesbian personnel have served in the Australian armed forces since 1992, there are no entitlements for or even recognition of their partners. As my colleague and leader said a little earlier, our position is simple: all defence personnel ought to have the right to have their partner of choice nominated and recognised as they wish.

Changes in a number of areas recognising the rights of same-sex partners have been made in federal and state parliaments and the sky has not fallen in as a result. The institution of marriage has not been abolished; indeed, the world has gone on much as before except that a significant proportion of the community which was discriminated against financially and legally are not so now. That is what this issue is about. It continues to be somewhat disappointing to have to persist with amendments of this nature, which have been raised a number of times previously and spoken against in terms of the degree of fear and misunderstanding that still exists in the community. I would ask senators here this evening to genuinely reflect and consider the basic issue that lies at the heart of these amendments which is, simply, equal treatment for people. The degree of antagonism and discrimination against lesbian, gay and bisexual people is or should be as unsupportable an action as that of racism, which is equally and roundly condemned in the community.

I believe the community is supportive of equal treatment and that has been shown by the general and increasing support for same-sex legislative reform that has been made at a state and territory level including those states which, it has been argued, are more conservative than others, such as my home state of WA, Tasmania and Queensland. I think it is a great shame that the federal parliament is lagging behind community views and attitudes in that regard. Certainly, we Democrats will continue to try to ensure that we can get positive outcomes so that the level of discrimination ceases to occur and ceases within federal legislation.

Gay and lesbian Australians will continue to be a part of the Australian Defence Force. They have served and currently serve in Iraq, the Solomons and East Timor just to name some recent areas where we as a parliament have placed these Australian citizens in harm’s way. They will eventually become veterans. They are placed in the extraordinary and exceptional situation where we expect them to fight and possibly even die for their country but we will not recognise them as equals. As I say, our position is simple; all defence personnel ought to have the right to have their partner of choice recognised as they wish. These are people whom our government is quite willing to send overseas to engage in combat duties and yet their partners are in a situation where they are not entitled to the benefits brought about by the Veterans’ Entitlement Act. We have a group of service personnel who, purely because their partner is of the same gender, have fewer entitlements or, in some cases, no entitlements when compared to other members of the defence forces. That is not acceptable.

Perhaps more important than that debate, which is about broader legislation than this and also a very important debate, is to remember that the key fact remains that, whenever the troops come home from Iraq,
they deserve more than just a welcome home parade and a medal. Those with same-sex partners will have been concerned for their welfare and safety as much as any legally married or de facto couple. They will have suffered the same anxiety of separation and of the unknown dangers, and nurtured the hopes and aspirations of a safe return. The gay and lesbian veterans deserve no less than to expect that, at the end of their service, their partners will share the recognition of the special debt that we owe veterans as service personnel who have served their country well.

Senator Bartlett said earlier that, in his discussions and liaisons with the veterans’ community, this was not an issue which is a priority for all of them but raised by some of them. My experience has been, on the few occasions I have had the opportunity to talk about this issue with veterans or those people I once perceived as being within the conservative constituency of what you might call the RSL, that when they give time to consider and understand the issue they are not resistant to it. I am reminded that one person who spoke eloquently several times in the state of Tasmania during its long campaign for equality both in terms of the age of consent and more recently in antidiscrimination law and partnership recognition is Mr Tom Flanagan, a very fine Australian who spent some years as a prisoner of war in Changi. Tom has spoken at a number of community rallies in Tasmania in support of equal rights for lesbian and gay citizens and spoken movingly of his friendship with gay men in Changi. Senators may know better of Tom’s son Richard, a Tasmanian author, who has spoken out on a range of issues in recent years.

I note too that a recent poll by SBS Television—this was not an Internet poll but a seriously commissioned Saulwick poll of 1,500 Australians—asked whether citizens across the board supported same-sex marriage. I know this does not go to the heart of what we are dealing with here, but I think it is indicative of where community interest is at. To my surprise, I guess I had a conservative perspective on the community’s view of same-sex marriage. The percentage of the Australian community opposed to same-sex marriage was 44 per cent. It is worth noting that that is less than half the population. More interestingly, the number of Australians in support of same-sex marriage was 38 per cent. So the gap between the two views is much smaller than the major parties might have had us believe at one stage. A further 18 per cent of the community had no opinion.

Another interesting factor from the poll was that the strongest level of support for same-sex marriage came from those aged under 35 and the strongest level of opposition came from those aged over 55. I am not one to laugh out loud at the television but I did when I saw Attorney-General Ruddock respond to the question of whether he felt the poll was indicative of the age differential. When it was put to him that the poll indicated that younger people were far more supportive of gay law reform and that, therefore, gay law reform was inevitable as younger people became older, he said that, no, in his view, it just showed that people change their minds as they get older. I took from that that homophobia was a learned experience—and it is. It is a learned behaviour.

In closing tonight, I would argue that prejudice towards lesbian and gay people and opposition to same-sex partnerships is literally dying out. As older people move on and die, they take the fear and ignorance that they hold rightly or wrongly with them. There is the next wave, the next generation, coming up behind us. I would also argue that, in 10 years, when people who are now aged 35 and under will be aged 45 and under,
the balance will have tipped. I think this reform is inevitable, but I would much rather it came about sooner rather than later. Until then, the situation is simply grossly unfair. It does not matter whether we are talking about superannuation, immigration, taxation, industrial relations or, in this case, veterans’ entitlements, equality should and must be the goal.

Senator MARK BISHOP (Western Australia) (9.25 p.m.)—The Labor Party will not on this occasion be supporting the amendments moved by Senator Greig. Our reason for not supporting the amendments turns on the risk of an election being called soon and Labor’s determination not to risk these beneficial provisions to the veteran community being delayed by amendments that we know the government will reject in the House.

Labor have made it perfectly plain in the past and it will be reconfirmed today that we are committed to the elimination of all discrimination on the grounds of race, colour, sex, religion, sexuality, gender identity, disability, genetic make-up, political or other opinion, national or social origin, property, birth or other status. We have committed ourselves to the enactment of legislation prohibiting discrimination on the grounds of a person’s sexual or gender identity, and we will audit Commonwealth legislation to amend provisions which offend those principles. This will be done on election to government.

It should be noted that this is a very complex task, involving a wide range of legislation covering not just veterans but also social security, workplace relations, taxation, superannuation, immigration, health and aged care. This package of benefits to veterans has been under consideration by government since October 2001. The Clarke review reported 109 recommendations in March 2003. The government prepared a response in February 2004, but that was rejected by its own backbench. A further response was made some weeks later after the veteran community, with the approval of that community in large part, continued to pressure the government. Given this lengthy delay, the opposition do not want veterans to suffer any further delay at our hands. As set out in my contribution to the second reading debate, in view of the time which has elapsed, the opposition have made a commitment to the speedy passage of this legislation to give effect to the decisions of government.

The opposition are concerned that, if amendments were passed by this chamber on the issue of same-sex entitlements, the government might proceed to delay or further postpone implementation of what are worthwhile and beneficial measures. Accordingly, the opposition regard passage of this bill as critical and we will not allow the government to exploit that delay to deny veterans and war widows valuable benefits. For this reason the opposition will not support the Democrats’ amendments.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (9.28 p.m.)—I will be very brief. The Democrats have moved similar amendments to previous bills, the most recent of which, as I understand it, was during the second reading debate on the Military Rehabilitation and Compensation Act 2004 in March 2004. The Veterans’ Entitlements Act does not discriminate on the sexual preference of a veteran when granting benefits. However, the legislation does not recognise the partner of a veteran in a same-sex relationship as being a dependant who may claim benefits such as a war widow or widower’s pension or partner service pension. Senator Bishop made reference to the importance of the legislation being debated and to the need for it not to be delayed. I certainly agree that the legislation should proceed in the way in which it was
understood to be proceeding prior to the amendments. Senator Bishop has also identified the fact that it is not a simple matter to move an amendment such as that sought by Senator Greig on the floor of the chamber.

Having recently been the mover and architect of the interdependency amendment in the superannuation legislation, I proceeded, as I said I would do some months ago, to look at the implications of the amendment across various pieces of legislation. I have looked very carefully at both the tax act and the superannuation act and have also looked at the impact, to the extent that I can, on my colleagues’ portfolios. As part of the agreement with the Democrats, I have agreed to raise with my colleagues whether, in each of their portfolios, similar recognition of interdependency can be made in those other statutory schemes.

Senator Greig, it is not as if this government is not exercised when appropriate to look at what is required to make these kinds of amendments. Interdependency relationships include a wider range of relationships than just same-sex couples. In respect of this legislation, it is not convenient or appropriate on the floor of the chamber to do the kind of exercise that I have recently gone through with superannuation. I wish to place on record the rationale for not proceeding with the request in this manner.

Finally, although this is not my portfolio, the government does not accept that there have been many representations or that there is significant support in the veteran community for any change to these arrangements. They are overwhelmingly beneficial to veterans, and they are provisions that should pass without delay.

The TEMPORARY CHAIRMAN (Senator Bolkus)—The question is that Democrat amendments (1), (2) and (3) be agreed to.
from income tax and capital gains tax for payments relating to persecution, loss or damage to property, illness and injury resulting from persecution or involvement in resistance during World War II. In addition, the bill provides important transitional arrangements for foreign entities with a large amount of accumulated losses going into consolidation. However, both the Labor Party and the Democrats—I want to indicate their steadfast support on this issue—have indicated they will not support the proposal in the bill to prescribe specifically listed deductible gift recipients by regulation rather than through legislation.

The chamber removed these provisions, but these amendments have not been accepted by the government in the House, hence the message. Rather than accept the view of this chamber, the government has dug in its heels and refused to negotiate. This is to the detriment of all those individuals and groups that would benefit from the other measures in the bill. It shows again a level of arrogance by this government that has become all too obvious in recent times in a whole range of areas. Schedule 3 provides arrangements for specifically listed organisations by regulation that will be eligible deductible gift recipients—DGRs. DGRs are able to receive donations that provide an income tax deduction for the donor. Organisations are specifically listed as DGRs when they do not meet the general criteria under the tax law. This would replace existing arrangements whereby DGRs are listed through legislation.

As I said earlier, the government claims that this is to allow more timely listings and adjustments. Under the terms of this bill, DGR status would take effect from the day immediately after the last day for disallowance of the regulation, which would ensure there is no revenue effect when parliament does not accept the executive’s view of an organisation’s suitability for DGR status. The regulation could specify the date from or period during which deductibility would apply or the purpose to which the donation must be put or other conditions. In determining deductibility, retrospectively the amending regulation would give effect to a public announcement by the Treasurer or a minister 60 days or less before the day on which the amending regulation was made, with the announcement having been published on the Internet. This bill contemplates explicit use of the Internet as an element of the process of legislation by press release, which is an interesting development apparently occurring in other areas.

Labor’s primary concern is that, unlike other legislation, this place cannot amend regulations. It must either support or reject them. This could create a difficult situation in which the parliament may support the listing of organisation but not the conditions placed on it by the government—for example, restrictions on the ability of DGRs to speak publicly about policy issues. Whilst the government has in the past put conditions on the purpose for which deductible gift recipient status has been given, that has been done through legislation, giving parliament the opportunity to amend those conditions. In addition, listing by regulation would remove the ability of non-government senators to propose the listing of an organisation. This would remove an important vehicle for the Senate to highlight and place pressure on the government of the day to provide DGR status to certain organisations. Also, there is generally less scrutiny of regulations than of legislation.

There is also a concern that the government could slip through the listing of a questionable organisation. For example, this bill includes the listing of the Constitution Education Fund, which I referred to in our further amendment. This is a fund that is di-
rectly linked to Australians for Constitutional Monarchy, which is headed up by none other than Professor David Flint, and the executive director of the fund is a Ms Kerry Jones. The Constitution Education Fund’s address is the same as that of Australians for Constitutional Monarchy. The Australians for Constitutional Monarchy web site includes information about the activities of the fund and that Professor David Flint is a trustee of the fund and chair of Australians for Constitutional Monarchy. The links are clear, but this was not made clear to parliament. According to the explanatory memorandum to the bill, this organisation’s primary purpose is to educate students of all ages about the Australian Constitution and the workings of all levels of government. We are expected to believe that, with all its links to Australians for Constitutional Monarchy, it will be used for genuine constitutional education. At no time was it revealed to the Senate by the government that this organisation had direct links to Australians for Constitutional Monarchy. It was only through the assiduous in-depth research and work by my colleague the shadow Assistant Treasurer, Mr David Cox, that these links were discovered.

Whilst such an organisation may be performing worthwhile work, reflected by the Governor-General’s patronage, it does not fit with normal concepts of the types of organisations that should be granted DGR status. DGR status effectively means that the government— that is, the Australian taxpayers— pays on average 30c in every dollar donated to an organisation. This is significant support and should be treated as if the government is giving direct funding to these organisations. It is a poor precedent to provide tax concessions to an organisation of this type of activity which are greater than those provided to political parties. Let us understand that: this is greater assistance than is given to political parties. I think not. For that reason Labor has moved an amendment to this bill to remove the Constitution Education Fund, having discovered its political associations, and it does not consider that it is appropriate to provide such an organisation with DGR status. The Senate has made it clear in the past that it will not accept amendments to the law that give the government the ability to prescribe specifically listed DGRs through regulation. The government should accept this and allow the rest of the bill to pass.

Senator MURRAY (Western Australia) (9.40 p.m.)—I will speak firstly to the motion that the Senate not insist on the amendments. It is the Democrats’ opinion that we should insist on those amendments and, therefore, we will oppose the government’s motion. The second matter is that of the proposed amendment in the name of Senator Ludwig, which Senator Sherry spoke about, which seeks to delete the Constitution Education Fund from the list of deductible gift recipients. Because this was foreshadowed, I thought that in preparation I should have a bit of a chat with the Constitution Education Fund. On three grounds I felt a little negative towards them. Surprisingly, the first ground was not that I am one of the foremost direct electionists in the parliament. That was not one of my grounds.

Senator Cherry interjecting—

Senator MURRAY— I have an interjection from Senator Cherry, who says that I am the humblest as well. The issue of Professor Flint is one that has concerned us of late, but he has moved on, so I am less concerned about that. So that was not the issue either. The two issues that caught my attention that bother me were that in the two letters I received from them they constantly referred to bipartisanship. If there is anything that gets somebody from the crossbenches annoyed, it is the idea of bipartisanship and that there are only two points of view in this
world. I would have described them as non-
partisan. I think that is the correct way in
which you should pronounce yourself, but if
they insist on being political I hope that in
the future they will address themselves as
being cross-party.

The other small area of concern was that
when I read the list of the foundation council
it looked as though they had all come from
the order of stuffed shirts: it was just packed
with professors, sirs, dames, doctors and ma-
jor-generals. It sounded like one of those
Gilbert and Sullivan kind of outfits. And
there were honourables; there was not an
ordinary Australian name or title in there that
I could discern. But I am in the process of
jesting. I have read their letters and I think
they have a good case to remain deductible
gift recipients. We will oppose the opposi-
tion’s proposed amendment.

Senator COONAN (New South Wales—
Minister for Revenue and Assistant Treas-
urer) (9.43 p.m.)—I will address very briefly
the two matters currently under considera-
tion: firstly, the motion moved by the gov-
ernment that the Senate not insist on the
amendments. The amendments propose to
remove an important measure from the bill
which specifically lists deductible gift recipi-
ents by way of regulation rather than by way
of the present, slow and administratively
cumbersome requirement of amending the
principal legislation every time. This pro-
posal is of obvious benefit to the organisa-
tions that are granted DGR status as well as
to the donors who generously contribute to
these worthy organisations. Streamlining the
listing process will improve the timeliness
within which they will get certainty over the
tax treatment of those donations.

While I believe the proposal is of obvious
benefit, I regret that apparently I have not
been able to persuade either Labor or the
Democrats that this is the case. However, I
think I recall Senator Murray being disposed
to at least consider this proposition if I could
show that some real harm or detriment would
result from his stance. I remain hopeful that I
can be convincing about the practical need
for this measure by illustrating some of the
current difficulties caused by the current ar-
rangements. Take, for example, the Dunn
and Lewis Youth Development Foundation,
which has established a youth memorial cen-
tre to ensure that two young victims of the
Bali tragedy from the Ulladulla community
will be remembered—a very worthy aim, I
am sure you will agree. The centre will serve
as both a memorial and a vocational training
centre for Ulladulla’s youth, with trainee-
ships and other employment opportunities.
The centre will be invaluable to the commu-
nity, as it will also offer a recreational outlet
for the whole of Ulladulla.

The government announced the founda-
tion as a DGR and subsequently introduced a
bill to specifically list it as a DGR. As the
bill was referred to a Senate committee, the
government was unable to secure passage of
the bill through both houses until very re-
cently. The bill now awaits royal assent,
some seven months after the announcement.
The status of an organisation as a DGR is
notified on the Australian Business Register.
This notification makes it clear to the Austra-
lian community that they can make deducti-
ble gifts to the organisation. However, that
organisation cannot be added to the ABR
until the bill becomes law. So you can see
the disconnect. Naturally a delay in adding
an organisation to the ABR detracts from its
ability to draw donations from the general
public and endowments from the large phil-
anthropic organisations.

This was certainly the experience of the
Dunn and Lewis Youth Development Foun-
dation which, whilst attracting interest from
several significant donors, found that that
interest was jeopardised by delays in parlia-
The government believes that the reasonable alternative to the current process which would significantly reduce these delays and doubts and the problems they cause would be to list DGRs by regulation rather than requiring an amendment to the principal legislation. Allowing organisations to be specifically named as DGRs by regulation rather than requiring an amendment to the primary act would allow continued scrutiny by parliament—which is surely what is being contended for by the Democrats at least—particularly by the Senate Standing Committee on Regulations and Ordinances, and would undoubtedly make the process more timely and efficient.

The process of qualifying for specific listing will not change as a result of this bill. Organisations will be expected to demonstrate special circumstances that warrant their specific inclusion as DGRs. Each organisation seeking specifically listed DGR status will still be considered by the government on a case by case basis. Specific listing of an organisation as a DGR will still require a change in the tax law rather than the exercise of any ministerial discretion provided under that law. Ultimately it will be open to either house to disallow any of those regulations, and that is as it should be.

This measure is, in my view, a sensible proposal by the government; it is not some grab or overreaching. There is nothing unusual in maintaining detailed lists within regulations rather than in principal legislation. Successive governments have followed this approach in recognition that it is the most appropriate way to deal with frequent changes to subordinate details of the law. There is no change in the policy connected with the entities that will be eligible to be listed; this is simply a change to make the process—it is all about process—of listing those organisations more efficient and timely. I record my disappointment that the chamber appears intent on insisting on these amendments.

Progress reported.

ADJOURNMENT

The DEPUTY PRESIDENT—Order! It being 9.50 p.m., I propose the question:

That the Senate do now adjourn.

Single Desk Network

Senator FERRIS (South Australia) (9.50 p.m.)—My attention was recently drawn to the existence of the Single Desk Network, an organisation which was created in March this year by a group of grain growers who claimed they wanted to lobby on the issue of the single desk for wheat. The Single Desk Network has its own well-presented and detailed home page, which contains a welcome message that includes these words:

‘Sounds like another lobby group,’ you might say—and it is. The Single Desk Network appears to be a well-organised and well-run organisation that is active in the media. The Single Desk Network web site is sophisticated, well written and professionally presented. Despite all of this, the member-
ship fee for the Single Desk Network is just $10 per person.

In May 2004 the Single Desk Network issued a press release entitled ‘Grain Growers Association’s attack on the Single Desk rejected by Grower Network’. This media release was distributed to the rural media and widely reported in The Land and the Weekly Times. It read:

The Single Desk Network of grain growers has rejected a proposal by the Board of the Grain Growers’ Association (GGA) to break-up the wheat Single Desk.

It went on to quote Single Desk Network spokesman Jock Munro from Rankins Springs as saying:

‘The Single Desk Network believes that any system that requires the tendering of key services currently provided by AWB, such as supply chain management, international sales and marketing, quality assurance and crop-shaping, would ultimately see the benefits of the Single Desk system transferred from growers to middlemen.’

‘Make no mistake,’ said Mr Munro, ‘Growers will be the losers if the GGA’s proposal is adopted.’

What is wrong with that? It is just another lobby group making its independent voice heard on an issue of concern to rural Australia. All this, of course, would be quite normal for an organised group of individuals who intend to lobby on a certain issue. But all is not as it seems with the Single Desk Network. An analysis of the electronic pathway that reveals where this particular media statement was generated takes us to a murky corner of a very large organisation involved in the sale of our grain. In fact, the home base of this pathway from the Single Desk Network is none other than the Australian Wheat Board Ltd, the monopoly holder of the single desk. And the original author of this so-called independent document—according to Mr Jock Munro of Rankins Springs—was none other than Mr Jarrod Doyle, from AWB Ltd’s grower and government relations department in Sydney.

Senator Payne—What an amazing coincidence!

Senator FERRIS—Fancy that, Senator Payne: an independent lobby group defending the single desk which gives birth to its press releases in the government relations department of the very organisation that will most benefit from them. Mr Jock Munro of Rankins Springs, who claims that the organisation is independent, clearly has a very good friend at court—right inside the Australian Wheat Board Ltd. Further analysis of the document’s email path shows that it travelled between AWB Ltd and Jock Munro several times—presumably to make sure that the Wheat Board was entirely happy before it was given to the media.

How curious, you might say. And just how many of those growers who paid $10 to join this so-called independent organisation were made aware of the duplicitous nature of this group and the fact that Big Brother—the old duchess, Australian Wheat Board Ltd—was just behind the door guiding the hand that was guiding the pen. More importantly, was the fact that the media release was written by Jarrod Doyle of the Australian Wheat Board Ltd undisclosed to the public? Was this fact disclosed to the journalists who then, in good faith, wrote stories on the back of this media statement?

Other documents distributed by the Single Desk Network reveal that—surprise, surprise!—they were also co-authored by the Australian Wheat Board Ltd. One such document supportive, surprisingly, of the current single desk management structure was circulated among growers by the Single Desk Network and held out as written by a ‘concerned person’. However, again an analysis of the electronic pathway of this document shows that one its authors was in
fact Mr Marc Cooney, who is AWB’s Manager of Stakeholder Relations (Central).
Goodness me! How could such high-quality assistance be made available at such a low price from this independent grower group?

The Single Desk Network has been encouraging growers to make submissions to the 2004 Wheat Marketing Review Panel established by the Australian parliament. I understand that the Single Desk Network itself has made a submission to the panel but that it has not yet been made public. So, unfortunately, I am not able to avail the Senate of the very important electronic pathway to see whether it leads back to the duchess behind the door. All of this raises very serious questions about the operation of the Single Desk Network and its apparently undisclosed—and duplicitous—relationship with Australian Wheat Board Ltd, the principal beneficiary of the propaganda being peddled by the Single Desk Network. I call on the Australian Wheat Board tonight to immediately disclose who is funding and promoting the Single Desk Network. Who is writing its press releases, who wrote its submission to the inquiry and are they employees of Australian Wheat Board Ltd?

I have said many times in this place that I am not opposed to the single desk—and I never have been. My concern has always been the need for transparency in this debate. I have been representing farmers in Australia for 20 years—who are, interestingly enough, tonight celebrating 25 years of the National Farmers Federation, an organisation of which I was very proud to be a staff member. I am celebrating with them tonight, but I am also asking questions of the Australian Wheat Board Ltd and the Single Desk Network because I want to make sure that those farmers out there in rural and regional Australia, who work at growing crops and producing income for Australia, know that when an outspoken organisation is established, supposedly independent and, curiously, in support of the single desk, it is actually the independent, free-thinking, courageous organisation that it claims to be and that it is not funded by the Australian Wheat Board using another trolley, another label, to push the same old story—that is, the 77 goods and services that the growers pay for through the pool and for which there is absolutely no transparency.

Women: Government Policies

Senator CROSSIN (Northern Territory) (9.59 p.m.)—I rise tonight to put on the record the deep concern I have regarding the direction of public policy of late under the Howard government, particularly in relation to women. My concerns are directed at three leaders of the Liberal Party: the Prime Minister, the Treasurer and the Minister for Health and Ageing, who, in my opinion, in recent months, have deeply offended the women of this country and have significantly shifted the ground the women’s movement and women’s rights have achieved thus far. In fact, comments made by these cabinet ministers only remind women just how far we have to go to ensure everyone’s rights are protected and upheld.

Under the Howard government, human rights in our country are vulnerable to political opportunism and, to a large extent, the personal agenda of the Prime Minister. The extent to which the Howard government has abused and dismissed the rights of many in this country cannot be fully explored in such a short time. However, a number of incidences will be mentioned in this speech that illustrate the contempt the current government has for basic human rights, particularly women’s rights, and our right to participate fully in society in whichever way we choose.

This speech aims to highlight how backward and outdated the Howard government is, and emphasise the serious implications this has
on women in Australia and, in fact, internationally. Recently the federal Treasurer, Mr Peter Costello, no doubt the next leader of the Liberal Party—

Senator Abetz—The next Prime Minister.

Senator CROSSIN—Senator Abetz, thank you for that—made some statements that could be deemed to be degrading and sexist in the context of selling his 2004 budget.

Senator Sherry—He'll never challenge.

Senator Abetz—He won't have to.

Senator CROSSIN—So it is true, Senator Abetz, is it? If we vote for Mr Howard, we will really end up with Mr Costello in the top job? Thanks for confirming that. Obviously, the Treasurer, in handing down and selling his 2004 budget, was attempting to make up for the lack of credible policy in this budget by making several statements regarding the fertility rate in Australia. We will never forget him bellowing ‘one for your husband, one for your wife and one for your country’ to the women of Australia, as we all cringed, at a post budget press conference. Back in the early 1900s, similar calls were made for women to do their duty to populate the nation. In fact, in 1903 a royal commission was held into the declining fertility rate. The conclusion was that women were being selfish and failing in their role as child bearers. Women were valued only for their ability to procreate, hence limiting the need for rights at all. Their role was in the home, as subservient beings, unequal to men.

One would think that times have changed. However, it seems that under the Howard government that is not so. This Prime Minister is not afraid of making parallel statements regarding women. The last budget may have claimed to be work and family focused but it failed abysmally in providing any concrete policy that would ensure flexibility in the workplace or the right to return to work part-time. In fact, encouragement and any initiatives to promote family-friendly workplace practices were missing.

The Prime Minister, who has repeatedly stated his position on women and their role in society, believes women belong in the home caring for their children—while the husband brings home the bacon, no doubt. Of course, in the Prime Minister’s world all families are made up of the husband, the breadwinner; the wife, who tends to her husband’s every need; and the children. This backward-looking view of the role of women fails to acknowledge that the world and our nation have changed. Australia is filled with diversity and complexity and is rich with experience. It is simply untenable to make policy with only part of the community in mind.

The Prime Minister has made sweeping statements on paid maternity leave in the past, when the community has demanded action rather than rhetoric. But in truth, the Prime Minister was never going to deliver on this issue. The Prime Minister was never going to deliver to women who want or need to be able to take care of their kids and maintain a relationship with the work force or, in fact, choose to never have children. You can look back as far as 1986 for the Prime Minister’s position on paid maternity leave. As Leader of the Opposition in 1986, Mr Howard stated on Sydney radio that he would consider scrapping paid maternity leave for public servants if he got into government. He described the leave entitlement as ‘very generous’ and said a coalition government would look to abolish it. Commenting on the entitlement of public servants the Prime Minister stated:

I mean that sort of thing is plainly ridiculous. The thing that struck me as extraordinary was this three-month salary, whether you came back or not.
He did not stop there. He suggested that
women might still have a case for the right to
promotion in the Public Service provided
they were ‘definitely coming back’ after ma-
ternity leave. But according to the Prime
Minister there is nothing left for women to
fight for. He claimed in 2002:

We are in the post-feminist stage of the debate.
Let us look at the facts. There are still not
enough women in parliaments around the
country—only 26 per cent in the federal par-
liament, and considerably less in the gov-
ernment. Only two cabinet members are
women in the present government, in fact.

Women still earn on average 81 per cent
of men’s wages in Australia. If you include
casual and part-time workers, women are
paid around 66c in the male dollar. One in
three women in Australia are the victims of
domestic violence. Women still do not oc-
upy executive or managerial positions in
companies at the same rate as men. Seventy-
five per cent of Australian companies still
have no women directors. Women are more
likely to live below the poverty line than
men. Seventy per cent of people living in
poverty throughout the world are women.
Unpaid work undertaken by women is still
undervalued in our society, and women con-
tinue to be primary carers of children and the
elderly.

Women leave the work force with signifi-
cantly less superannuation than men. Cur-
rently women who work until they are 65
can expect to save around half the amount of
superannuation men can save. Australia now
has the lowest participation rate of women in
the work force amongst industrialised coun-
tries—just 66.1 per cent compared with 71.8
per cent for the US and 67.6 per cent for
New Zealand. It is estimated that one in four
women will still be repaying their HECS
debt at the age of 65, as compared to one in
25 men.

The extent to which Mr Howard has failed
to recognise women as legitimate citizens is
evident in his bid to destroy the Sex Dis-
crimination Commission and the Human
Rights and Equal Opportunity Commission.
The attempt to change the name of the com-
misson should not be regarded as separate to
the major changes to the function and the
independence of HREOC. The omission of
‘equal opportunity’ from the name of the
commission is significant in itself. The How-
ard government has endeavoured to omit the
issue of equal opportunity in public policy
and debate ever since it came into office in
1996.

This year we have seen the Howard gov-
ernment do a complete backflip, it seems, on
the Sex Discrimination Bill. In 1983, during
the third reading debate on the Sex Discrimi-
nation Bill, Mr Howard said:

... I am a profound sceptic of the value to our
society of the Human Rights Commission.

... ... ...

I certainly have major reservations about the con-
cept of affirmative action legislation and I cer-
tainly do not regard support of this legislation as
being indicative of support for that.
Despite Mr Howard’s position on this in the
past, it is interesting that this year he at-
ttempted to use the Sex Discrimination Act in
exactly this way. However, this time, admit-
tedly, it was to increase the number of male
teachers.

Let us have a look at the latest example of
how out of touch and openly sexist this gov-
ernment is when it relates to the Minister for
Health and Ageing and his commitment to
turn back the clock. Tony Abbott, the minis-
ter for health, has continued to push his per-
personal agenda, despite broad condemnation,
to limit the availability of the morning-after
pill and to allow parents access to their
child’s medical information at a younger age.
As everyone knows—and I am certain—it is
probably only a matter of time before Mr Abbott attacks the Medicare rebate on pregnancy termination. Mr Abbott has explained his personal position—he blames young women who terminate their pregnancy for the declining fertility rate. He described the number of abortions in Australia as a ‘national tragedy’. The real tragedy here is not that abortion is available but that someone so openly dismissive of women’s rights, ill-informed and judgmental can have responsibility for health in this country.

Let me conclude by going back to the Prime Minister’s claim that there is nothing left for women to fight for. How about the right to equal pay, access to adequate health and the right to representation and equal opportunity? The failure of this government to sign the optional protocol on the UN Convention on the Elimination of All forms of Discrimination Against Women is indicative of the attitude of this government and the level of commitment to women and human rights. The statements made by the Prime Minister, the Treasurer and the Minister for Health and Ageing should be seen for what they are—a backwards step for women in Australia. (Time expired)

National Stem Cell Centre

Senator HARRADINE (Tasmania) (10.09 p.m.)—I rise to address a major issue of proper process, accountability and ethics relating to the unexplained allocation of an extra $57.9 million to the National Stem Cell Centre, a private company. This year’s budget includes funds initially announced as part of Backing Australia’s Ability 2 to the National Stem Cell Centre based in Melbourne. I asked questions about this in the Senate Economics Legislation Committee estimates hearings three weeks ago. Senators will remember that only in 2002 the National Stem Cell Centre was given $43.55 million. This funding was controversial because some of the money was to go to human embryonic stem cell research—research that is ethically and scientifically contentious. It was also controversial because parliament had not decided whether human embryo research was even legal when the funding was allocated. The funding announcement actually predated the parliament’s decision.

Later in 2002, the Research Involving Human Embryos Bill 2002 was passed. Clearly, the National Stem Cell Centre was being fast-tracked and those promoting it were not inclined to wait for the niceties of a parliamentary vote. In the current budget an extra $57.9 million was given to the National Stem Cell Centre, taking its total funding to over $101 million and the funding timetable out to 2010-11. I have had an interest in this area for some time. As far back as 1985, I introduced a private member’s bill—the Human Embryo Experimentation Bill—to try to prevent destructive experiments on human embryos. I of course recognise that not every senator shares my ethical concerns over human embryo research, which takes the life of the human embryo. However, all senators do share my concerns over the accountability of public funds.

I went to the estimates hearings with this concern about accountability. Uppermost in my mind was why a company had had its funding more than doubled less than two years into its original contract. I questioned the officials from Biotechnology Australia about what evaluation the government had done on the work of the National Stem Cell Centre. The answer: none. I asked: ‘Can you give me information on the expert committee that recommended the extra funds go to the National Stem Cell Centre?’ The answer was that there was no recommendation for extra funds from such a committee.

I asked whether the National Stem Cell Centre had asked or applied for this extra
$57 million. I was trying to find some reason that the government had more than doubled the centre’s funding. The answer was no. The officials were somewhat vague as to how the decision had come about. Their lack of willingness to provide specifics led to my speculating that perhaps they had little to do with advising on this decision. Perhaps this was a political decision passed down from the minister’s office to Biotechnology Australia to implement.

Biotechnology Australia officials eventually revealed that, although they had not done an evaluation of the centre, they were monitoring its progress. The centre is required to report to the government on the milestones it has to achieve, but the officials refused to tell me what those milestones were as they were commercial-in-confidence. Commercial-in-confidence, as all senators know, can become a convenient excuse for lack of accountability. I wanted a concrete explanation as to why such a substantial amount of public money was to be spent in such a controversial area without evaluation, without a recommendation from an expert committee for extra funds and without a formal request from the company involved. This situation was highly irregular to say the least.

I insisted that the Minister for Industry, Tourism and Resources, Minister Macfarlane, write to the committee to explain why the material was commercial-in-confidence. I insisted on a response while Biotechnology Australia was still before the committee so that we could continue questioning officials. The committee received the minister’s reply early the next day. It read:

... the release of this information would prejudice the Centre’s rights in its intellectual property and would be detrimental to the commercial strategies of the Centre, and their intentions regarding research. By providing valuable commercial advantage to competitors who are not subject to the same public disclosure of research ... the Government would be placing the Centre at a substantial disadvantage ...

There is no mention, of course, of the substantial advantage the centre receives over other companies, to the tune of over $100 million. I do not think the minister’s explanation is credible and I do not accept it as valid. What he is effectively saying is, ‘Trust me.’ But it is not our job as senators to trust the government—to trust any government. One of the key roles of the Senate is to test the government’s claims and to make assessments on the basis of evidence. No evidence has been offered. I made a reservation to the economics legislation committee’s report setting out these concerns. I seek leave to incorporate a copy of that 1½-page reservation in Hansard.

Leave granted.

The document read as follows—

RESERVATION TO THE ECONOMICS LEGISLATION COMMITTEE REPORT ON THE BUDGET ESTIMATES 2004-05

BIOTECHNOLOGY AUSTRALIA

Evidence was given at the hearings of the Department of Industry, Tourism and Resources in relation to proposed funding for the National Stem Cell Centre (NSCC) that:

- There had been a significant expansion of funding for the Centre from $43.55 million to $101.45 million;
- Funding for the Centre is committed to the financial year 2010-11;
- The funding is to a private company, the National Stem Cell Centre, for undisclosed purposes and projects far into the future;
- The funding was granted without any evaluation of the success or operation of the National Stem Cell Centre, without recommendation for extra funding from a funding committee and without a request from the NSCC.

It is of concern that officers present at the Estimates hearings of the Committee were unable to
say when the Government first advised that extra money was to be given to the NSCC and were also unable to advise when they started working on this grant.

Officers admitted that there has been no evaluation of the Centre, no application for funding by the Centre and no funding committee consideration of this major additional grant of public money. The Government has, of its own volition, decided to fund the Centre for the next five years with an extra $57.9 million, taking the total Commonwealth grant to the NSCC to $101.45 million.

When questioned on whether the NSCC had any achievements to report, officers said that the NSCC reported its achievements against milestones. Officers declined to give details of the milestones the NSCC must meet as part of its reporting requirements, claiming the information was regarded as commercially sensitive. The issue was referred to the Minister.

The Minister is claiming in his letter of 1 June 2004 that information on this substantial grant cannot be released because it is commercially sensitive. This includes the information deleted from the Deed of Agreement (including the Business Plan and milestones) between the Department of Industry, Tourism and Resources, the Australian Research Council and the National Stem Cell Centre. What is particularly disturbing is that this information is being denied in relation to a line of research which is of serious concern to many in the community and which is surrounded by significant ethical sensitivities.

I note the advice of Clerk of the Senate Harry Evans to the Chair of the Economics Legislation Committee that “it is open to a committee to reject a claim of commercial confidentiality”, even if a Minister provides a statement setting out the basis for a claim of commercial-in-confidence.

I reject the claim made by the Minister in his letter that this information is commercial-in-confidence. It is a corollary of accepting public money that the funds will be accountable to the public. The provision of public money places the company in a favoured and privileged position in the marketplace. It is reasonable to expect the Centre to disclose what it has done and intends to do with the money. The Minister and the company also have an obligation to satisfy legitimate public concern on the allocation of such a significant amount of money to such sensitive and ethically contentious matters.

I have serious reservations about spending public money in the absence of accountability to the public through Parliament. Further, I reserve the right to request the Senate to have the Committee reconvene so that this matter can be further explored. I am also considering calling for a committee of the whole stage on the Appropriation Bills so that the matter can be further considered. This would involve circulating an amendment to limit the funding of the National Stem Cell Centre until such time as a public evaluation is available in relation to the work it has done and the work it proposes to do with this public money.

Brian Harradine
Senator for Tasmania

My concern about funding for the centre is also spurred by the fact that it harbours a number of advocates of the cloning of embryonic human beings for experimentation. Such an advocate is Professor Alan Trounson. When I asked officials to rule out the use of any of this $101 million for cloning, they refused. If human cloning were to become legal down the track, would they have no objection to this money being used for cloning?

The final report of the committee on the estimates hearings was tabled last week. When I had a look at it I was surprised to see a letter attached to it as appendix 2. The letter was headed ‘Senator Harradine’s request for further information on the National Stem Cell Centre’. It argued against me getting access to any information to hold the centre accountable for public funds. It was signed by four Australian premiers—four premiers, and two state ministers to boot! Premiers Carr, Beattie, Rann and Bracks wrote to the committee:

The Centre is undertaking work at the highest level that has the potential to provide significant
public health and commercial benefits in the future.

This, of course, supports Minister Macfarlane’s claim. It is revealing that the letter confirms that the centre has no real achievements and can only claim what they call ‘potential’. I would have thought it would be prudent for the government to wait a year or two till the centre came towards the end of its current funding agreement to make an assessment of progress before signing up for another five years of ‘potential’. Once again, it appears that the National Stem Cell Centre is being given favourable treatment. The first time, its funding was announced before parliament had even decided on laws for human embryo research. Now the committee is being told that this funding should not be fully accountable to parliament.

What I am asking for is not unreasonable. I am asking for some accountability—some justification for more than doubling the funding to over $100 million. But four state premiers are telling the Senate committee that federal funds should not be accountable to this parliament. I am curious as to who organised this letter. It would have taken a bit of work to arrange four premiers to sign a document, let alone get agreement on its text. Perhaps Minister Macfarlane needed some moral support. Perhaps the centre itself wanted to make sure it retained its massive funding. But I suppose the bigger question is why the premiers bothered. They were not going to influence me and by writing the letter they have drawn further attention to the fact that there are political leaders and people running companies who feel there are public funds that should not be accountable to the Australian public. I do not accept that and I do not think the Senate should accept it either.

University of New England

Senator PAYNE (New South Wales) (10.19 p.m.)—In concluding the adjournment debate this evening I want to make some remarks of a rather different tenor to that of some of the preceding contributions. They are a message of congratulations to a university in my state of New South Wales on its golden jubilee year. There are many very old universities in Australia—at least, they are old in terms relative to our own developed status—but this is our first independent regional university, the University of New England, which this year turns 50. Given that we recognise the value of tertiary education as one of the very many important tools to cement the advancement of Australia and that education itself is one of the greatest weapons we have against ignorance—and perhaps a little more education would not go astray around here—I think the opportunity to commend a university like this is a very important one to take in the chamber this evening.

At its inception the University of New England was described by many as Australia’s first university outside a capital city. It had the most extraordinary impact on regional Australia at the time. It is an excellent university. It fosters a bond between students not only to their own institution but also very assertively and very strongly between each other. As one of New South Wales’s very first regional universities its breadth of curriculum and its academic calibre are most impressive, but it also fosters very strong ties with regional areas. Not surprisingly, as a regional university some of its most important academic disciplines are, naturally enough, related to the land. The scholars, scientists, researchers and students of UNE have established very well-regarded international reputations through their discoveries and contributions to the fields of rural science and agricultural economics in particular...
and, on the more diverse side of the spectrum, also in educational administration, geology, linguistics and archaeology.

The UNE’s very close work with other important Australian institutions such as the CSIRO has firmly entrenched it in the structure of Australian academic society. It has also led to some very important research work at the university, particularly at the four cooperative research centres, or CRCs, which operate at UNE. They operate particularly in the fields of poultry, sheep, cotton, and cattle and beef quality. In my time in the Senate, I have visited two of those in the New England area and the university itself. I engaged in a fascinating discussion about the hardness of eggshells, in the first instance, at the Australian Poultry CRC—

Senator Abetz—Fascinating!

Senator PAYNE—Absolutely fascinating, Senator Abetz. Secondly, I saw a detailed examination of marbling in meat at the Cattle and Beef Quality CRC.

The university has, since its inception and in particular since gaining independence, uncompromisingly accepted the challenge of serving the educational, cultural, intellectual and social needs of regional and rural Australia. It is comforting to be able to say that it is easy to observe. I know it particularly from my own visits to the university itself and to the area and from my contacts with the community and students. It has invaluable cultural links and, in particular, an engagement with the community, not just the people of Armidale but much more broadly.

Since gaining autonomy, over 70,000 people have graduated with qualifications from UNE. By having a university of that calibre in a regional area, it has successfully fostered academic growth in the wider regional and rural community. Many of us, in dealing with our constituents, know the challenge for regional students who are forced to move away from their homes and their families and who suffer the detrimental effects of those actions, but at UNE, for the people from the region in particular and from other areas of New South Wales, there is a strong culture of living on campus in student residences. Given that Senator McGauran is here, I should acknowledge that one of those is a college named after former Prime Minister Sir Earle Page. They forge a very important cultural bond between the students and their university. It gives them a very distinct character. Even those who have played sport against UNE and its colleges will tell you that. It keeps that education and the skill sets subsequently derived from it in regional New South Wales, stemming what is known as a ‘brain drain’ from rural areas to metropolitan Australia. UNE attracts people for all of these reasons—people who might not have attempted tertiary education because of their family arrangements or because of the prospect of having to leave the community and travel to the city.

As I said earlier, the University of New England was Australia’s first independent regional university and one of the first universities to focus on external study. The university itself was originally formed in 1938 and was then known as the New England University College, a college of the University of Sydney. It gained its complete autonomy from the University of Sydney on 1 February 1954. I am advised—apparently reliably—that that same night three meteors were witnessed streaming through the skies. This was interpreted as a portent of good fortune for the university in years to come, and this has clearly come true. One of the conditions of being granted autonomy from the University of Sydney was the creation of a department of external studies. That has proved to be a very wise decision, and that UNE external studies model has since gained international recognition and repute for its
excellence. In fact today the number of external students studying by distance education far outweighs the number of students studying on campus. This also enables people in regional and rural areas of Australia to continue to study while maintaining ties to their own communities and, in some cases, continuing to work while doing the same thing.

When we are talking about universities, people often turn to the alumni as a point of reference to determine what sort of past a university might have achieved and perhaps what sort of future a university might achieve. The alumni of UNE are many and varied. They include Bernie Fraser, former Governor of the Reserve Bank; Wendy McCarthy, the Chancellor of the University of Canberra; and Douglas Daft, the CEO of Coca-Cola, to name but a few. When I talk to graduates and students of the university—amongst them friends, colleagues and constituents, obviously—all of them have only good things to say. In fact I asked a friend of mine who is studying there at the moment, a local of the New England area, and she spoke particularly eloquently of the opportunities that the university offers her as a part-time worker, as a mother of three and also as a student of UNE. She spoke of its flexibility, of its attractive courses, of the support network, of online access, of its regional importance and, from her observations, particularly of its importance to women in the New England area.

For its 50th anniversary, the university has, not surprisingly, a year of celebrations and events which include a NAIDOC Week reunion for Indigenous graduates of UNE; an international film festival; a Shakespeare festival; and in particular a focus weekend which will include arts from the arts exhibition, campus tours, anniversary dinners, spring balls and an alumni afternoon tea. Importantly, it is also having a UNE history launch and the burying of a time capsule.

In conclusion, I want to offer my personal congratulations and thanks to this fine institution on its 50th anniversary—not just for its educational achievements, not just for its cultural and local significance in the New England area, but most particularly for its commitment to rural and regional Australia and its continuing efforts to maintain academic excellence and to serve the needs of regional Australians in all respects.

Bacon, Hon. James (Jim) Alexander

The PRESIDENT (10.27 p.m.)—I would like to take the few moments that are left of the adjournment debate to acknowledge the contribution of the Hon. Jim Bacon, Premier of Tasmania from 14 September 1998 to 21 March 2004. As senators will know, Jim was forced to resign his commission as premier following a diagnosis of progressive lung cancer and, despite a spirited fight, he succumbed early yesterday morning.

Jim Bacon was an outstanding advocate for Tasmania. In my dealings with him, he always put the interests of Tasmania first—before the party and before sectional interest. He and I met frequently at engagements throughout the state and, as is common in most small states, we often had matters of mutual interest to discuss. He was a very generous man. I remember last year, when I travelled to Ulverstone—as you would remember, Senator Abetz—to attend the state funeral of the last Australian serviceman decorated in the Great War, the late Frank MacDonald, I took a cab from the airport to the funeral parlour. Jim Bacon insisted that I join him in an official car to go to the service. That was a gesture typical of Jim. I also exchanged frequent and friendly banter with him over the development of Bellerive Oval on Hobart’s eastern shore and over Jim’s allegiances to the York Park Oval. We may
have disagreed, but it was never with any rancour. One of my great and happy memories was when the Premier and I walked out on the ground at the Bellerive Oval, along with Dennis Rogers, on the occasion of the first one-day international between Australia and England ever held in Tasmania. On that particular day we were all so very proud to be Tasmanians together.

I would remind the Senate that the last Premier of Tasmania to die in office was the great Albert Ogilvie, also a Labor man, who led Tasmania through the Great Depression. Jim Bacon was not faced with such stringent economic circumstances, but he did meet the challenges of a small state moving from a reliance on manufacturing to a more diverse economy. Through collaboration with the federal government, Jim was able to preside over an economic resurgence and a reversal of the exodus of people from Tasmania.

I have greatly admired the dignity with which Jim’s wife, Honey, has conducted herself during the last few months. It must be awful for any couple but is made much more so when the personal agonies are suffered in the full glare of public knowledge. I acknowledge Jim Bacon as a substantial premier, and I offer Honey and their sons my heartfelt condolences.

Senate adjourned at 10.30 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:


Christmas Island Act—
  Ordinance No. 2 of 2004 (Administration Amendment Ordinance 2004 (No. 1)).
  Ordinance No. 3 of 2004 (Interpretation Amendment Ordinance 2004 (No. 1)).


Cocos (Keeling) Islands Act—
  Ordinance No. 2 of 2004 (Administration Amendment Ordinance 2004 (No. 1)).
  Ordinance No. 3 of 2004 (Interpretation Amendment Ordinance 2004 (No. 1)).

Customs Act—Regulations—Statutory Rules 2004 No. 121.


Income Tax Assessment Act 1936—


Migration Act—

Migration Agents Registration Application Charge Act—Regulations—Statutory Rules 2004 No. 130.
National Measurement Act—
   National Measurement Amendment Guidelines 2004 (No. 1).
   Regulations—Statutory Rules 2004 No. 132.
Primary Industries (Customs) Charges Act—Regulations—Statutory Rules 2004 Nos 118 and 120.
Public Service Act—Regulations—Statutory Rules 2004 No. 133.

PROCLAMATIONS
A proclamation by His Excellency the Governor-General was tabled, notifying that he had proclaimed the following provisions of an Act to come into operation on the date specified:

Comprehensive Nuclear Test-Ban Treaty Act 1998—Sections 3 to 7; Part 2; Division 1 of Part 4; Division 1 of Part 5; sections 68 to 72, 74, 75 and 78; and Schedule 1—11 June 2004 (Gazette No. S 201, 11 June 2004).
The following answers to questions were circulated:

**Environment: Funding**

*(Question No. 1937)*

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 9 September 2003:

For each of the past 10 years: (a) how much federal funding has been allocated to environment groups in Australia; and (b) how much went to each environment group which was funded, directly or indirectly.

Senator Ian Macdonald—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

I am advised that due to the configuration of the relevant financial management system, it is not possible to supply an answer unless the names of specific recipient organisations are provided. I am also advised that financial records are not retained beyond 7 years and that, due to a change in record systems in 1998, access to records more than 5 years old is extremely difficult. I would be happy to consider a more specific request.

**Indigenous Women’s Advisory Group**

*(Question No. 2688)*

Senator Crossin asked the Minister Assisting the Prime Minister for the Status of Women, upon notice, on 11 March 2004:

With reference to the Indigenous Women’s Advisory Group (IWAG):

1. (a) What was IWAG’s intended role when the Office of the Status of Women (OSW) established it in 2002; and (b) what is its current role or function.

2. Who are the current members of IWAG.

3. (a) How often is IWAG supposed to meet each year; (b) how often did it meet in 2003; and (c) how many meetings are scheduled for 2004, and when are these to be held.

4. (a) How often did OSW meet with IWAG in 2003; and (b) when is OSW scheduled to meet with IWAG in 2004.

5. With reference to the Prime Minister’s announcement on 28 August 2003 that $20 million is to be spent addressing violence in Indigenous communities: (a) did the Prime Minister consult IWAG on this issue prior to the announcement; (b) did this consultation form part of the Prime Minister’s decision; and (c) what contribution did IWAG make towards the allocation of funding for specific projects or areas.

6. Does OSW have responsibility for any of the programs included in the Prime Ministers announcement; if so, can details be provided.

7. (a) Is the $400,000 announced by the Prime Minister to address violence in Indigenous Communities under the National Initiative to Combat Sexual Assault additional funding for the initiative; (b) was that amount included in the women’s policy outcome budget for 2003-04; (c) is this money an additional appropriation; and (d) does OSW have responsibility for administrating this money.

8. For the 2002-03 financial year and to date for the 2003-04 financial year, how much has been spent on addressing violence in Indigenous communities and towards Indigenous women: (a) by OSW;
(b) on the Partnerships Against Domestic Violence Program; (c) on the National Initiative to Combat Sexual Assault program; and (d) on other programs.

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

(1) (a) and (b) The role of the Indigenous Women’s Advisory Group (IWAG) is to provide advice to the government to ensure that its programmes and policies address the needs of Indigenous women.

(2) The members of IWAG are:

Professor Mary Ann Bin-Sallik
Ms Josephine Bowie-Perry
Ms Muriel Cadd
Ms Helen Corbett
Ms Lola Forester
Ms Josephine Geia
Ms Monica Morgan
Ms Rosemary Smith
Ms Tammi Williams

(3) (a) Twice a year.
(b) Twice.
(c) Two meetings are scheduled for 2004. Dates have not yet been set.

(4) See answers to 3(b) and (c) above.

(5) (a) No. However, three members of IWAG, Professor Mary Ann Bin-Sallik, Ms Muriel Cadd and Ms Tammi Williams participated in the meeting of Indigenous leaders convened by the Prime Minister on 23 July 2003.
(b) N/A.
(c) N/A.

(6) OSW has responsibility for the item “Community Initiatives in Sexual Assault”: Under the National Initiative to Combat Sexual Assault, $400,000 was provided to develop an indigenous focused programme to encourage discussion about this sensitive issue among young indigenous people.

(7) (a) No.
(b) Yes.
(c) No.
(d) Yes.

(8) Actual expenditure as at 31 March 2004:
(a) 2002-03: $1,473,466
   2003-04: $664,497
(b) 2002-03: $1,192,106
   2003-04: $601,398
(c) 2002-03: $174,060
   2003-04: $nil
(d) 2002-03: $107,300
   2003-04: $63,099
Medicare: Bulk-Billing
(Question No. 2771)

Senator Chris Evans asked the Minister representing the Minister for Health and Ageing, upon notice, on 29 March 2004:

(1) What are the breakdowns of the percentage of total unreferred general practitioner (GP) attendances bulk billed, by federal electorate division, for the 12 months ending: (a) 31 December 2000; (b) 31 December 2001; (c) 31 December 2002; and (d) 31 December 2003.

(2) What are the breakdowns of the number of total unreferred GP attendances bulk billed, by federal electorate division, for the 12 months ending: (a) 31 December 2000; (b) 31 December 2001; (c) 31 December 2002; and (d) 31 December 2003.

(3) What are the breakdowns for the average patient contribution per service (patient billed services only) for total unreferred GP attendances, by federal electoral division, for the 12 months ending: (a) 31 December 2000; (b) 31 December 2001; (c) 31 December 2002; and (d) 31 December 2003.

(4) What are the breakdowns for the number of services for total unreferred GP attendances, by federal electoral division, for the 12 months ending: (a) 31 December 2000; (b) 31 December 2001; (c) 31 December 2002; and (d) 31 December 2003.

Senator Ian Campbell—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) The percentage of non-referred (general practitioner) attendances that were bulk billed under Medicare, by federal electorate division (based on patient enrolment postcode), for the 12 months ending: (a) 31 December 2000; (b) 31 December 2001; (c) 31 December 2002; and (d) 31 December 2003 is as follows:

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QUESTIONS ON NOTICE
### MEDICARE: NON-REFERRED (GP) ATTENDANCES

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<td>55.2%</td>
<td>51.8%</td>
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<td>76.0%</td>
<td>73.3%</td>
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<td>96.9%</td>
<td>96.3%</td>
<td>95.5%</td>
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<td>Wentworth</td>
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<td>78.0%</td>
<td>74.8%</td>
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<td>95.7%</td>
<td>95.7%</td>
<td>95.3%</td>
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<td>68.5%</td>
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<tr>
<td><strong>Total</strong></td>
<td>78.5%</td>
<td>76.5%</td>
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(2) The number of non-referred (general practitioner) attendances that were bulk billed under Medicare, by federal electorate division (based on patient enrolment postcode), for the 12 months ending: (a) 31 December 2000; (b) 31 December 2001; (c) 31 December 2002; and (d) 31 December 2003 (year of processing) is as follows:
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<th>2003</th>
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<td>318,733</td>
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<td>665,796</td>
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<td>456,737</td>
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**QUESTIONS ON NOTICE**
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### MEDICARE: NON-REFERRED (GP) ATTENDANCES
### NUMBER OF SERVICES BULK BILLED
### BY FEDERAL ELECTORAL DIVISION

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### MEDICARE: NON-REFERRED (GP) ATTENDANCES
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### BY FEDERAL ELECTORAL DIVISION

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(3) The average patient contribution per service (patient billed services only) for total non-referred (general practitioner) attendances, by federal electoral division (based on patient enrolment postcode), for the 12 months ending: (a) 31 December 2000; (b) 31 December 2001; (c) 31 December 2002; and (d) 31 December 2003 (year of processing) is as follows:

### MEDICARE: NON-REFERRED (GP) ATTENDANCES
### AVERAGE PATIENT CONTRIBUTION PER SERVICE
### NON-HOSPITAL PATIENT BILLED SERVICES
### BY FEDERAL ELECTORAL DIVISION

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### MEDICARE: NON-REFERRED (GP) ATTENDANCES

**AVERAGE PATIENT CONTRIBUTION PER SERVICE**

**NON-HOSPITAL PATIENT BILLED SERVICES**

**BY FEDERAL ELECTORAL DIVISION**

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**MEDICARE: NON-REFERRED (GP) ATTENDANCES**

**AVERAGE PATIENT CONTRIBUTION PER SERVICE**

**NON-HOSPITAL PATIENT BILLED SERVICES**

**BY FEDERAL ELECTORAL DIVISION**

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The total number of non-referred (general practitioner) attendances claimed under Medicare, by federal electorate division (based on patient enrolment postcode), for the 12 months ending:
(a) 31 December 2000; (b) 31 December 2001; (c) 31 December 2002; and (d) 31 December 2003 (year of processing) is as follows:

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QUESTIONS ON NOTICE
## QUESTIONS ON NOTICE

### MEDICARE: NON-REFERRED (GP) ATTENDANCES

#### TOTAL NUMBER OF SERVICES

**BY FEDERAL ELECTORAL DIVISION**

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Tuesday, 21 June 2004

SENATE 24467

MEDICARE: NON-REFERRED (GP) ATTENDANCES
TOTAL NUMBER OF SERVICES
BY FEDERAL ELECTORAL DIVISION

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Notes to the Statistics

These statistics relate to non-referred (general practitioner) attendances that were rendered on a ‘fee-for-service’ basis and for which benefits were processed by the Health Insurance Commission in the respective 12 month periods (year of processing). Excluded are details of non-referred attendances to public patients in hospital, to Department of Veterans’ Affairs patients and some compensation cases.

Average out of pocket costs relate to non-hospital patient billed services, and are the difference between aggregate fees charged and aggregate benefits paid, divided by the number of services. It is not possible to compute accurate statistics on the average patient contribution per service for patient billed services in hospital, since the Medicare system does not record gap payments under private health insurance arrangements.

The statistics were compiled from Medicare data by patient enrolment (mailing address) postcode. Where a postcode overlapped electoral boundaries, the statistics were allocated to electorate using a concordance file derived from Population Census data, showing the proportion of the population of each postal area, in each electorate.

Agriculture: Genetically Modified Crops
(Former Question No. 2814)

Senator Brown asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 2 April 2004:

With reference to the 2001 report of the Australian Bureau of Agricultural Economics, Genetically modified grains: Market implications for Australian grain growers, which concluded that consumer acceptance levels were critical in evaluating the viability of growing genetically-modified crops: Has there been any recent investigation of adverse effects on the marketing of Australian wheat and other grains to Japan and to other markets that would be caused by the inclusion of genetically-modified products.

QUESTIONS ON NOTICE
Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:


Environment: Cradle Mountain
(Question No. 2893)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 10 May 2004:

(1) What impact on tourism is being caused by logging trucks using the main access road to Cradle Mountain as a result of logging at Middlesex Plains, Tasmania.

(2) What impact are the logging operations having on the view field for aerial tourism, including helicopter tourism of this magnificent area.

(3) How many logging truck journeys will there be on the Cradle Mountain access road or other local roads before the logging operations of the Wrights are completed.

(4) (a) What is the environmental impact of the logging operations on the area; and (b) are any rare or endangered species to be found on the Middlesex Plains; if so, what plan to avoid affecting such species has the Minister requested, seen or approved.

(5) What is the estimated cost to tourism and tourist facilities, including roads, of the logging operations.

(6) What was the start date for the logging operation and what is the expected completion date.”

Senator Ian Macdonald—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s questions:

Questions (1) - (4) (a) and (5) - (6) relate to the management of specific forestry operations in Tasmania that are the responsibility of the Tasmanian Government in accordance with the Regional Forest Agreement (RFA) for that State.

The RFA includes a commitment to improve Tasmania’s forest management system by developing a state-wide policy on nature based tourism and recreation management. I understand that the Tasmanian Government will soon release its strategy to meet this commitment.

In addition, I understand that the Tourism Council Tasmania, representing private tourism operators in Tasmania, has agreed a protocol with the main private and government forest industry bodies covering matters raised by the interaction between tourism and forestry activities.

In relation to question 4b there are five threatened species under the Environment Protection and Biodiversity Conservation Act 1999 that may inhabit or breed in Middlesex Plains. They are as follows:

Species or species habitat likely to occur within area
Australian Grayling (Prototroctes maraena) – Vulnerable fish
Spot-tailed Quoll, Spotted-tail Quoll, Tiger Quoll (Tasmanian population) – (Dasyurus maculatus maculatus (Tasmanian population)) – Vulnerable mammal
Hoary Sunray (Leucochrysum albicans var. tricolor) – Endangered plant

Species or species habitat may occur within area
Wedge-tailed Eagle (Tasmanian) – (Aquila audax fleayi) – Endangered bird

Species where breeding may occur within area
Swift Parrot – (Lathamus discolor) – Endangered bird
Middlesex Plains also contains water tributaries that lead into rivers that are the habitat of the Tasmanian Giant Freshwater Crayfish (Astacopsis gouldi), a vulnerable crayfish.

The Tasmanian Regional Forest Agreement sets out the mechanisms and processes in place to avoid affecting forest associated species listed under Commonwealth or Tasmanian threatened species legislation. Section 38 of the Environment Protection and Biodiversity Conservation Act 1999 excludes certain forestry operations that are undertaken in accordance with an RFA from the application of Part 3 of the Act, which sets out requirements for environmental approvals.

**Environment and Heritage: Suspected Leaks**

(Question No. 2912)

Senator Jacinta Collins asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 12 May 2004:

In respect of the Minister’s department and each agency of the department, for each of the following years: 1997, 1998, 1999, 2000, 2001, 2002 and 2003, and for the year 2004 to date:

(1) How many investigations into suspected leaks of information were conducted within the department.

(2) What was the amount and cost of staff time committed to investigating suspected leaks (if precise figures are not available, please provide estimates).

(3) What was the cost of legal fees incurred in relation to the investigation of suspected leaks.

(4) Where there any costs other than those described in the answers to parts (2) and (3) in relation to the investigation of suspected leaks; if so, what was the total (if precise figures are not available, please provide estimates).

Senator Ian Macdonald—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) Department


Australian Greenhouse Office

2002 one, nil in the other years.

Portfolio Agencies (excluding the Australian Greenhouse Office)

Nil in each year.

(2) (3) and (4) The staff time and other costs associated with leak investigations are not separately recorded and I am not prepared to authorise the work or expense that would be required to identify or estimate them.

**Veterans’ Affairs: Suspected Leaks**

(Question No. 2921)

Senator Jacinta Collins asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 13 May 2004:

In respect of the Minister’s department and each agency of the department, for each of the following years: 1997, 1998, 1999, 2000, 2001, 2002 and 2003, and for the year 2004 to date:

(1) How many investigations into suspected leaks of information were conducted within the department.

(2) What was the amount and cost of staff time committed to investigating suspected leaks (if precise figures are not available, please provide estimates).
(3) What was the cost of legal fees incurred in relation to the investigation of suspected leaks.

(4) Were there any costs other than those described in the answers to parts (2) and (3) in relation to the investigation of suspected leaks; if so, what was the total (if precise figures are not available, please provide estimates).

Senator Coonan—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) The Department is currently investigating a suspected leak of information that occurred in February 2004. There have been no other suspected leaks of information.

(2) Investigation continues into the February 2004 suspected leak of information. To date, the amount of staff time spent on the investigation is estimated at two weeks at an approximate cost of $6,000.

(3) Nil.

(4) No.

Environment: Weld Valley
(Question No. 2923)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 12 May 2004:

(1) How much forest adjacent to coupe WR15B, which was recently logged in Tasmania’s Weld Valley, was burnt when the ‘regeneration burn’ escaped.

(2) When was the forest burnt.

(3) How much World Heritage Area was burnt; if none, how close did the fire go to the Tasmanian Wilderness World Heritage Area boundary.

(4) (a) What efforts were made and by whom to contain the fire that escaped from the coupe; (b) what were the costs of containing this fire; and (c) who met the cost.

Senator Ian Macdonald—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) Approximately 46 hectares.

(2) The adjacent forest burnt on the evening of 14 March 2004. Some understorey continued to burn and smoulder during the following week.

(3) Nil. 200 metres at its closest point.

(4) (a) Forestry Tasmania fire crews conducted fire suppression on 15 March 2004 and intermittently the following week. (b) Approximately $5000; and (c) Forestry Tasmania.

Health: Aluminium Dust
(Question No. 2931)

Senator Brown asked the Minister representing the Minister for Health and Ageing, upon notice, on 18 May 2004:

With reference the answer to question on notice no. 2496 (Senate Hansard, 1 March 2004, p. 20505): Given that everything made from aluminium is oxidising, and considering also anthropogenic sources with alumina and aluminium production, industrial smoke and dust emissions: what quantity of oxidised aluminium dust is entering the environment each year.

Senator Ian Campbell—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

The Department of Health and Ageing does not hold the information sought in the question.
The Department of the Environment and Heritage has advised that the National Pollutant Inventory does not include oxidised aluminium dust as a substance for which emissions to the environment from anthropogenic sources are recorded.

Health: Aluminium Dust
(Question No. 2932)

Senator Brown asked the Minister for Ageing, upon notice, on 18 May 2004:

With reference to the answer to question on notice no 2496 (Senate Hansard, 1 March 2004, p. 20505):

(1) Given that protein deposition diseases can be caused by aluminium enhanced amyloid protein deposits, does chelating aluminium cause proteins to misfold, thus forming amyloid protein deposits; if so, is this type of aluminium a pathogenic factor or an epiphenomenon.

(2) (a) How does the health of people residing within a 100 kilometre radius of major anthropogenic sources of oxidised aluminium dust, such as alumina refineries and aluminium smelters, compare with the Australian average; and (b) is there a higher rate of cancer, diabetes, brain and nervous system illness, renal and liver impairment, heart, respiratory and skin disease.

Senator Ian Campbell—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

Technical officers in my Department have provided me with the following information:

(1) Aluminium is a ubiquitous element in the environment and in general, aluminium compounds are poorly absorbed by the body. A link between aluminium exposure and the development or acceleration of onset of Alzheimer’s disease in humans is proposed based on several lines of evidence. Although a physical association has been drawn between aluminium and the characteristic amyloid deposits within the brains of Alzheimer’s patients, the precise role of aluminium in Alzheimer’s disease remains controversial.

The health effects of aluminium have been reviewed internationally by the World Health Organisation, International Programme on Chemical Safety and US Department of Health and Human Services. Based on data available to date, it is not possible to establish a definitive pathogenic mechanism for aluminium in the brain pathology of Alzheimer’s disease. The evidence suggests that the cause and pathogenesis of Alzheimer’s disease are multi-factorial and that predisposing genetic factors and environmental factors contribute to the disease.

(2) (a) and (b) It is noted that significant populations reside within a 100 km radius of alumina processing plants in Melbourne and Perth. In general, states with alumina refineries and smelters do not have a higher disease prevalence compared to states without such sources.

The most recent Australian Institute of Health and Welfare report, Australia’s Health 2002, provides information on patterns of health and illness. No data are available on diseases such as cancer, diabetes, brain and nervous system illness, liver or kidney impairment or heart, respiratory or skin disease in the general population which are directly attributable to anthropogenic sources of aluminium dust.

Deakin, Menzies, Corangamite and Gippsland Electorates: Bulk-Billing
(Question No. 2941)

Senator Marshall asked the Minister representing the Minister for Health and Ageing, upon notice, on 25 May 2004:

(1) What percentage of total unreferred general practitioner (GP) attendances was bulk billed in the Federal Electoral Divisions of Deakin, Menzies, Corangamite and Gippsland during the quarter ending 31 March 2004.
(2) How many unreferred GP attendances were bulk billed in the Federal Electoral Divisions of Deakin, Menzies, Corangamite and Gippsland during the quarter ending 31 March 2004.

(3) What was the average patient contribution per service (patient billed services only) in relation to unreferred GP attendances in the Federal Electoral Divisions of Deakin, Menzies, Corangamite and Gippsland during the quarter ending 31 March 2004.

(4) How many unreferred GP attendances were there in the Federal Electoral Divisions of Deakin, Menzies, Corangamite and Gippsland during the quarter ending 31 March 2004.

Senator Ian Campbell—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

Medicare statistics by electorate are no longer produced on a quarterly basis. Statistics by electorate are available on a calendar year basis.

(1) The proportion of total unreferred GP attendances bulk billed for the Federal Electoral Divisions of (a) Deakin in 2003 was 64.6%, (b) Menzies in 2003 was 70.0%, (c) Corangamite in 2003 was 41.8% and (d) Gippsland in 2003 was 46.1%.

(2) The number of total unreferred GP attendances bulk billed for the Federal Electoral Divisions of (a) Deakin in 2003 was 395,655, (b) Menzies in 2003 was 424,235, (c) Corangamite in 2003 was 213,662 and (d) Gippsland in 2003 was 233,202.

(3) The average patient contribution per patient billed service for unreferred GP attendances in the Federal Electoral Divisions of (a) Deakin in 2003 was $14.57, (b) Menzies in 2003 was $15.78, (c) Corangamite in 2003 was $12.65 and (d) Gippsland in 2003 was $10.46.

(4) The number of unreferred GP attendances for the Federal Electoral Divisions of (a) Deakin in 2003 was 612,311, (b) Menzies in 2003 was 606,366, (c) Corangamite in 2003 was 511,575 and (d) Gippsland in 2003 was 505,843.

Notes to the Statistics

These statistics relate to non-referred (general practitioner) attendances that were rendered on a ‘fee-for-service’ basis and for which benefits were processed by the Health Insurance Commission in 12 months to December 2003 (year of processing). Excluded are details of non-referred attendances to public patients in hospital, to Department of Veterans’ Affairs patients and some compensation cases.

Average out of pocket costs relate to non-hospital patient billed services, and are the difference between aggregate fees charged and aggregate benefits paid, divided by the number of services. It is not possible to compute accurate statistics on the average patient contribution per service for patient billed services in hospital, since the Medicare system does not record gap payments under private health insurance arrangements.

The statistics were compiled from Medicare data by patient enrolment (mailing address) postcode. Where a postcode overlapped electoral boundaries, the statistics were allocated to electorate using a concordance file derived from Population Census data, showing the proportion of the population of each postal area, in each electorate.